

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

March 19, 2018

A meeting of the Louisville Metro Board of Zoning Adjustment was held on March 19, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Rosalind Fishman, Vice Chair
Lula Howard, Secretary
Lester Turner (Left at approximately 7:50 p.m.)
Dwight Young
Richard Buttorff
Kimberly Leanhart

Staff Members Present:

Joe Haberman, Planning & Design Manager
Steve Hendrix, Planning & Design Supervisor
Chris French, Planning & Design Supervisor
Jon Crumbie, Planning & Design Coordinator
Dante St. Germain, Planner I
Beth Jones, Planner II
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

MARCH 5, 2018 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:24 On a motion by Member Turner, seconded by Vice Chair Fishman, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on March 5, 2018.

The vote was as follows:

Yes: Members Turner, Young, Buttorff, Leanhart, Howard, and Vice Chair Fishman

Abstain: Chair Allendorf

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PUBLIC HEARING

Case Number 18VARIANCE1013

Request:	Variance to allow attached signage to exceed the allowable maximum area with associated waiver
Project Name:	Old Forester Distillery
Location:	117 W Main Street
Owner:	Brown Forman Corporation
Applicant:	Nimlok Kentucky
Representative:	Kyle Hatfield
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Dante St. Germain, Planner I

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

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

Agency Testimony:

00:04:12 Dante St. Germain presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:
Mike Beach, 410 Lola Road, Louisville, KY 40207

Summary of testimony of those in favor:

00:10:22 Mike Beach spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:12:31 Dante St. Germain responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

00:13:56 Board Members' deliberation

00:15:20 On a motion by Vice Chair Fishman, seconded by Member Young, the following resolution was adopted:

Variance from Land Development Code Table 8.3.2 to allow attached signage to exceed the allowable square footage:

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 signs will comply with the Land Development Code in all respects except for their size, with the result that the signage is unlikely to distract drivers or pedestrians and adversely affect public safety, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as Whiskey Row is a unique block in Louisville Metro, featuring historic buildings and façades which are under redevelopment into a mix of residential, commercial, hotel, and light industrial uses. The signage has received a Certificate of Appropriateness under case number SI1039908, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the signs are proposed to be muted colors with minimal lighting, which will not create a hazard to drivers or pedestrians. The largest sign is proposed to be painted onto the façade, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the unique nature of Whiskey Row and of the Old Forester distillery development requires a unique type of signage. Additionally, the amount of the variance is not excessive compared with the amount of signage allowed by the Land Development Code, 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

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or the same zone because the development on the property is unlike any other nearby development, 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 as the applicant is requesting the variance and has not begun construction, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; and

Waiver from Land Development Code Table 8.3.2 to allow more than 3 attached signs on one façade:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the number of signs on the subject site will have no effect on adjacent properties, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 Guideline 3: Compatibility policy 28: Signs, states that signs should be compatible with the form district pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts and other areas of special concern. These guidelines are not violated because the proposed signs are attached to the structure and not freestanding, and the visual quality of the signs has been approved with a Certificate of Appropriateness. The location and structure of the proposed signs should be conducive to motor vehicle safety, 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 signs comprise a complete signage package and removing some of the signs would disrupt the overall design of the proposed signage, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or may create an unnecessary hardship on the applicant by requiring the applicant to redesign the signage package to reduce the number of signs; now, therefore be it

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1013 does hereby **APPROVE** Variance from Land Development Code Table 8.3.2 to allow attached signage to exceed the allowable square footage (**Requirement 300 sf, Request 325.67 sf, Variance 25.67 sf**), and Waiver from Land Development Code Table 8.3.2 to allow more than 3 attached signs on one façade (**Requirement 3 signs, Request 9 signs, Waiver 6 signs**), based upon the staff findings, the Standard of Review and Staff Analysis, the presentation, the discussion, and the applicant's variance justification.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, Leanhart, Vice Chair Fishman, and Chair Allendorf

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CASE NUMBER 18VARIANCE1007

Request:	Variance from 6.3.C.2 (St Matthews) to encroach into street side and rear yards
Project Name:	Chenoweth Lane Medical Office
Location:	224 Chenoweth Lane
Owner:	Maguire Properties
Applicant:	Maguire Properties
Representative:	Cliff Ashburner
Jurisdiction:	St Matthews
Council District:	9 – Bill Hollander
Case Manager:	Jay Lockett, Planner I

