

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

June 3, 2019

A meeting of the Louisville Metro Board of Zoning Adjustment was held on June 3, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Dwight Young, Chair
Rosalind Fishman, Vice Chair
Kimberly Leanhart, Secretary
Lester Turner, Jr.
Lula Howard
Richard Buttorff
Lindsey Jagoe

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Jon Crumbie, Planning & Design Coordinator
Steve Hendrix, Planning & Design Coordinator
Beth Jones, Planner II
Zach Schwager, Planner I
Jay Lockett, Planner I
John Carroll, Legal Counsel (left at approximately 4:52 p.m.)
Paul Whitty, Legal Counsel (arrived at approximately 4:52 p.m.)
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

MAY 20, 2019 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:01:40 On a motion by Vice Chair Fishman, seconded by Member Turner, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on May 20, 2019.

The vote was as follows:

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

Abstain: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

CASE NUMBER 19VARIANCE1021

Request: Variance to allow an existing deck to encroach into the rear and side yard setbacks
Project Name: Longest Avenue Variance
Location: 2311 Longest Avenue
Owner/Applicant: Michael Allen – LAC Real Estate, LLC
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
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:

00:02:30 Zach Schwager stated this is a reconsideration of a case that was heard on May 6th. Chair Young stated we are reconsidering this because of an issue with the motion, and we wanted to clarify that. Mr. Schwager stated that is correct; the motion was made to approve the variance request, but the motion ended up not passing and it was left at that (see 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.

00:03:54 A motion was made by Vice Chair Fishman, seconded by Member Turner, to **DENY** Case Number 19VARIANCE1021.

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CASE NUMBER 19VARIANCE1021

The vote was as follows:

Yes: Members Turner, Vice Chair Fishman, and Chair Young

No: Members Howard, Jagoe, and Leanhart

Abstain: Member Buttorff

00:06:21 Joe Haberman stated that vote was a tie. Mr. Haberman stated Richard may have missed the previous meeting's discussion, but that was just to have this item scheduled for reconsideration. Member Buttorff stated he was at the last meeting but had to leave early. Mr. Haberman stated the only thing decided at the last meeting was whether to do this, the merits of the case were not discussed. Member Buttorff stated he remembers the original case. Chair Young stated the reconsideration was because when the Board originally voted on it, Member Leanhart made the motion to approve it, and that motion did not pass. Chair Young stated they felt it was appropriate to make a motion to deny it and that way there is a motion that passes. There was never a motion that passed, so if your vote was one way, nothing has changed (see recording for detailed discussion).

00:08:14 On a motion by Vice Chair Fishman, seconded by Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested Variances will allow an unreasonable circumvention of the zoning regulations; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1021 does hereby **DENY** Variance from Land Development Code Section 5.1.10.F to allow a structure to encroach into the required side yard setback, and Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required rear yard setback.

The vote was as follows:

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

No: Members Howard, Jagoe, and Leanhart

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BUSINESS SESSION

CASE NUMBER 19CUP1044

Request: Modified Conditional Use Permit for an off-street parking area
Project Name: Kentucky Farm Bureau
Location: 9201 Bunsen Parkway
Owner: Kentucky Farm Bureau Federation
Applicant: Ashley Bartley – Qk4
Jurisdiction: Louisville Metro
Council District: 18 – Marilyn Parker
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:

00:10:03 Zach Schwager presented the case and showed the original approved plan, as well as the new plan which proposes to shift the off-street parking. Mr. Schwager responded to questions from the Board Members (see 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.

00:11:29 On a motion was made by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the walking path adds a great design for the people who work on the site, was adopted:

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CASE NUMBER 19CUP1044

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that Plan 2040 Goal 1 Policy 3.1.11 describes the Campus form as being compact and walkable, with multiple buildings, central gathering areas, extensive open space, internal shared parking, private walkways and roadways, and shared utilities and signage. The proposal complies with this description, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding uses and provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements, and

WHEREAS, the Board further finds that necessary public facilities are available or being provided by the proposal as demonstrated on the development plan, and

WHEREAS, the Board further finds that:

An Off-Street Parking Area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements.

- A. The area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks).
- B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.
- C. The minimum front, street side, and side yards required in the district shall be maintained free of parking.
- D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.
- E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area.
- F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for transportation planning prior to the public hearing on the Conditional Use Permit. **The requested conditional use permit meets each of these standards;** now, therefore be it

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CASE NUMBER 19CUP1044

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1044, does hereby **APPROVE** Modified Conditional Use Permit for an off-street parking area, LDC Section 4.2.39.

The vote was as follows:

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

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CASE NUMBER 19CUP1108

Request:	Modified Conditional Use Permit for a solid waste management facility
Project Name:	Rumpke P-T Addition
Location:	1101 W. Oak Street
Owner:	Rumpke of Kentucky, Inc.
Applicant:	Ashley Bartley – Qk4
Jurisdiction:	Louisville Metro
Council District:	6 – David James
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:

00:13:27 Zach Schwager presented the case and showed the site plan. Mr. Schwager stated the original CUP was approved in 1995, and there was a Condition of Approval stating that any new development had to be approved by the Board of Zoning Adjustment. Mr. Schwager stated in this case they are adding square footage to an existing building (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition of the request:

No one spoke.

