

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

August 17, 2020

A meeting of the Louisville Metro Board of Zoning Adjustment was held on August 17, 2020 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

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

Members Absent:

Kimberly Leanhart, Vice Chair

Staff Members Present:

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

On the recommendation of the Louisville Metro Department of Public Health & Wellness regarding congregate events and social distancing, and as permitted by Commonwealth of Kentucky Senate Bill 150, the August 17, 2020 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

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August 3, 2020 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:06:23 On a motion by Member Seale, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the August 3, 2020 Board of Zoning Adjustment online meeting.

The vote was as follows:

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

Absent: Vice Chair Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES
August 17, 2020

BUSINESS SESSION

CASE NUMBER 20-MCUP-0011

Request: Modified Conditional Use Permit to allow a proposed addition
Project Name: Derby City Gaming
Location: 4520 Poplar Level Road
Owner: Churchill Downs, LLC
Applicant: Vision Engineering, LLC by Jihad Hallany
Jurisdiction: Louisville Metro
Council District: 21 – Nicole George
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:

00:07:53 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).

00:11:03 On a motion by Member Seale, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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 the general character of the surrounding neighborhoods in terms of scale, intensity, traffic, noise, drainage and appearance, and

WHEREAS, the Board further finds that the proposal has been reviewed by MSD and Transportation Planning and both have approved the plan, and

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BUSINESS SESSION

CASE NUMBER 20-MCUP-0011

WHEREAS, the Board further finds that:

Special Use Permit standards from the 1963 regulations:

1. All buildings and structures shall be at least 100 feet from all property lines. **The proposed building is approximately 120 feet from the rear property line.**
2. A minimum of 1 off-street parking space shall be provided for each 5 seats in the grandstand.
3. Parking areas and drive shall be surfaced with a hard and durable material and properly drained.
4. Except in districts where signs are allowed, one sign, not to exceed 100 square feet in area, may be located at each of the major entrances. Sign facing a residential district shall be a non-flashing type; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-MCUP-0011 does hereby **APPROVE** Modification of an approved Conditional Use Permit to allow an expansion of a pari-mutuel wagering building, **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 pari-mutuel wagering facility without further review and approval by the Board.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

CASE NUMBER 20-MCUP-0012

Request: Modified Conditional Use Permit for the installation of a new ramp with overhead canopy
Project Name: Ramp Addition
Location: 1200 Story Avenue
Owner: Swift Eckrich, Inc.
Applicant: Qk4, Ashley Bartley
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
Case Manager: Steve Hendrix, Planning and Design Coordinator

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

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

Agency testimony:

00:13:14 Steve Hendrix presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

01:06:42 On a motion by Member Seale, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

WHEREAS, the Board further finds that the proposal is compatible with the surrounding land uses and the general character of the area, since the request is more than 300 feet from Story Avenue, and

WHEREAS, the Board further finds that Transportation Planning and MSD have given preliminary approval, and

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CASE NUMBER 20-MCUP-0012

WHEREAS, the Board further finds that:

4.2.42 Potentially Hazardous or Nuisance Uses

The following uses (manufacture, processing, treatment, or storage unless otherwise specified), having accompanying hazards such as fire, explosion, noise, vibration, dust, or the emission of smoke, odor, or toxic gases may, if not in conflict with other laws or ordinances, be located in industrial zones as indicated below by Conditional Use Permit after the location and nature of such use shall have been approved by the Board of Zoning Adjustment. In reviewing an application for a CUP, the Board of Zoning Adjustment shall review the plan and statements of the applicant and the following:

- A. The Comprehensive Plan; Proposal meets applicable requirements.
- B. Environmental and health related concerns raised by the operation and the applicant's proposal to mitigate any adverse effects to the public's health, safety and general welfare; Not applicable to this proposal.
- C. The applicant's site design, buffering, and security measures and their adequacy to mitigate any adverse effects to the public's health, safety and general welfare; Proposal has been approved by Transportation.
- D. Any other evidence submitted by the applicant and any other party addressing the issues. None

A Conditional Use Permit under this section shall be issued only if the evidence shows the applicant's operation and associated nuisances will be properly managed and the public's health, safety and general welfare will be protected. The Board of Zoning Adjustment may impose additional conditions to protect surrounding properties. All Conditional Use Permits under this section shall be issued subject to the applicant also receiving all necessary permits from local, state and federal regulatory agencies; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-MCUP-0012 does hereby **APPROVE** Modification of a Conditional Use Permit to allow an approximately 125 square foot ramp with canopy on the southeastern portion of the property, **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.