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

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

Agency Testimony:

00:19:46 Jay Lockett presented the case and showed a Powerpoint presentation. Mr. Lockett responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Cliff Ashburner, 101 S. 5th Street, Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

00:32:10 Cliff Ashburner spoke in favor of the request and showed a Powerpoint presentation. Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

00:42:44 Board Members' deliberation

00:45:05 On a motion by Member Howard, seconded by Member Buttorff, 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 all provisions for the safe management of traffic in and around the site will be accounted for, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity, as the most of the requested encroachment is an existing condition, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed parking will be an improvement over current conditions, in that parking areas are currently encroaching into the public rights-of-way, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed parking areas are more in line with current regulations than existing conditions, 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 as there is a binding element on the site which restricts parking from being installed on the southern part of the site, 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 area of the site useable for parking would be greatly constrained, and would make it difficult to provide the required parking for the proposed use, and

WHEREAS, the Board further finds that the circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning ordinance but are, instead, the result of the currently non-conforming location of

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the parking lot. The variance will restore the right of way and create a new 10' landscape buffer along Elmwood Avenue, which will improve the safety of through traffic and vehicles parking at the property, and

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1007 does hereby **APPROVE** Variance from Land Development Code (St. Matthews) Section 6.3.C.2 to allow parking areas and a dumpster enclosure to encroach up to 22' into a required 25' street side yard and up to 25' into a required 25' rear yard, based upon the Staff Report, the presentation, and the applicant's variance justification.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, Leanhart, Vice Chair Fishman, and Chair Allendorf

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CASE NUMBER 18CUP1002

Request:	Conditional Use Permit to allow short term rental of a dwelling unit within the TNZD
Project Name:	Short Term Rental
Location:	1109 S. 7th Street
Owner:	Doug and Amanda VanEpps
Applicant:	Doug and Amanda VanEpps
Representative:	Doug and Amanda VanEpps
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Beth Jones, AICP, Planner II

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

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Agency Testimony:

00:49:05 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Doug VanEpps, 622 W. St. Catherine, Louisville, KY 40203

Summary of testimony of those in favor:

00:53:39 Doug VanEpps spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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01:01:18 **Board Members' deliberation**

01:02:15 On a motion by Vice Chair Fishman, seconded by Member Leanhart, the following resolution was adopted:

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

WHEREAS, the Board further finds that the proposed use is compatible with surrounding development. No exterior alterations to the existing structure or site are proposed, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. The proposed use will not create substantial additional requirements for the site, 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. **PVA lists the existing structure as a single-family residence. According to the applicant, it has one bedroom. LDC regulations permit up to six guests.**
- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **The dwelling unit is a single-family residence.**

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- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- 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 connected garage will not be available for guest use. LDC regulations credit 30 ft. property frontage on S. 7th Street with one on-street parking space.**
- 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, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1002 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit within the TNZD (LDC 4.2.63), based upon the presentation, the Standard of Review and Staff Analysis, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

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The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, Leanhart, Vice Chair Fishman, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 17CUP1107

Request:	Conditional Use Permit to allow short term rental of a condominium dwelling unit within the TNZD
Project Name:	Short Term Rental
Location:	1455 S. 4th Street, Unit A
Owner:	Jerry and Kathy Rush
Applicant:	Jerry and Kathy Rush
Representative:	Jerry and Kathy Rush
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency Testimony:

01:04:11 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kathy Rush, 1427 Audubon Avenue, Shepherdsville, KY 40165

Summary of testimony of those in favor:

01:07:48 Kathy Rush spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:14:05 Joe Haberman reviewed the responsibility of the host to have someone within twenty-five miles to respond to emergencies (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

01:15:00 Board Members' deliberation

01:16:12 On a motion by Member Howard, seconded by Member Young, the following resolution was adopted:

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

WHEREAS, the Board further finds that when appropriately managed, a short-term rental use can be compatible with surrounding development. No exterior alterations to the existing structure or site are proposed, and

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

WHEREAS, the Board further finds that:

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. **According to the applicant, the subject dwelling unit contains two bedrooms; LDC regulations permit up to eight guests.**

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- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **The dwelling unit is a condominium. The applicant has provided the required documentation of approval for short-term rentals by the condominium board.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- 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. **LDC regulations credit 40 ft. property frontage with two on-street parking spaces. In addition, the condominium has a dedicated garage space off the alley at the rear of the property.**
- 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, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1107 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a condominium dwelling unit in the TNZD, based upon the Standard of Review and Staff Analysis, the letter from the condominium association allowing the short term rental, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.