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CASE NUMBER 19CUP1108

00:14:12 On a motion by Vice Chair Fishman, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that Plan 2040 describes the Traditional Workplace in Goal 1 Policy 3.1.9 as a form characterized by predominantly small-to medium-scale industrial and employment uses. The streets are typically narrow, in a grid pattern and often have alleys. Buildings have little or no setback from the street. Traditional workplaces are often closely integrated with residential areas and allow a mixture of industrial, commercial and office uses. The proposal complies with this description. Form Goal 2 is to encourage sustainable growth and density around mixed-use centers and corridors. The proposal complies with policies under this goal, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding uses and provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements, and

WHEREAS, the Board further finds that necessary public facilities are available or being provided by the proposal as demonstrated on the development plan, and

WHEREAS, the Board further finds that:

Indoor Recycling Centers, if not in conflict with other laws or ordinances, may be located in the M-2, M-3 and EZ-1 Industrial Districts upon granting of a Conditional Use Permit after the location and nature of such use have been approved by the Board of Zoning Adjustment. The Board of Zoning Adjustment shall review the Comprehensive Plan, the plans and statements of the applicant and shall not permit such buildings, structures, or uses until it has been shown that the public health, safety, and general welfare will be properly protected, and that necessary safe guards will be provided for the protection of surrounding property and person. Recycling and/or storage of the following materials:

- Glass and glass products
- Paper and paper board and fiber Non-ferrous metals
- Ferrous metals (limited to food and beverage containers) Wallboard

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Plastic and rubber products, and Insulation; may be permitted when developed in compliance with the following conditions:

- a. The operation including loading and unloading operations is completely enclosed in building(s) approved for such purposes by all applicable fire protection authorities.
- b. The operation will not have or require any fire, smelting, fumes, chemicals or other toxic materials, hazardous waste or by-products, and the use and site shall conform to such other requirements and conditions as the Board in the exercise of sound discretion may require for the protection of surrounding property, persons, and neighborhoods values.
- c. The building(s) shall be a minimum of 200 feet or a lesser distance if approved by the Board of Zoning Adjustment from any surrounding residential district(s). **The conditional use permit was approved in 1995 and is not required to meet these current standards, however, the proposed addition will meet these standards**; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1108 does hereby **APPROVE** Modified Conditional Use Permit for a solid waste management facility (indoor recycling center), LDC Section 4.2.49.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1028

Request:	Height Variance and Side Setback Variance
Project Name:	Springhurst Hotels
Location:	4209 Simcoe Ln
Owner:	Jaytee Springhurst LLC
Applicant:	The Malcolm Bryant Group
Jurisdiction:	Louisville Metro
Council District:	17 – Markus Winkler
Case Manager:	Jay Lockett, AICP, Planner I

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

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

Agency Testimony:

00:15:19 Jay Lockett presented the case and showed a Powerpoint presentation. Mr. Lockett responded to questions from the Board Members, including questions regarding existing Binding Elements (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

John Campbell, 642 S. 4th Street, Suite 100, Louisville, KY 40202

Summary of testimony of those in favor:

00:27:09 John Campbell spoke in favor of the request and showed a Powerpoint presentation. Mr. Campbell responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Greg Troutman, 4000 Abbeywood Village Drive, Louisville, KY 40241

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James Onnen, 4100 Abbeywood Village Drive, Louisville, KY 40241

Summary of testimony of those in opposition:

00:39:21 Greg Troutman, Vice President of the Springhurst Community Association and Officer of the Village of Abbeywood Residents Association, spoke in opposition of the request and referred to the site plan. Mr. Troutman discussed sewer connections as well as opposition to building height. Mr. Troutman requested the buildings be four stories instead of five. Mr. Troutman stated mainly they are concerned about their perimeter fence and it could be something no more difficult than having the developer relocate the fence at their expense, and they would certainly listen to that and it may resolve the problem. Mr. Troutman responded to questions from the Board Members (see recording for detailed presentation).

00:51:44 James Onnen was called, but declined to speak.

REBUTTAL:

00:52:08 John Campbell spoke in rebuttal and stated the applicant is agreeable to replacing the fence. Mr. Campbell responded to questions from the Board Members (see recording for detailed presentation).

00:57:51 Board Members' deliberation

01:07:03 On a motion by Member Howard, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the applicant's justification, was adopted:

Variance #1 from Land Development Code Chapter 5.3.1.C.5, Table 5.3.2 to allow two proposed hotels to exceed the 30 foot maximum height by up to 35 feet:

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 building code requirements for safe construction will be met, and

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WHEREAS, the Board further finds that the requested variance will not alter the essential character of the area, as the proposed structure will be a similar size and scale to adjacent office and residential uses, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, as additional setbacks and buffering will be provided adjacent to the lower intensity residential development to the southeast, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, as the site is surrounded by the Snyder Freeway and sites in the Regional Center form district, and the scale of development is appropriate for the area, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances as other non- residential uses in the Neighborhood form district would be subject to the same rules, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land, as the proposed development is a reasonable scale for the location and size of the subject property, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant subsequent to the adoption of the zoning regulations, 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 19VARIANCE1028 does hereby **APPROVE** Variance #1 from Land Development Code Chapter 5.3.1.C.5, Table 5.3.2 to allow two proposed hotels to exceed the 30 foot maximum height by up to 35 feet.