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CASE NUMBER 20-MCUP-0012

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 modification is not so exercised, the request becomes void.

The vote was as follows:

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

Absent: Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0056

Request: Variance to allow an addition to an existing structure to encroach into the required street side and front yard setbacks

Project Name: Lees Lane Variance

Location: 4217 Lees Lane

Owner/Applicant: Tracie Tarrence

Jurisdiction: Louisville Metro

Council District: 1 – Jessica Green

Case Manager: Zach Schwager, Planner I

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

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

Agency testimony:

00:18:13 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition of the request:

No one spoke.

00:25:07 Board Members' deliberation

00:25:26 On a motion by Member Seale, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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CASE NUMBER 20-VARIANCE-0056

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

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there is variation in front and street side yard setbacks for principal structures in the area, and

WHEREAS, the Board further finds that the requested variance will not adversely affect the public health, safety or welfare as the structure must be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the front yard setback will be the same as the existing conditions and the street side yard setback will be the same as the rest of the principal structure; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0056 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow an addition to an existing structure to encroach into the required street side and front yard setbacks (**Front Yard Requirement 25 ft., Request 21 ft., Variance 4 ft., Street Side Yard Requirement 25 ft., Request 0 ft., Variance 25 ft.**), **SUBJECT** to the following Condition of Approval.

Condition of Approval:

1. The street side property line shall be staked in the field. No projections from the façade or building foundation shall cross the property line; any such projections shall be accommodated by stepping back the proposed structure from the property line.

The vote was as follows:

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

Absent: Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0059

Request:	Variance to allow a structure to encroach into a protected waterway buffer
Project Name:	Lake Dreamland Variance
Location:	4523 Lake Dreamland Rd
Owner/Applicant:	John Townsend
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green
Case Manager:	Zach Schwager, Planner I

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

Case Number 20-VARIANCE-0059 was WITHDRAWN. Therefore, no vote or action was taken.

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PUBLIC HEARING

CASE NUMBER 20-CUP-0061

Request: Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host
Project Name: Griffith short term rental
Location: 1721 Eastern Parkway
Owner/Applicant: Stefan and Audrey Griffith
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Jon E. Crumbie, Planning & Design Coordinator

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

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

Agency testimony:

00:28:08 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:

Audrey Griffith, 1721 Eastern Parkway, Louisville, KY 40204

Summary of testimony of those in favor:

00:32:12 Audrey Griffith 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:

Diana Spano, 1725 Eastern Parkway, Louisville, KY 40204

Summary of testimony of those in opposition:

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CASE NUMBER 20-CUP-0061

00:40:50 Diana Spano spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:48:03 Laura Ferguson, Legal Counsel, addressed a concerned raised by Ms. Spano regarding COVID-19 travel advisory (see recording for detailed presentation).

00:49:07 Ms. Spano stated she listens to the updates daily, and she is aware of the changes (see recording for detailed presentation).

REBUTTAL:

00:50:17 Audrey Griffith spoke in rebuttal (see recording for detailed presentation).

00:54:59 Board Members' deliberation

00:55:24 On a motion by Member Seale, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that:

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

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- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. **The applicant has been informed of this requirement.**
- B. The dwelling unit shall be limited to a single short term rental contract at a time. **The applicant has been informed of this requirement.**
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The subject property is smaller than two acres. The applicant states that the residence has four bedrooms that will allow a maximum number of ten guests.**
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there are 0 properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.**
- E. The building in which the dwelling unit is located shall be a single -family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The applicant has been informed of this requirement.**
- F. Food and alcoholic beverages shall not be served by the host to any guest. **The applicant has been informed of this requirement.**

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- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **The applicant states that there are two spaces at the rear of the property with one being in a garage.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. **The applicant has been informed of this requirement.**
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. **The applicant has been informed of this requirement.**
- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. **The applicant has been informed of this requirement.**
- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. **The applicant has been informed of this requirement;** now, therefore be it

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PUBLIC HEARING

CASE NUMBER 20-CUP-0061

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0061 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-5 zoning district and Traditional Neighborhood form district, **SUBJECT** to the following Condition of Approval.

