

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

December 19, 2016

A meeting of the Louisville Board of Zoning Adjustment was held on December 19, 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
Lester Turner, Jr.
Lula Howard
Paul Bergmann

Member absent:

Dean Tharp

Staff members present:

Emily Liu, Planning Director
Joe Reverman, Assistant Director
Brian Davis, Planning Manager
Jon Crumbie, Planning Coordinator
Steve Hendrix, Planning Supervisor
Brian Mabry, Planning Supervisor
Ross Allen, Planner I
Jonathan Baker, Legal Counsel
Kristen Loeser, Management Assistant

The following cases were heard:

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BUSINESS SESSION

Approval of the December 5, 2016 BOZA Meeting Minutes

00:04:19 On a motion by Vice Chair Jarboe, seconded by Board Member Fishman, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of its meeting conducted on December 5, 2016.

The vote was as follows:

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

Absent: Tharp

Abstain: Turner

No: None

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BUSINESS SESSION

CASE NUMBER 16VARIANCE1080

Request: Reconsideration Request concerning case, 16Variance1080, a reduction in the private yard area, approved by the Board on November 21, 2016.

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

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:

00:05:27 Steve Hendrix provided the Board with the email request for reconsideration for Case Number 16VARIANCE1080.

00:05:47 Deliberation

00:09:00 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 16VARIANCE1080, does hereby **APPROVE** the **RECONSIDERATION REQUEST** based on the email request submitted by the opposition. The case will be reconsidered at the January 9, 2016 BOZA meeting.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 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:

00:18:56 Steve Hendrix provided the Board with a summary of the appeal case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Mr. "Moe" Mohiuddin, 1636 W Oak Street, Louisville, KY 40210
Marie Hambric, 1634 W Oak Street, Louisville, KY 40210
Roosevelt Williams, 2302 Osage Avenue, Louisville, KY 40210

Summary of testimony of those in favor:

00:27:27 Mr. Mohiuddin provided the Board copies of the Certificate of Occupancy, the building permit, the electrical permit, and other documentation requested during their last meeting.

00:32:00 Neighbor, Marie Hambric, stated that she is in support of the owner operating a convenience grocery with malt beverage sales.

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CASE NUMBER 16APPEAL1013

00:33:15 Roosevelt Williams is also a neighbor who supports the appeal. He is a frequent customer of this location and does not like having to travel to a different location to purchase beer.

00:34:45 Deliberation

00:39:38 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 16APPEAL1013, does hereby **APPROVE** the Appeal of a Planning & Design Services determination that the subject site does not have nonconforming rights to operate a convenience grocery with malt beverage sales based on the testimony heard today, documentation provided by the appellant, the California Neighborhood Plan, and the Staff Report.

The vote was as follows:

Yes: Howard, Jarboe, Bergmann, and Allendorf

Absent: Tharp

Abstain: None

No: Fishman and Turner

00:42:49 On a motion by Vice Chair Jarboe, seconded by Board Member Fishman, the following resolution was adopted.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby acknowledge that the Planning & Design Services determination that the subject site does not have nonconforming rights to operate a convenience grocery with malt beverage sales was **PROPER** at the time based on PDS not having authority to grant nonconforming use rights.

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The vote was as follows:

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

Absent: Tharp

Abstain: None

No: None

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CASE NUMBER 16WAIVER1053

Project Name: JD Nichols Campus Sign
Location: 301 E. Jefferson Street
Owners: NTS Realty Holdings LP
Applicant: DeNyse Companies
Existing Zoning District: C-3
Existing Form District: Downtown
Jurisdiction: Louisville Metro
Council District: 4 – David Tandy
Case Manager: Brian Davis, 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:

00:46:11 Brian Davis presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Matt Ricketts, 500 N Hurstbourne Pkwy., Suite 400, Louisville, KY 40222

Summary of testimony of those in favor:

00:49:59 Matt Ricketts, NTS Development Company, spoke on behalf of the applicant. NTS has partnered with the University of Louisville to help create a more cohesive campus-like feel to this area where they are acquiring land for future development. He stated that the sign is smaller than other similar signs in the area and landscaping will be provided around the sign. In response to Board Member Bergmann, Mr. Ricketts stated that the general locations of future signs are known at this time, but they do not have a “masterplan” for what the signs will consist of exactly.