The vote was as follows:

Yes: Members Howard, Jagoe, Turner, Vice Chair Fishman, and Chair Young

No: Members Buttorff, and Leanhart

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01:08:34 On a motion by Member Howard, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the applicant's justification, was adopted:

Variance #2 from Land Development Code Chapter 5.3.1.C.5, Table 5.3.2 to allow office buildings and vehicular use areas to encroach into the required 30 foot non-residential to residential setback by up to 20 feet as shown on the development plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as all building code requirements for safe construction will be met, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the area, as the proposed structure will be a similar size and scale to adjacent office and residential uses. There will still be considerable setbacks to adjacent residential uses, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, as there will still be significant setbacks and buffering between the proposed development and all adjacent residential lots, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, as the encroachment is the minimum necessary to accommodate the required parking and vehicle maneuvering areas for the proposed use, and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances as, the lot is oddly shaped and relatively narrow which makes it difficult to accommodate all required setbacks and buffers while providing adequate parking, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land, as the proposed development is a reasonable scale for the location and size of the subject property, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant subsequent to the adoption of the zoning regulations, and

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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 19VARIANCE1028 does hereby **APPROVE** Variance #2 from Land Development Code Chapter 5.3.1.C.5, Table 5.3.2 to allow office buildings and vehicular use areas to encroach into the required 30 foot non-residential to residential setback by up to 20 feet as shown on the development plan.

The vote was as follows:

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

No: Members Buttorff

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CASE NUMBER 19VARIANCE1033

Request: Variances of side yard setbacks for a first story addition on the side of an existing residence and a side yard setback for a change in the roof to an existing addition on the rear of the residence

Project Name: Payne Street Variance

Location: 1209 Payne Street

Owner/Applicant: John Morgan

Jurisdiction: Louisville Metro

Council District: 4 – Barbara Sexton Smith

Case Manager: Zach Schwager, Planner I

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

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

Agency Testimony:

01:10:44 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:

John Morgan, 1209 Payne Street, Louisville, KY 40204

Summary of testimony of those in favor:

01:15:17 John Morgan 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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01:19:42 Board Members' deliberation

01:20:03 On a motion by Vice Chair Fishman, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, and the discussion, was adopted:

Variance #1 from Land Development Code Section 5.1.10.F to allow a structure to encroach into the required western side yard setback:

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

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the rear addition already exists, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the rear addition already exists, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the encroachment is the same as the existing side yard setback, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the subject property is similar in size and shape to surrounding properties, 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 they would have to remove and shift the existing addition to meet the setback requirements, 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

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Variance #2 from Land Development Code Section 5.1.10.F to allow a structure to encroach into the required eastern side yard setback:

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

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the addition would be similar in design to the other shotgun residences in the vicinity. Also, the addition will be behind an existing privacy fence and will not be visible from the right-of-way, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the addition would be similar to the neighboring properties and will be behind an existing privacy fence, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the encroachment is comparable to the existing side yard setback, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the subject property is similar in size and shape to surrounding properties, 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 proposed addition will be setback the same distance as the existing structure, 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; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1033 does hereby **APPROVE** Variance from Land Development Code Section 5.1.10.F to allow a structure to encroach into the required western side yard setback (**Requirement 2 ft. 6 in., Request 0 ft., Variance 2 ft. 6 in.**),

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and Variance #2 from Land Development Code Section 5.1.10.F to allow a structure to encroach into the required eastern side yard setback (**Requirement 2 ft. 6 in., Request 8 in., Variance 1 ft. 10 in.**).

The vote was as follows:

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

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CASE NUMBER 19VARIANCE1035

Request: Variance to allow a private yard area to be less than the required 20% of the area of a lot
Project Name: Miami Avenue Variance
Location: 3817 Miami Avenue
Owner/Applicant: Floyd S. Hester
Jurisdiction: Louisville Metro
Council District: 5 – Donna Purvis
Case Manager: Zach Schwager, Planner I

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

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

Agency Testimony:

01:21:55 Zach Schwager presented the case and showed a Powerpoint presentation (see 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.

01:24:06 Board Members' deliberation

01:26:37 On a motion by Member Howard, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, was adopted:

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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 addition will be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed accessory structure will be similar in scale to other structures in the area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the structure will be constructed to comply with building codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the majority of the required private yard area will still be intact, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone because the lot is similar in shape and size to other lots in the area, 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 create an unnecessary hardship on the applicant because most of the private yard area will be intact, 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; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1035 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of a lot (**Requirement 666 sq. ft., Request 600 sq. ft., Variance 66 sq. ft.**).

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The vote was as follows:

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

01:28:00 Meeting was recessed.

01:28:26 Meeting was reconvened.

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CASE NUMBER 19VARIANCE1037

Request: Variance for a side yard setback for a first story addition on the rear of an existing residence
Project Name: Wendover Avenue Variance
Location: 510 Wendover Avenue
Owner: Adam Wilson
Applicant: Charles Podgursky – C.R.P. & Associates, Inc.
Jurisdiction: City of St. Matthews
Council District: 9 – Bill Hollander
Case Manager: Zach Schwager, Planner I

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

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

Agency Testimony:

01:28:44 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Charles Podgursky, 7321 New LaGrange Rd., #111, Louisville, KY 40222

Summary of testimony of those in favor:

01:30:55 Charles Podgursky 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 19VARIANCE1037

01:32:45 Board Members' deliberation

01:32:51 On a motion by Vice Chair Fishman, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, the discussion, and the presentation, was adopted:

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

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the addition is setback the same distance as the existing structure, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the addition is setback the same distance as the existing structure, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the addition is setback the same distance as the existing structure; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1037 does hereby **APPROVE** Variance from City of St. Matthews Development Code Section 4.6.C.2.b to allow an addition to encroach into the required side yard setback (**Requirement 6 ft. [18 ft. total], Request 1.1 ft. [10.2 ft. total], Variance 4.9 ft. [7.8 ft. total]**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1039

Request: Variance of a front yard setback for a single-family residence
Project Name: Sanctuary Bluff Lane Variance
Location: 4119 Sanctuary Bluff Lane
Owner/Applicant: Sham S. Kakar – Sunrise Custom Homes
Jurisdiction: Louisville Metro
Council District: 16 – Scott Reed
Case Manager: Zach Schwager, Planner I