Condition of Approval:

1. The conditional use permit for this short term rental approval shall allow up to four bedrooms. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 20-CUP-0072

Request: Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host
Project Name: Thomas short term rental
Location: 3419 Virginia Avenue
Owner/Applicant: Nedalee Thomas
Jurisdiction: Louisville Metro
Council District: 1 – Jessica Green
Case Manager: Jon E. Crumbie, Planning & Design Coordinator

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

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

Agency testimony:

00:57:47 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:

Nedalee Thomas, 2710 Windsor Forest Drive, Louisville, KY 40272

Summary of testimony of those in favor:

01:00:58 Nedalee Thomas spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 20-CUP-0072

01:10:37 **Board Members' deliberation**

01:12:20 Public Hearing was reopened to discuss the parking area in the rear of the property (see recording for detailed presentation).

01:20:57 **Board Members' deliberation**

01:21:04 On a motion by Member Buttorff, seconded by Member Bond, the following resolution, based upon Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. **The applicant has been informed of this requirement.**

- B. The dwelling unit shall be limited to a single short term rental contract at a time. **The applicant has been informed of this requirement.**

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- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The subject property is smaller than two acres. The applicant states that the residence has two bedrooms that will allow a maximum number of six guests.**
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there are no properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.**
- E. The building in which the dwelling unit is located shall be a single -family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The applicant has been informed of this requirement.**
- F. Food and alcoholic beverages shall not be served by the host to any guest. **The applicant has been informed of this requirement.**
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **The site has credit for on-**

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street parking and there appears to be ample parking along the street. The applicant states that there are two spaces at the rear of the property.

- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. **The applicant has been informed of this requirement.**
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. **The applicant has been informed of this requirement.**
- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. **The applicant has been informed of this requirement.**
- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. **The applicant has been informed of this requirement;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0072 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-7 zoning district and Traditional Neighborhood form district, **SUBJECT** to the following Condition of Approval.

Condition of Approval:

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1. The conditional use permit for this short term rental approval shall allow up to two bedrooms. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

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

Absent: Vice Chair Leanhart

01:22:31 Meeting was recessed.

01:26:44 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 20-CUP-0083

Request: Conditional Use Permit for a private institutional use (church expansion) in a single family zoning district, a variance for the building setback and landscaping waivers

Project Name: Lakewood Baptist Church

Location: 13803 Shelbyville Road

Owner: Lakewood Baptist Church, Inc.

Applicant: Richard W. Moore, P.E.

Jurisdiction: Louisville Metro

Council District: 19 – Anthony Piagentini

Case Manager: Steve Hendrix, Planning and Design Coordinator

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

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

Agency testimony:

01:27:17 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Richard W. Moore, P.E., 10213 Linn Station Rd., Suite 3, Louisville, KY 40223

Summary of testimony of those in favor:

01:37:21 Richard Moore 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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01:44:25 Board Members' deliberation

01:47:09 On a motion by Member Seale, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the applicant's justification, and the testimony heard today, was adopted:

Conditional Use Permit to allow the expansion of a private institutional use (church) in a single family zoning district R-4:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the proposal includes a 8,962 square foot addition to the existing church campus, which has been at this location since 1986, and

WHEREAS, the Board further finds that MSD and Transportation have stamped the plan, and

WHEREAS, the Board further finds that:

Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line. **The requirement has been met.**
- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. **Transportation has stamped the plan.**
- C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking

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demand and trip generation characteristics of the proposed use. **Parking is located in front of the building. The applicant has submitted a letter requesting relief from this requirement.**

- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **The applicant has been informed of this requirement.**
- E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties. **The applicant has been informed of this requirement,** 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 20-CUP-0083 does hereby **APPROVE** Conditional Use Permit to allow the expansion of a private institutional use (church) in a single family zoning district R-4, with **RELIEF** from Requirement 4C, 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 a private institution until further review and approval by the Board.
- 3. The applicant will plant 2 large (Type A) or medium (Type B) trees per 100 linear feet -22 trees along the west property line.

The vote was as follows:

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

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01:50:24 On a motion by Member Seale, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance to allow the buildings to exceed the maximum setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect the public health, safety or welfare, since MSD and Transportation have signed the submitted site plan, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity, since the church has been at this location for some time, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, since residential uses are not immediately adjacent, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, since the church has been at this location for some time and the expansion is minor; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0083 (20-VARIANCE-0058) does hereby **APPROVE** Variance to allow the buildings to exceed the maximum setback (**Requirement 80 ft., Request 530 ft., Variance 450 ft.**).