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

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, Leanhart, Vice Chair Fishman, and Chair Allendorf

01:18:25 Meeting was recessed.

01:18:55 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 18CUP1011

Request:	Modification of a Conditional Use Permit for a Private Proprietary Club in an R-4 zoning district
Project Name:	Hazelnut Farm
Location:	814 Eastwood Fisherville Rd
Owner:	Ranjit Brar
Applicant:	Ranjit Brar
Representative:	Bardenwerper Talbott & Roberts PLLC
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency Testimony:

01:19:20 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Kathy Linares, 5151 Jefferson Blvd., Suite 101, Louisville, KY 40219
Richard Wolford, 815 Gilliland Road, Louisville, KY 40245

Summary of testimony of those in favor:

01:31:57 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

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01:42:27 Kathy Linares spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:47:00 Nick Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

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

The following spoke in opposition of the request:

Beth Henderman, 604 Flat Rock Road, Louisville, KY 40245

Summary of testimony of those in opposition:

01:51:14 Beth Henderman spoke on behalf of Eastwood Village Council in opposition. Ms. Henderman responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

01:57:10 Nick Pregliasco spoke in rebuttal (see recording for detailed presentation).

02:03:05 Kathy Linares and Nick Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

02:09:44 Beth Jones stated Condition of Approval #3 relates to the Health Department requirements. Ms. Jones suggested a change to Condition of Approval #4 regarding the detailed drawing as presented today (see recording for detailed presentation).

02:12:48 Board Members' deliberation

02:25:05 On a motion by Member Howard, seconded by Member Buttorff, the following resolution was adopted:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with Comprehensive Plan policies regarding setbacks, buffering and landscaping and preserves significant open space. Transportation facilities are compatible with surrounding land uses. A waiver of sidewalk requirements along the property frontage and an associated internal pedestrian connection to it was obtained with the approval of the existing CUP, and

WHEREAS, the Board further finds that property in the area is largely undeveloped, with some single-family residential on large lots similar in size to the subject property. Proposal will be required to meet lighting and signage requirements. The proposed modifications to the existing CUP, especially regarding the size of the parking area and the additions to the event structure, are significantly more extensive than those previously approved and raise potential issues regarding compatibility with the character of the vicinity, and

WHEREAS, the Board further finds that the site is not currently served by MSD; Louisville Metro Department of Public Health & Wellness review will be required prior to construction plan approval. Remaining public facilities are adequate to serve the site, and

WHEREAS, the Board further finds that:

- A. All new buildings, structures and facilities shall be at least 30 feet from any property line. **The existing CUP granted relief from this condition specifically to accommodate a proposed sidewalk to be constructed to provide access to an existing concrete pad on the northern property line. Proposed modifications will not further impact this condition of use.**
- B. Outdoor swimming pools shall be enclosed with a fence at least six feet high. **Fencing will be required around the existing swimming pool.**
- C. All recreation areas or play fields and parking lots shall be separated from adjacent properties by a solid fence or dense evergreen shrubbery plantings at least five feet high. **The planned parking area will require fencing and/or landscape buffering; a plan will be required as part of the construction plan approval process. The proposed parking additions are located away from property lines and will not further affect this condition of use.**