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

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

Agency testimony:

01:34:16 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager stated the staff report indicates there was a letter in favor of the variance and that has been withdrawn at the request of the person who submitted it. Mr. Schwager stated he has received two emails in opposition. 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:

Cohin Kakar, 13050 Moorland Ln., Carmel, IN 46074
Sham Kakar, 7404 Wickliffe Dr., Prospect, KY 40059
Colette Koetsler, 11212 Oakhurst Rd., Louisville, KY 40245
Mark Zanni, 4204 Sanctuary Bluff Ln., Louisville, KY 40241

Summary of testimony of those in favor:

01:36:39 Cohin Kakar spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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01:38:00 Sham Kakar spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:41:07 Colette Koetsler spoke in favor of the request (see recording for detailed presentation).

01:42:23 Mark Zanni spoke in favor of the request (see recording for detailed presentation).

The following spoke neither for nor against the request:

Gary Shearer, 6620 Nightingale Bluff Ln., Louisville, KY 40241

Charles Podgursky, 7321 New LaGrange Rd., Louisville, KY 40222

Summary of testimony of those neither for nor against:

01:43:57 Gary Shearer spoke neither for nor against the request. Mr. Shearer stated the plot plan is correct, but the problem is that the house was not built according to the plan. Mr. Shearer stated he would like to reach some common ground rather than having to tear the house down. Mr. Shearer responded to questions from the Board Members (see recording for detailed presentation).

01:54:22 Charles Podgursky spoke neither for nor against the request. Mr. Podgursky stated his site plan was on the screen, so he is here to explain what happened. Mr. Podgursky stated he was hired to do a site plan and stake off the house, so they did and sent him the site plan. Mr. Podgursky stated he received many phone calls from the applicant stating he didn't like the way he staked it, the excavator didn't understand what he was doing. Mr. Podgursky stated he sent him that copy and told him this was the first phase that they usually do and his stakes are still there and this way they can square off the foundation. Mr. Podgursky stated the back two stakes were something like fifteen feet down. Mr. Podgursky stated he wanted him to come out and put every corner in. Mr. Podgursky stated when he got in on Monday he saw the applicant's check, and there was another builder there. Mr. Podgursky stated he was not happy with this situation and he didn't want to have anything to do with it so he sent his check back and the next day he came out and took all his stakes out of the ground. Mr. Podgursky stated two months later he received a telephone call from a gentleman who told him his survey was wrong. Mr. Podgursky stated he advised him that he didn't do a survey because there was nothing to survey. Mr.

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Podgursky stated the caller said well you showed it thirty-one feet from the curbs, and he said no, that's not how I usually show it; I show it from the right-of-way. Mr. Podgursky stated he is not in favor or against what the Board is going to vote on, he just wants them to know he is clearing his name in that he basically walked away from this job. Mr. Podgursky stated somebody else took over, somebody else must have staked it, and his assumption is that that fall-away lot, it was just very hard to build that house the way it's supposed to be done so therefore it was closer to the street. Mr. Podgursky responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Lenny Chopovsky, 4212 Sanctuary Bluff Ln., Louisville, KY 40241

Pamela Blair, 4117 Sanctuary Bluff Ln., Louisville, KY 40241

Ron Biddle, 6630 Nightingale Bluff Ln., Louisville, KY 40241

James Kessinger, 4308 Sanctuary Bluff Ln., Louisville, KY 40241

Summary of testimony of those in opposition:

01:59:20 Lenny Chopovsky spoke in opposition of the request. Mr. Chopovsky stated this house blocks the view severely. Mr. Chopovsky stated this could be fixed and the owner initially stated he would and now he says he will not. Mr. Chopovsky responded to questions from the Board Members (see recording for detailed presentation).

02:05:52 Pamela Blair spoke in opposition of the request. Ms. Blair stated the reason the owner did not want to move the house back is because it was going to be too deep. Ms. Blair stated that lot is a very difficult lot to build on; there have been several builders that have looked at the lot and have decided that it's too costly to build on because the footers would have to be too deep. Ms. Blair stated she thinks this was willful and intentional on his part to do that. Ms. Blair stated they did not get their notice until May 29th; there was a text sent that evening at 9:09 saying there was something in their mailbox, so that was Thursday which gave everybody just one day to plan on attending this hearing today. Ms. Blair read from Sanctuary Bluff's Covenants, Deed and Restrictions Declaration regarding setbacks. Ms. Blair stated because he has brought the house up so high and has slightly tilted it, he has severely altered the integrity and the look of the neighborhood as it was intended per their declarations. Ms. Blair referred to photos of the view from her property. Ms. Blair stated she had sent a letter of opposition. Mr. Schwager stated that letter was received on

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Thursday, after the deadline. Chair Young declined to accept the letter, but advised Ms. Blair the Board would accept her testimony today regarding information contained in the letter. Ms. Blair read the letter into the record. Ms. Blair responded to questions from the Board Members (see recording for detailed presentation).