00:57:15 Deliberation

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CASE NUMBER 16WAIVER1053

00:57:40 On a motion by Board Member Howard, seconded by Board Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the sign authorization will not adversely affect adjacent property owners as the proposed signage will not be visible from single-family residential dwellings and will be located in an area of mixed institutional, office, and commercial uses, and

WHEREAS, the Board further finds that the location and design of the proposed freestanding monument sign appears to be in conformance with Guideline 2, Policy 12 (Focal Points) as well as Guideline 3, Policy 9 (Visual Impacts) and Policy 28 (Signs). The sign authorization will not violate specific guidelines of Cornerstone 2020 as the proposed signage is not visible from single-family residential dwellings and is surrounded by a mixture of compatible uses. The proposed signage appears to be compatible with the character of the surrounding area, 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 LDC fails to regulate this type of signage in the Downtown form district, and

WHEREAS, the Board further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived by designing the entire development space, nearly two whole city blocks, to have a campus like feel similar to the "medical campus" portion of the downtown area. The area is not constructed like other areas within the Downtown form district and this type of sign does not seem out of character with the proposed development; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16WAIVER1053, does hereby **APPROVE** the Exceptional Signage Review for authorization of proposed freestanding signage based on the Staff Report and testimony provided today.

The vote was as follows:

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

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CASE NUMBER 16VARIANCE1090

Request:	Variance to reduce the private yard area to less than the required 20% of the total lot area.
Project Name:	351 Hillcrest Ave. Variance
Location:	351 Hillcrest Ave.
Area:	.11310 acres
Owner:	Eric Call
Applicant:	Andrew Smallwood – Renaissance Design Build Inc.
Representative:	Andrew Smallwood – Renaissance Design Build Inc.
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:

01:00:15 Ross Allen presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Nathan Grimes, 1012 S 4th Street, Louisville, KY 40202

Summary of testimony of those in favor:

01:06:28 Nathan Grimes spoke on behalf of the applicant. The request is being made because the applicant was not able to obtain a building permit to construct a garage in the rear of the property. The applicant would like to construct a one-car garage with storage that will be similar in appearance to the home. Gutters will be constructed on the front and rear of the garage. He stated that other homeowners in this area have similar garages on their properties.

01:10:20 Deliberation

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CASE NUMBER 16VARIANCE1090

01:10:41 On a motion by Board Member Fishman, seconded by Vice Chair Jarboe, the following resolution has been 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 proposed garage meets the setbacks as required for the Traditional neighborhood in the rear (5 ft.), the side yards (minimum of 2 ft.), and the distance between the principal structure and the accessory structure (8.47 ft.), and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since twelve other residences along the same block face have accessory structures to the rear abutting the alley. Three of the twelve are comparable in size if not larger than that proposed by the applicant, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed garage meets the setbacks as required for the Traditional neighborhood in the rear (5 ft.), the side yards (minimum of 2 ft.), and the distance between the principal structure and the accessory structure (8.47 ft.), and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the proposed garage will conform to all setback requirements established in the LDC but the situation of the principal structure on the lot prevents the applicant from having enough space to meet the required private yard area. The lot size is considered sub-standard for an R-5 zoning type, being less than 6,000 sf. in the Traditional Neighborhood form district, and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances which do generally apply to land in the general vicinity or the same zone since the lot size is considered sub-standard for an R-5 zoning type, being less than 6,000 sf. in the Traditional Neighborhood form district, 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 lot being less than 6,000 sf. and the situation of the residence having a front setback of approximately 39.4 ft. restricts the rear yard area and the proposed garage reduces the private yard area as a result, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which

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relief is sought since the lot size is considered sub-standard for an R-5 zoning type, being less than 6,000 sf. in the Traditional Neighborhood form district, 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 16VARIANCE1090, does hereby **APPROVE** the Variance from the Land Development Code section 5.4.1.D.3 to reduce the private yard area to less than the 20% of the total lot area (**Requirement: 1,008 sq. ft., Request: 360 sq. ft., Variance: 648 sq. ft.**) based on the presentation, the Standard of Review and Staff Analysis, today's discussion, the Staff Report, and the owner's Variance Justification.

The vote was as follows:

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

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CASE NUMBER 16CUP1049

Project Name: Kenner Short Term Rental CUP
Location: 1701 S. 4th St.
Owner: Charles Kenner
Host: Joanne Kenner
Representative(s): Joanne Kenner
Existing Zoning District: TNZD, Traditional Neighborhood Zoning District
Existing Form District: TN, Traditional Neighborhood
Jurisdiction: Louisville Metro
Council District: 6 – David James
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:

01:12:50 Brian Mabry presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Joanne Kenner, 10673 Bridlepath Ln, Union, KY 41091

Summary of testimony of those in favor:

01:17:05 Owner, Joanne Kenner, stated that she and her husband purchased the home in 2001 for her children to live while they attended school, and they have been using the property as a short term rental since 2013. She and her husband currently live in Union, KY, but they have a property manager who lives in Louisville. Two parking passes are provided per rental for street parking.