The vote was as follows:

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

Absent: Vice Chair Leanhart

01:52:54 On a motion by Member Seale, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Waiver to allow the Perimeter Landscape Buffer Area to be zero along the north property line:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the church building will be more than 480 feet from the adjacent property owner and is separated by three acres of wooded area and the pond. The Trilogy property is also 10 to 15 feet below the grade of the proposed building, and

WHEREAS, the Board further finds that the waiver will not violate the comprehensive plan, due to the existing wooded area and the pond being between the church and residential uses, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum when taking into account the existing wooded area, the pond and the distance and elevation from the residential uses, and

WHEREAS, the Board further finds that the applicant will be using the existing natural buffer of 3 acres of wooded area, the pond, the distance and elevation of the proposed residences; and

Waiver to allow the Perimeter Landscape Buffer Area to be zero along the west property line:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the Beckley Woods Residents Association is in support with the condition that the Lakewood Baptist Church plant 2 large (Type A) or medium (Type B) trees per 100 linear feet – 22 trees. This allows the adjacent property owners to enjoy the space and the view of the pond, and

WHEREAS, the Board further finds that the waiver will not violate the comprehensive plan since the church intends to use the existing trees along with planting additional trees without constructing a fence, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum, when taking into account the existing wooded area, the pond, the additional tree planting and the request of the neighbors, 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 due to the additional tree planting and the natural view that will be maintained without the screening by a fence; and

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Waiver to allow the Perimeter Landscape Buffer Area to be zero along the east property line:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the existing view will be maintained by the existing trees without the construction of a fence. The Lake Forest Homeowners Association is in support of the waiver, and

WHEREAS, the Board further finds that the waiver will not violate the comprehensive plan, since the existing trees and the distance from the new construction is 160 feet, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary when taking into account the existing trees, the distance and the support of the waiver from the association, 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 there are many mature trees, and some would have to be removed for the fence. The neighborhood association is in support of the waiver; and

Waiver to allow the elimination of the Berm in the Parkway Buffer:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since this is located at the entrance to the church which already has a stone entrance wall and a four board fence, and

WHEREAS, the Board further finds that the waiver will not violate the comprehensive plan, since the stone entrance wall, the board fence and being more than 435 feet from the vehicle use area already provide a screen, 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 stone entrance wall, the board fence, the distance from the parking area and the with the fact that trees will be planted along the Parkway buffer, 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 such as the stone entrance wall, the board fence

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and the tree planting, along with the distance from the front of the property to the parking area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0083 (20-WAIVER-0046) does hereby **APPROVE** Waivers to allow the Perimeter Landscape Buffer Area to be zero along the north, east, and west property lines, and Waiver to allow the elimination of the Berm in the Parkway Buffer.

The vote was as follows:

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

Absent: Vice Chair Leanhart

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CASE NUMBER 20-APPEAL-0003

Request:	Appeal of an Administrative Decision
Project Name:	Hazelwood Avenue Appeal
Location:	4218 Hazelwood Avenue
Appellant:	Stephen and Theresa Barmore
Representative:	Stephen and Theresa Barmore
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
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:

01:57:45 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the appeal:

Theresa Barmore, 808 Perennial Drive, Louisville, KY 40217

Summary of testimony of those in favor:

02:07:20 Theresa Barmore spoke in favor of the appeal and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

02:15:24 Jon Crumbie declined rebuttal (see recording for detailed presentation).

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02:16:37 Board Members' deliberation

02:20:59 On a motion by Member Seale, seconded by Member Buttorff, the following resolution, based upon the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the residential use (second dwelling unit in the main structure) existed on the property in 1971, and

WHEREAS, the Board further finds that the use of the property continued to the present day; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-APPEAL-0003, does hereby **OVERTURN** Staff's decision and **APPROVE** the Appeal.

The vote was as follows:

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

Absent: Vice Chair Leanhart

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02:25:24 Prior to adjournment, Joe Haberman stated that additional meetings may not be required for the foreseeable future.

The meeting adjourned at approximately 3:30 p.m.

Chair

Secretary