02:37:40 Ron Biddle spoke in opposition of the request. Mr. Biddle stated he is in charge of the Architectural Review Committee for this subdivision. Mr. Biddle stated it was assumed Mr. Kakar was going to lay the house out according to what the rules are, 30 foot setback, and it wasn't until the house was up out of the ground that it became apparent that it looked awfully close. Mr. Biddle stated he and others measured and found that it didn't appear to be in compliance. Mr. Biddle stated the HOA hired a certified surveyor, Cardinal Surveying, and that survey shows that he is approximately 15 feet out of compliance with the front setback. Mr. Biddle stated at that point he and others notified Sham of the situation and they discussed as a possible solution removing the front ten foot bay of his garage and he initially agreed. Mr. Biddle stated after about ten days he changed his mind and didn't agree. Mr. Biddle stated their position now is that the house needs to be torn down. Mr. Biddle stated in opposition to what the builder's son said, there are no other homes in the subdivision that exceed the 30 foot setback; every one of them has been checked. Mr. Biddle stated this is such an egregious violation of the setback that he thinks the only fair solution is the removal of the house. Mr. Biddle responded to questions from the Board Members (see recording for detailed presentation).

02:43:56 James Kessinger spoke in opposition of the request. Mr. Kessinger stated he is the fired Architectural Review Committee Chairman. Mr. Kessinger stated he put together a year and a half ago a letter that the broker should be handing to the buyers of their lots. Mr. Kessinger read from the letter (see recording for detailed presentation).

02:47:35 Lenny Chopovsky spoke again in opposition. Mr. Chopovsky stated he didn't realize how much trouble this house was causing to the next door neighbor, and that is why he wanted to revoke his previous suggestion to move the garage. Mr. Chopovsky stated he thinks a different house should be built on that lot (see recording for detailed presentation).

REBUTTAL:

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02:48:21 Sham Kakar spoke in rebuttal. Mr. Kakar stated every house in the neighborhood is different. Mr. Kakar referred to the site plan and the building permit that was issued. Mr. Kakar showed a Powerpoint presentation and referred to photos of other houses in the neighborhood. Mr. Kakar responded to questions from the Board Members (see recording for detailed presentation).

03:04:58 Board Members' deliberation

03:13:21 On a motion by Member Leanhart, seconded by Member Howard, the following resolution, based upon the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that building of this house was not to the plan that was approved by the Building Permit, and

WHEREAS, the Board further finds that the requested variance will alter the essential character of the general vicinity, and

WHEREAS, the Board further finds that the builder did not follow through with his responsibility to make sure the requirements that were approved by the Building Permit were adhered to; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1039 does hereby **DENY** Variance from Land Development Code Table 5.3.1 to allow a structure to encroach into the required front yard setback.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1044

Request: **THIS CASE HAS BEEN WITHDRAWN**
Variance for vehicular maneuvering to encroach into the rear yard setback

Project Name: Preston Highway Variance

Location: 6101 Preston Highway

Owner: Jhoolay Lal Properties, LLC

Representative: Missy Legel – Civil Design, Inc.

Jurisdiction: Louisville Metro

Council District: 2 – Barbara Shanklin

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.

Case Number 19VARIANCE1044 has been WITHDRAWN. Therefore, no vote or action was taken.

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1022

Request:	Variances and waivers of wall, landscaping, setbacks and fence height requirements
Project Name:	Churchill Downs Barn Phase 2
Location:	3141 S. 4th Street
Owner:	AQ Properties LLC
Applicant:	Churchill Downs Inc.
Representative:	Qk4
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Beth Jones, AICP, Planner II

NOTE: Item #16 on this agenda was heard prior to this case (see page 49 of these minutes).

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:

03:28:01 Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Ashley Bartley, 1046 E. Chestnut St., Louisville, KY 40204

Summary of testimony of those in favor:

03:38:50 Ashley Bartley spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

03:43:42 Board Members' deliberation

03:43:50 On a motion by Member Turner, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

Variance #1 from Land Development Code 5.5.2 to increase the maximum permitted front setback from 25 ft. to 33 ft. to accommodate proposed security office:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will ensure safe vehicular access to the site, and

WHEREAS, the Board further finds that the requested variance is consistent with existing development in the vicinity, and

WHEREAS, the Board further finds that the requested variance will allow safe vehicular and pedestrian circulation at the access point, and

WHEREAS, the Board further finds that the requested variance will not result in adverse effects for the surrounding area or for traffic circulation, and

WHEREAS, the Board further finds that the requested variance is necessary to accommodate a type of vehicular traffic specific to the site, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not permit the property owner to provide security while operating in a manner safe for pedestrians and other vehicles, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought; and

Variance #2 from Land Development Code 4.4.3.A.1.a to permit a fence to exceed the permitted maximum height by 4 ft. 6 in. for a height of 8 ft.:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance does not affect public health, safety or welfare, and

WHEREAS, the Board further finds that the requested variance is consistent with existing development in the vicinity, and

WHEREAS, the Board further finds that the requested variance does not cause any hazard or nuisance, and

WHEREAS, the Board further finds that the requested variance is not unreasonable, and

WHEREAS, the Board further finds that the requested variance will allow fencing that coordinates with fencing already approved and installed in the area, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create unnecessary hardship in that the proposal will have no adverse effects, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1022 does hereby **APPROVE** Variance from Land Development Code 5.5.2 to increase the maximum permitted front setback from 25 ft. to 33 ft. to accommodate proposed security office (**Requirement 25 ft., Request 33 ft., Variance 8 ft.**), and Variance #2 from Land Development Code 4.4.3.A.1.a to permit a fence to exceed the permitted maximum height by 4 ft. 6 in. for a height of 8 ft. (**Requirement 3 ft. 6 in., Request 8 ft., Variance 4 ft. 6 in.**), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. No alterations or improvements shown on the development plan, including but not limited to curbing, landscaping and striping, shall be constructed within the existing 4th Street right-of-way before approval of 19STREET1002 is obtained.