01:21:34 Deliberation

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01:23:02 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.*

- 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 has four bedrooms and so the maximum number of individuals permitted in the short term rental is 12. The applicant has no plans to add bedrooms to the structure.*

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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 the application that the subject property is adjacent to on-street parking regulated by PARC. The applicant purchases passes from PARC and provides 2 passes per rental. The passes allow parking on Lee Street and on South 4th Street. The applicant reports no parking issues.

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.

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

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1049, does hereby **APPROVE** the Conditional Use Permit to allow short term rental that is not the primary residence of the host in a Traditional Neighborhood Zoning District based on the Staff Report, the Standard of Review and Staff Analysis, the applicant's testimony, and the parking allotment, and **SUBJECT** to the following condition of approval:

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Condition of Approval

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

The vote was as follows:

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

Absent: Tharp

Abstain: None

No: None

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CASE NUMBER 16CUP1055

Project Name:	Louisville Family Chiropractic
Location:	7300 New La Grange Road
Owners:	Louisville Family Chiropractic
Applicant:	Louisville Family Chiropractic
Representative(s):	John Pacyga
Project Area/Size:	0.41 acres
Existing Zoning District:	R-7, Residential Multi Family
Existing Form District:	RC, Regional Center
Jurisdiction:	Norwood
Council District:	7 – Angela Leet
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:

01:24:52 Jon Crumbie presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

John Pacyga, 2500 Nelson Miller Pkwy, Louisville, KY 40223

Summary of testimony of those in favor:

01:30:51 John Pacyga spoke on behalf of the applicant. The prior landscape plan was created in 1980, but there have since been several changes to the Land Development Code, so they would like to update this plan. They are requesting the waivers in order to keep the two large trees on the property, which would require parking to be moved. Only the existing structures on the site will be used. A six ft. wooden privacy fence will be constructed to provide screening for the parking area.

01:38:59 **Deliberation**

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CASE NUMBER 16CUP1055

01:41:05 On a motion by Board Member Fishman, seconded by Board Member Howard, the following resolution was adopted:

Modified Conditional Use Permit to allow a Chiropractic office in an R-7 zoning district

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the Comprehensive Plan since the property is had been operating as a dentist office under an approved Conditional Use Permit, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding land uses with respect to scale, intensity, traffic, drainage, and

WHEREAS, the Board further finds that transportation Planning and the Metropolitan Sewer District have reviewed and approved the plan. The Lyndon fire Protection District reviewed and approved the proposal, and

WHEREAS, the Board further finds that one office for one physician osteopath, or podiatrist licensed under KRS Chapter 311; ***chiropractor licensed under KRS Chapter 312***; dentist licensed under KRS 313; optometrist licensed under KRS Chapter 320; advanced practice registered nurse licensed under KRS Chapter 314; or other health care practitioner as determined by the department by administrative regulations promulgated under KRS Chapter 13A may be allowed on a lot in the R- 4, R-5, R-5A, R-5B, R-6, and R-7 districts where the premises an arterial or collector level street as designated in the Comprehensive Plan for all of Jefferson County, Kentucky, upon the granting of a Conditional Use Permit and compliance with the listed requirements **The applicant will need to ask for relief from item A. and B.**

A. Floor Area - The maximum floor area for the office use is 1,000 square feet. ***The maximum floor area for the chiropractic office use will be 1,488 square feet and the massage therapy office will be 854 square feet for a total of 2,342.***

B. Parking Areas - parking spaces shall be provided off of the street in an area to the rear of the premises, so that the off-street parking area shall not be between a street and the building. Said parking area must be paved by asphalt or concrete and shall be screened by a dense evergreen shrub screen with a minimum height of five feet, or a wall constructed of brick, stone or wood with a minimum height of five feet. ***A variance (B-28-80) was approved to allow parking in the front yard, but the***

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applicant will be modifying the parking area to add four additional spaces in the front yard.

C. Signs - There shall be allowed one non-illuminated identification sign indicating the name and occupation, which sign shall be limited in size to four square feet and placed on the building.

D. Exterior Design - The building shall remain or shall be constructed so that the exterior design and ornamentation is of residential character in keeping with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign).

E. Number of Employees – No more than five total employees, including the medical professional, shall be permitted.

The original standards required to obtain the conditional use permit for the requested from the Zoning District Regulations for B-27-80/B-28-80

A. There shall be allowed one non-illuminated identification sign indicating the name and occupation, which sign shall be limited in size to one square foot.

B. The building shall remain or shall be constructed so that the exterior design and ornamentation is of residential character in keeping with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign).