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- D. One sign only may be permitted showing the name and address of the club. An attached sign shall not exceed 30 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building. A free-standing sign shall not exceed 20 square feet in area per side, shall not have more than two sides, and shall not exceed a height of six feet. Either an attached sign or a free-standing sign may be permitted, but not both. No sign shall project into any required yard. The sign may be illuminated but non-flashing. **The applicant has been informed of this requirement; a sign plan will be required as part of the construction plan approval process;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1011 does hereby **APPROVE** Modification of Conditional Use Permit for Private Proprietary Club in an R-4 zoning district (LDC 4.2.44), based upon the Staff Report, the Standard of Review and Staff Analysis, and although the proposal is significantly more extensive than the previously approved plan it appears to be compatible with the character of the vicinity, 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 by and approval of the Board.
2. The Modified Conditional Use Permit shall be exercised as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a Private Proprietary Club without further review by and approval of the Board.
3. Louisville Metro Department of Public Health & Wellness requires completion of an on-site evaluation to determine if a suitable on-site sewer system can be installed. The applicant is required to submit detailed floor plans including bathrooms, kitchens, maximum capacity and seating, both indoor and outdoor, as part of this evaluation process. The applicants understand that they proceed further with the modifications proposed herein at their own risk. Furthermore, should these CUP modifications be approved by BOZA at this hearing, until and unless the applicant can fulfill any and all Louisville Metro Department of Public Health & Wellness requirements regarding an on-site sewer system, the project as modified may not proceed.

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4. The applicant will be required to submit a revised plan document clarifying the details regarding proposed additions to the event building to bring them into agreement with the content as shown by the detailed drawing as presented by the applicant at the March 19, 2018 hearing.
5. Events on the weekdays shall end by 12:00 a.m.
6. No alcohol past 11:30 p.m.
7. Events on the weekends shall end at 12:00 a.m., with the exception of up to four (4) special events, such as Derby, PGA championship, New Year's Eve, etc.
8. No outside music past 10:00 p.m.
9. On both weekends and weekdays, no event shall start before 9:00 a.m.
10. Applicant shall fully comply with the Louisville Metro Noise Ordinance.

The vote was as follows:

Yes: Members Howard, Turner, Buttorff, and Vice Chair Fishman

No: Members Young, Leanhart, and Chair Allendorf

02:30:33 Meeting was recessed.

02:31:06 Meeting was reconvened.

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CASE NUMBER 17CUP1083

Request: Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host

Project Name: Short Term Rental

Location: 2312 Glenmary Avenue

Owner: Salman Zaidi

Applicant: Chris Payne

Representative: Chris Payne

Jurisdiction: Louisville Metro

Council District: 8 – Brandon Coan

Case Manager: Beth Jones, AICP, Planner II

NOTE: This case was heard out of order, after Item #8 on the agenda.

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

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

Agency Testimony:

03:50:57 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Christopher Payne, 2211 Longest Avenue, Louisville, KY 40204
David Langsdon, 4310 Hannah Avenue, Louisville, KY 40204

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PUBLIC HEARING

CASE NUMBER 17CUP1083

Summary of testimony of those in favor:

03:57:33 Christopher Payne spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

04:05:19 Joe Haberman responded to a question from Board Member Buttorff regarding insurance (see recording for detailed presentation).

04:06:36 Christopher Payne responded to questions from the Board Members (see recording for detailed presentation).

04:11:09 David Langsdon spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Jennifer Schultz, 1248 Bassett Avenue, Louisville, KY 40204

Keith Duncan, 1248 Bassett Avenue, Louisville, KY 40204

Jamie Kirven, 1263 Willow Avenue, Louisville, KY 40204

Mary Kay Flege, 2322 Glenmary Avenue, Louisville, KY 40204

Clayton Cockerham, 1216 Cherokee Road, #2, Louisville, KY 40204

Tom O'Hearn, 2310 Glenmary Avenue, Louisville, KY 40204

Summary of testimony of those in opposition:

04:14:15 Jennifer Schultz and Keith Duncan spoke in opposition of the request and showed a PDF presentation. Ms. Schultz and Mr. Duncan responded to questions from the Board Members (see recording for detailed presentation).

04:33:49 Jamie Kirven spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

04:40:56 Mary Kay Flege spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

04:45:06 Clayton Cockerham spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

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04:46:40 Tom O'Hearn spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

04:57:13 Christopher Payne spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

05:12:58 **Board Members' deliberation**

05:20:20 On a motion by Vice Chair Fishman, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is not compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1083 does hereby **DENY** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host (LDC 4.2.63), based upon the presentation, the fact that the applicant has been renting this unit as a short term rental since May, 2017 and providing food and drinks which is prohibited, and the case history provided in the Staff Report.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, Leanhart, Vice Chair Fishman, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 17CUP1115

Request: Conditional Use Permit to allow a medical clinic in a C-1 Zoning District
Project Name: Baymark Health Services of Louisville
Location: 4922 Poplar Level Road
Owner: Poplar Plaza, LLC
Applicant: Baymark Health Services of Kentucky, Inc.
Representative: Nick Pregliasco
Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin
Case Manager: Jon E. Crumbie, Planning and Design Coordinator

NOTE: This case was heard out of order, prior to Item #7 on the agenda.