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2. Permits must be obtained from the Louisville Metro Department of Public Works prior to any temporary closures of 4th Street required for any and all work within the 4th Street right-of-way occurring prior to final road closure.
3. Permits must be obtained from the Louisville Metro Department of Public Works prior to the commencement of any site work, including but not limited to site disturbance, foundation or other construction, and utility relocations.

The vote was as follows:

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

03:46:31 On a motion by Member Turner, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

Waiver #1 from Land Development Code 10.2.12 to exceed the maximum distance permitted between Interior Landscape Areas (ILA):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the area not meeting requirements is interior to the site, and

WHEREAS, the Board further finds that the waiver does not violate Plan 2040 guidelines (see Attachment 3), and

WHEREAS, the Board further finds that the waiver is limited to the area of the site where it is strictly required. All other ILA- related requirements will be met, and

WHEREAS, the Board further finds that the waiver of this requirement will permit the applicant to install a detention basin in excess of requirements; and

Waiver #2 from Land Development Code 10.2.10 to reduce the required Landscape Buffer Area (LBA) along the Oakdale Avenue development site frontage by up to 5 ft.:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that although the size of the LBA will be reduced, all planting requirements will be met, and

WHEREAS, the Board further finds that the waiver does not violate Plan 2040 guidelines (see Attachment 3), and

WHEREAS, the Board further finds that the waiver is limited to the area of the site where it is strictly required. All planting requirements will be met, and

WHEREAS, the Board further finds that the waiver of this requirement would create an unnecessary hardship in that all planting requirements will be met; and

Waiver #3 from Land Development Code 5.5.1.A.3.a to not require masonry wall parking lot screening along the Oakdale Avenue development site frontage:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that most of the area affected is owned by Churchill Downs. Adjacent residential properties do not have frontage on Oakdale Avenue, and

WHEREAS, the Board further finds that the waiver does not violate Plan 2040 guidelines (see Attachment 3), and

WHEREAS, the Board further finds that the waiver is limited to the area of the site where it is strictly required, and

WHEREAS, the Board further finds that the waiver of this requirement will allow the applicant to install alternative fencing and screening consistent with other fencing in the area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1022 does hereby **APPROVE** Waiver #1 from Land Development Code 10.2.12 to exceed the maximum distance permitted between the Interior Landscape Areas (ILA), Waiver #2 from Land Development Code 10.2.10 to reduce the required Landscape Buffer Area (LBA) along the Oakdale Avenue development site frontage by up to 5 ft., and Waiver #3 from Land Development Code 5.5.1.A.3.a to not require masonry wall parking lot screening along the Oakdale Avenue development side frontage.

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The vote was as follows:

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

03:48:09 Meeting was recessed.

03:48:26 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 18CUP1187

Request: Conditional Use Permit for short term rental of a dwelling unit not the primary residence of the host
Project Name: Valetta Short Term Rental
Location: 2328 Valetta Lane
Owner/Applicant/Host: Robert & Diana Brown Revocable Trusts
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Beth Jones, AICP, Planner II

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

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

Agency testimony:

03:48:54 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones stated she had two comments from neighbors that were received past the deadline; Chair Young stated he would allow them. Paul Whitty, Legal Counsel, stated we might have a notice problem because this seems to indicate that what they're asking for is to have short term rental on the derby period only and he thinks that's what the neighbors may have assumed was asked for. Joe Haberman, Planning & Design Manager, stated he would only add that nowhere else in the neighborhood letter that he saw or in the application did it say that they were going to limit the times; they just referred to their project as the Derby Festival or something like that. Mr. Haberman stated it is a little misleading; we've had other applicants called Derby Rentals or things like that too, which is also misleading. Mr. Haberman stated the Board could let the applicant discuss what they said at their neighborhood meeting and who showed up. Staff and Legal Counsel discussed the situation and whether or not this case should be continued. Paul Whitty stated he thinks it's misleading and should be continued until they notify the neighbors precisely what they intend to do. The Board decided to go forward with testimony today because there are

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people here to speak and if they decide to continue the case then their testimony will be on record (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Bonnie Brown, 2233 Tyler Lane, Louisville, KY 40205

Summary of testimony of those in favor:

03:59:22 Bonnie Brown spoke in favor of the request and explained the neighborhood notice letter and her intentions in renting the property (see recording for detailed presentation).

The following spoke in opposition of the request:

Garth Webb, 2360 Valetta Lane, Louisville, KY 40205

Barbara Stetson, 2357 Valetta Lane, Louisville, KY 40205

Andrew Douds, 2326 Valetta Lane, Louisville, KY 40205

Martha Schecter, 2361 Valetta Lane, Louisville, KY 40205

Summary of testimony of those in opposition:

04:03:41 Garth Webb spoke in opposition of the request. Mr. Webb stated he disagrees with the staff report in that the use is not compatible with other land uses in the area. Mr. Webb discussed parking issues. Mr. Webb responded to questions from the Board Members (see recording for detailed presentation).

04:08:43 Barbara Stetson spoke in opposition of the request. Ms. Stetson stated she has an email from another neighbor, which is one the Board received today, and that she is authorized to speak for that neighbor as well. Ms. Stetson discussed the neighborhood meeting, and that she definitely thought that it was specifically about the derby, and that's primarily what was discussed at the meeting. Ms. Stetson stated having a short term rental definitely would be disruptive to the neighborhood. Ms. Stetson mentioned parking. Ms. Stetson stated her neighbor couldn't come because of work, but wanted to make sure she communicated that this would make significant changes in the neighborhood. Ms. Stetson stated there were two people next to her since this meeting started at 1:00, but they left about 4:45 because they had to be somewhere. Ms. Stetson stated they were not at the neighborhood meeting although they were on

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the invitation list, and they told her the reason they didn't go to the meeting was because they thought it was only about the derby for this year. Ms. Stetson stated they told her if they had known it was about something bigger, they would have come. Ms. Stetson stated they live at 2345 Valetta, and they strongly oppose this (see recording for detailed presentation).