C. The building shall contain at least eight-hundred square feet of floor area.

D. At least five parking spaces shall be provided off of the street in an area to the rear of the premises, so that the off-street parking area shall not be between a street and the building. Said parking area must be paved by asphalt or concrete and shall be screened by a dense evergreen shrub screen with a minimum height of five feet, or a wall constructed of brick, stone or woven wood with a minimum height of five feet, and

Landscape waivers to reduce the required LBA and omit the required tree requirement along the north and east property lines

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the required screening will still be provided, and

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WHEREAS, the Board further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants, 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 since the new parking area would have to be reduced or reconfigured and some parking space may be lost, and

WHEREAS, the Board further finds that the applicant will incorporate other design measures that will compensate for non-compliance. Currently there is limited screening along the north and east property line. The applicant will be adding screening that will be Land Development Code compliant, and

Variance to reduce the required rear yard

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 accessory has been in place to a number of years and the proposed parking will be screened from the adjacent residential use, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the site has existed as is since for a number of years, and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the yard reduction will not be noticeable from the street or adjacent residential property, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the rear yard will be screened from the adjacent residential property, and

WHEREAS, the Board further finds that The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the site was developed before the existing Land Development Code regulations, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the applicant would have to remove the existing accessory structure and four of the proposed parking spaces at the rear of the site, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant since the site has been developed before the current Land Development Code and was operating as a dentist office under an approved Conditional Use Permit; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1055, does hereby **APPROVE** the Modified Conditional Use Permit, the Landscape Waivers, and the Variance (**Requirement: 50 ft., Request: 5 ft., Variance: 45 ft.**) based on the presentations heard today and the Staff Report, and **SUBJECT** to the following conditions of approval:

Conditions of Approval

1. The development shall be constructed in accordance with the approved Conditional Use and Variance Plans.
2. Access drives shall be constructed as shown on the approved Conditional Use and Variance Plans. The drive at the south edge of the property shall be removed and a concrete curb shall be constructed along the frontage as shown on the approved plan.

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3. The screening/landscaping plan received by the Board on May 5, 1980 shall be implemented prior to occupancy of this site for a dentist's office. Existing trees shall be preserved on this property with the exception of a dead tree which is between the north side of the house and the north property line. This tree shall be replaced with a dogwood or other ornamental tree when it is removed. If the fence located along the north side property line is removed 4 foot high hemlocks shall be planted 5 feet on center to replace the fence. *The applicant will explain the existing landscaping and what is proposed.*
4. A 10 foot drainage easement along the north side of the property and a 5 foot drainage easement along the easterly rear property line shall be recorded within 30 days of the board's final action on this case in accordance with the requirements of the Jefferson County Water Management Engineer. *The applicant will explain the existing condition on site.*
5. The applicant shall obtain an alteration permit from the Jefferson County Department of Code Enforcement prior to occupancy of the structure for a dentist's office.
6. The proposal shall comply with Section IV, 29, of the Zoning District Regulations, Doctor, Dentist or Chiropractor Office which requires the exterior design of the structure to remain residential in character and permits the office to be utilized by one dentist only.
7. Compliance with all national, state, and local fire regulations.
8. 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.
9. 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 chiropractor office without further review and approval by the Board.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 16CUP1058

Project Name:	None (Short Term Rental)
Location:	132 Adams Street
Owners:	Steve Makela
Applicant:	Steve Makela
Representative(s):	Steve Makela
Project Area/Size:	3,450 square feet
Existing Zoning District:	R-6, Residential Multi Family
Existing Form District:	TN, Traditional Neighborhood
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Jon 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:

01:45:09 Jon Crumbie presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Steve Makela, 2431 Top Hill Road, Louisville, KY 40206

Summary of testimony of those in favor:

01:49:26 Steve Makela spoke regarding the case and stated that he and his wife live one mile away from the property and he works only one block away. They only allow up to four people in the home per contract, and they do not allow pets or smoking. The garage will not be provided to renters, but there is adequate street parking. He and his wife care for the property.

01:53:40 Deliberation

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01:54:40 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, 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. MSD and Transportation Planning have approved the proposal, 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.
- 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 four individuals. ***The dwelling unit has 1 bedroom which will allow a maximum of 6 occupants.***
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.

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- F. Outdoor signage which identifies the short term rental is prohibited.
- 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 property has parking on Adams Street and a 2 car garage at the rear.***
- H. The short term rental and host shall meet all additional requirements set forth in 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; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1058, does hereby **APPROVE** the Conditional Use Permit to allow short term rental in an R-6 zoning district that is not the primary residence of the host based on the Standard of Review and Staff Analysis and the applicant's testimony, and **SUBJECT** to the following condition 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 Ordinance.

The vote was as follows:

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


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ADJOURNMENT

The meeting adjourned at approximately 10:30 a.m.



Chair



Secretary