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

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

Agency Testimony:

02:33:40 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Vicki Friel, 4411 Stone Wynde Drive, Louisville, KY 40272
William Marshall, 1720 Lakepointe Dr., #117, Lewisville, TX 75057
Melissa Bunch, 1720 Lakepointe Dr., #117, Lewisville, TX 75057

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PUBLIC HEARING

CASE NUMBER 17CUP1115

Summary of testimony of those in favor:

02:40:28 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

02:51:26 Vicki Friel spoke in favor of the request and explained the operation of Baymark Health Services (see recording for detailed presentation).

02:55:25 William Marshall spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:00:04 Melissa Bunch spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:01:54 Nick Pregliasco and Vicki Friel responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Charlinda Anderson, 5521 Ridgecrest Road, Louisville, KY 40218
Councilwoman Barbara Shanklin, 601 W. Jefferson St., Louisville, KY 40202
Gloria Moorman, 4210 Naomi Dr., Louisville, KY 40219

Summary of testimony of those in opposition:

03:06:24 Charlinda Anderson spoke in opposition of the request. Ms. Anderson stated her main concern is this facility is located in close proximity to school related resources (see recording for detailed presentation).

03:09:03 Councilwoman Barbara Shanklin spoke in opposition of the request (see recording for detailed presentation).

03:13:25 Gloria Moorman spoke in opposition of the request (see recording for detailed presentation).

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REBUTTAL:

03:17:55 Nick Pregliasco spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

03:25:15 Melissa Bunch responded to questions from the Board Members (see recording for detailed presentation).

03:27:51 Nick Pregliasco, Vicki Friel and Melissa Bunch responded to questions from the Board Members (see recording for detailed presentation).

03:36:02 Board Members' deliberation

03:36:06 Travis Fiechter, Legal Counsel, reminded the Board Members that their decision should be based upon whether or not a clinic is appropriate in this location, regardless of the type of clinic it is (see recording for detailed presentation).

03:37:03 Joe Haberman stated the Board should make sure they review this as they would any other clinic. Mr. Haberman stated there were some things mentioned about hours of operation and loitering and the Board could look at some of those things, but any conditions or reasoning for not approving based on the type of facility should be avoided (see recording for detailed presentation).

03:47:36 On a motion by Member Young, seconded by Vice Chair Fishman, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan. No new landscaping will be added to the site since the proposal will not be adding any square footage to the existing structure, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding development with respect to scale, traffic, noise, odor, drainage, dust, lighting, and appearance, and

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

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requirements for the site. Transportation Planning and MSD have reviewed the proposal, and

WHEREAS, the Board further finds that:

4.2.29 Hospitals and Medical Clinics Hospitals and medical clinics may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements. The applicant will be asking for relief from item B.

- A. In form districts where nonresidential freestanding signs are not permitted, a single freestanding on- premise sign, not exceeding 80 square feet in area and not exceeding 10 feet in height, may be placed at each major entrance. Attached signs shall be designed in accordance with form district requirements, but the Board reserves the right to approve the size and location of all attached signs.
- B. All buildings and structures shall be at least 30 feet from any property line. ***The existing structure is 11 feet from the south property line.***
- C. Medical clinics shall provide an indoor waiting area(s) for clients. The waiting area shall be large enough to accommodate the clients arriving for services.
- D. Parking for medical clinics shall be adequate to accommodate the maximum number of clients expected to be at the site at one time.
- E. Such facilities shall be located on or near a collector or arterial street with reasonable access to public transportation.

NOTE: The provisions of this Section 4.2.29 do not apply to Medical Offices as such are defined in this Land Development Code, and

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1115 does hereby **APPROVE** Conditional Use Permit to allow a medical clinic in a C-1 zoning district, noting the hours of operation are 6:00 a.m. to 2:00 p.m. Monday through Friday and on Saturday from 7:00 a.m. to 9:00 a.m., also Item B which states "the existing structure is 11 feet from the south property line"

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that this be acceptable as an existing property, based upon the Staff's presentation, the testimony in favor of the project, and the applicant's justification statement, 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 medical clinic without further review and approval by the Board.