04:14:17 Andrew Douds spoke in opposition of the request. Mr. Douds stated he thought she was asking for a conditional use that would only apply for derby. Mr. Douds discussed the character of the neighborhood. Mr. Douds stated if he had known the request was for other than derby, he would have made sure that other people further down the street who were not notified knew as well. Mr. Douds discussed parking. Mr. Douds responded to questions from the Board Members (see recording for detailed presentation).

04:30:25 Martha Schechter spoke in opposition of the request. Ms. Schechter stated the meeting notice talks about a Conditional Use Permit, but then it goes right into a rental for April 22nd through May 6th, 2019. Ms. Schechter stated she came here basically to say that she thought that the permit was no longer useful or relevant, and therefore should be denied. Ms. Schechter stated derby rental was discussed at the neighborhood meeting (see recording for detailed presentation).

REBUTTAL:

04:34:27 Bonnie Brown spoke in rebuttal. Ms. Brown discussed the type of renters they would accept and addressed the parking. Ms. Brown stated that while it is true the initial plan was to rent for derby there is no permit for that; you have to get a Conditional Use Permit. Ms. Brown responded to questions from the Board Members (see recording for detailed presentation).

04:41:25 Board Members' deliberation

04:56:18 On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 18CUP1187 to the July 8, 2019 Board of Zoning

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CASE NUMBER 18CUP1187

Adjustment meeting to allow the applicant an opportunity to hold an additional neighborhood meeting. The applicant shall submit the minutes from this neighborhood meeting to staff no later than July 1, 2019.

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, and Chair Young
No: Vice Chair Fishman

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PUBLIC HEARING

CASE NUMBER 18CUP1190

Request: Conditional Use Permit for short term rental of a dwelling unit in a TNZD district
Project Name: Garvin Short Term Rental
Location: 1209 Garvin Place
Owner/Applicant/Host: Hensley Associates
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:

04:57:47 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Dustin Hensley, 1209 Garvin Place, Louisville, KY 40203

Summary of testimony of those in favor:

05:04:12 Dustin Hensley 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 18CUP1190

05:06:04 Board Members' deliberation

05:07:43 On a motion by Vice Chair Fishman, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, was adopted:

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

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses. No exterior construction or alterations to the building or the site are required, and

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **According to the**

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applicant, there are three bedrooms. LDC regulations permit up to eight guests; the applicant is limiting the number to six.

- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there are five properties with an approved conditional use permit for short term rental of a dwelling unit not the primary residence of the host within 600 ft. of the subject property (see Attachment 3). The applicant states that the dwelling unit is his primary residence; if so, this condition does not apply. A Condition of Approval will require the unit to be host-occupied (see Attachment 4). The applicant will also be required to show residency as part of the short-term rental registration process, which must be completed within 30 days of issuance of the requested CUP.**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The dwelling unit is a single-family residence.**
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.

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

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1190 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit located within the TNZD (LDC 4.2.63), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. The Host of record for the short term rental shall maintain his or her primary residence in the dwelling unit on the subject property. In the event that the Host establishes primary residence on another property, he or she must immediately cease conducting short term rentals on the subject property. A new conditional use permit shall be required to allow for short term rentals on the property that is not the primary residence of the Host.
2. The maximum number of guests permitted in the short term rental shall be limited to six (6) per rental.

The vote was as follows:

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

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CASE NUMBER 18CUP1204

Request:	Conditional Use Permit for short term rental of dwelling units not the primary residence of the host
Project Name:	W. Chestnut Short Term Rental
Location:	1516 W. Chestnut
Owner/Applicant/Host:	Carrye B. Jones
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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:

05:09:53 Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Carrye Jones, 2601 Ballantrae Circle, Louisville, KY 40242

Summary of testimony of those in favor:

05:12:04 Carrye Jones 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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05:13:30 Board Members' deliberation

05:13:41 On a motion by Member Howard, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses. No exterior construction or alterations to the building or the site are required, and

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **A first floor unit includes one bedroom; LDC regulations permit up to four guests. A**

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second floor unit includes two bedrooms; up to six guests are permitted.

- 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. **The site is not within 600 ft. of any property currently approved for short term rental.**

- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The dwelling unit is a duplex residence.**

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

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

- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **On-street parking is prohibited from 6:00am – 9:00am. An existing driveway can accommodate up to three vehicles. No parking is available off the rear alley.**

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

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1204 does hereby **APPROVE** Conditional Use Permit to allow short term rental of dwelling units not the primary residence of the host (LDC 4.2.63).

The vote was as follows:

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

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CASE NUMBER 19CUP1007

Request: Conditional Use Permit for short term rental of dwelling units not the primary residence of the host
Project Name: Wainwright Short Term Rental
Location: 535 Wainwright Avenue
Owner/Applicant/Host: Hannah and Ethan Bauer
Jurisdiction: Louisville Metro
Council District: 15 – Kevin Triplett
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:

05:15:31 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones discussed a proposed Condition of Approval regarding parking. 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:
Hannah Bauer, 537 Wainwright Ave., Louisville, KY 40217

Summary of testimony of those in favor:

05:21:12 Hannah Bauer spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

05:29:02 Chris French, Planning & Design Supervisor, stated he would like to point out that based upon the new revised Short Term Rental Regulations, they have thirty days from approval of the CUP to register both units. Mr. French

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stated in terms of the parking, there's not going to be a mechanism for us to check when the parking is completed when they start operation of the second unit, because they're going to have to get their registration within thirty days or they could lose the CUP. Mr. French stated it makes the Condition of Approval problematic, because it makes it very difficult to enforce. The Board Members and staff discussed parking (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

05:31:51 Board Members' deliberation

05:36:57 Public Hearing was reopened to allow the applicant an opportunity to answer questions from the Board Members. The Board Members, staff, and the applicant discussed a Condition of Approval regarding the 600 foot rule (see recording for detailed presentation).