The vote was as follows:

Yes: Members Buttorff, Howard, Young, Leanhart, and Vice Chair Fishman

No: Member Turner

Abstain: Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 17CUP1087

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	None
Location:	2211 Longest Avenue
Owner:	Jocelyn Gonzalez
Applicant:	Christopher Payne
Representative:	Christopher Payne
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

05:24:10 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Christopher Payne, 2211 Longest Avenue, Louisville, KY 40204

Summary of testimony of those in favor:

05:27:37 Christopher Payne spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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05:32:35 Joe Haberman responded to a question from Member Howard regarding the revocation of a previously issued Conditional Use Permit for this property (see recording for detailed presentation).

05:34:04 Christopher Payne responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Ronald Gregg, 1289 Everett Avenue, Louisville, KY 40202

Maureen Bearden, 1291 Everett Avenue, Louisville, KY 40202

Maureen McCall, 1289 Everett Avenue, Louisville, KY 40202

John Kopple, 2200 Longest Avenue, Louisville, KY 40202

Elizabeth Rhodes, 2206 Longest Avenue, Louisville, KY 40202

Clayton Cockerham, 1216 Cherokee Road, #2, Louisville, KY 40204

Keith Duncan, 1248 Bassett Avenue, Louisville, KY 40204

Summary of testimony of those in opposition:

05:39:17 Ronald Gregg spoke in opposition of the request and showed a Powerpoint presentation. Mr. Gregg responded to questions from the Board Members (see recording for detailed presentation).

05:57:30 Maureen Bearden spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

06:00:55 Maureen McCall spoke in opposition of the request (see recording for detailed presentation).

06:02:19 John Kopple spoke in opposition of the request (see recording for detailed presentation).

06:04:43 Elizabeth Rhodes spoke in opposition of the request (see recording for detailed presentation).

06:05:51 Clayton Cockerham spoke in opposition of the request (see recording for detailed presentation).

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06:07:00 Keith Duncan spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

06:08:52 Christopher Payne spoke in rebuttal (see recording for detailed presentation).

06:10:57 **Board Members' deliberation**

06:15:21 On a motion by Member Young, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is not compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1087 does hereby **DENY** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner in an R-5B zoning district, based upon the testimony heard today.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, Leanhart, and Chair Allendorf

Abstain: Vice Chair Fishman

06:16:43 Meeting was recessed.

06:17:01 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 18APPEAL1000

Request:	Review of Staff Determination
Project Name:	1120 W Ashland Ave Nonconforming Use Request
Location:	1120 W Ashland Ave
Owner:	Aja Sherman
Applicant:	Aja Sherman
Representative:	n/a
Jurisdiction:	Louisville Metro
Council District:	21 – Vitalis Lanshima
Case Manager:	Joseph Haberman, Planning & Design Manager

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

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

Agency Testimony:

06:18:06 Joe Haberman presented the case and showed a Powerpoint presentation. Mr. Haberman responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the appeal:

Aja Sherman, 1120 W. Ashland Avenue, Louisville, KY 40215

Summary of testimony of those in favor:

06:38:03 Aja Sherman spoke in favor of the appeal and responded to questions from the Board Members. Ms. Sherman provided the Board Members

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with photographs of the interior of the property (see recording for detailed presentation).

The following spoke in opposition of the appeal:

No one spoke.

06:53:19 Board Members' deliberation

07:03:44 On a motion by Vice Chair Fishman, seconded by Member Young, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18APPEAL1000 does hereby **APPROVE** the appeal, **REVERSING STAFF DETERMINATION**, and the Board further finds that the property was a duplex in 1971 and has been in continuous use as a duplex since, based upon the appellant's testimony, affidavits and evidence presented today.

NOTE: Member Turner left at approximately 7:50 p.m.

The vote was as follows:

Yes: Members Young, Buttorff, Leanhart, Vice Chair Fishman, and Chair Allendorf


No: Member Howard


Absent: Member Turner

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ADJOURNMENT

The meeting adjourned at approximately 8:43 p.m.


Chair *vice chair*


Secretary