05:41:01 Board Members' deliberation

05:42:06 On a motion by Vice Chair Fishman, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that:

4.2.63 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

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primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and Short Term Rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The ground floor unit includes two bedrooms; LDC regulations permit up to six guests. The second floor unit includes one bedroom; up to four guests are permitted.**
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report there are three properties with an approved conditional use permit for short term rental of a dwelling unit not the primary residence of the host within 600 ft. of the subject property (see Attachment 3).**
- 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

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in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The dwelling unit is a duplex residence.**

- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **The property frontage can accommodate up to three vehicles. The applicant intends to improve the property at the rear alley to provide additional parking at such time as the requested CUP is granted (see Condition of Approval). Based on LDC standards, the width of the property will accommodate up to six vehicles for pull-in parking.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.
- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void.

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- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1007 does hereby **APPROVE** Conditional Use Permit to allow short term rental of dwelling units, one of which is the primary residence of the host (LDC 4.2.63), granting **RELIEF** from Item 4D because one of the units is the primary residence of the host, and **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The host of record for the short term rental shall maintain his or her primary residence in one of the two dwelling units on the subject property. In the event that the host establishes primary residence on another property he or she must immediately cease conducting short term rentals of both units on the subject property. A new Conditional Use Permit shall be required to allow for short term rental of any unit on the property that is not the primary residence of the host.

The vote was as follows:

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

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CASE NUMBER 19CUP1012

Request: Conditional Use Permit for short term rental of a dwelling unit not the primary residence of the host
Project Name: Payne Street Short Term Rental
Location: 1922 Payne Street
Owner/Applicant/Host: JR Homes LLC
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Beth Jones, AICP, Planner II

NOTE: This case was heard out of order, prior to Item #11 on this 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:

03:20:18 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 Morris, 231 Breckenridge Lane, Suite 201, Louisville, KY 40207

Summary of testimony of those in favor:

03:24:12 Christopher Morris spoke in favor of the request (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

03:26:39 Board Members' deliberation

03:26:49 On a motion by Vice Chair Fishman, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, and the testimony heard today, was adopted:

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

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses. No exterior construction or alterations to the building or the site appear to be required, and

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

WHEREAS, the Board further finds that:

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

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

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- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **According to the applicant, there are four bedrooms; LDC regulations permit up to 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 there are no properties with an approved conditional use permit for short term rental of a dwelling unit not the primary residence of the host within 600 ft. of the subject property (see Attachment 3).**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The dwelling unit is a single-family residence.**
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of

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parking shall be based on the land uses and density of the immediate vicinity.
The property's 60 ft. frontage can accommodate up to three vehicles.
Guests will have the use of a two-vehicle garage and one-vehicle parking pad at the rear of the site on Quarry Street.

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1012 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host (LDC 4.2.63).

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The vote was as follows:

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

**03:27:40 Item #11 on this agenda was called at this time (see page 31 of
these minutes).**

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CASE NUMBER 19CUP1014

Request:	Conditional Use Permit for a short-term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Beauregard/Martin Short Term Rental
Location:	1227 South 6th Street
Owner/Applicant:	Emily Beauregard & William Martin
Jurisdiction:	Louisville Metro
Council District:	6 – David James
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:

05:44:11 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:

Will Martin, 1227 S. 6th Street, Apt. 2, Louisville, KY 40203

Summary of testimony of those in favor:

05:48:00 Will Martin spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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05:50:33 Board Members' deliberation

05:51:03 On a motion by Vice Chair Fishman, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The subject property is less than two acres. The applicant states that the first floor dwelling unit has two bedrooms which will allow a maximum number of six guests.**

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- 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 5 properties with approved conditional use permits allowing short term rentals. The applicant is requesting relief for the first floor dwelling unit to the provision in accordance with LDC Section 4.2.2.B. If provided, the applicant's justification for this relief is attached to this report. If the Board does not grant relief, the application does not meet all of the listed requirements and the conditional use permit cannot be approved.**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted.
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **The site has credit for one on-street parking space and a parking pad is located at the rear of the property that will accommodate up to four automobiles.**

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1014 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a duplex with the upstairs unit serving as the primary residence of the owners/host in the TNZD zoning district and Traditional Neighborhood form district, granting **RELIEF** from Item 4D because the host lives on the property, and **SUBJECT** to the following Condition of Approval:

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Condition of Approval:

1. The host of record for the short term rental shall maintain his or her primary residence in one of the two dwelling units on the subject property. In the event that the host establishes primary residence on another property he or she must immediately cease conducting short term rentals of both units on the subject property. A new Conditional Use Permit shall be required to allow for short term rental of any unit on the property that is not the primary residence of the host.

The vote was as follows:

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

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PUBLIC HEARING
CASE NUMBER 19APPEAL1002

Request: Appeal of Enforcement Action
THIS CASE HAS BEEN WITHDRAWN

Project Name: West Market Appeal
Location: 4509 West Market Street
Appellants: Tom Drexler and Greg Popham
Jurisdiction: Louisville Metro
Council District: 5 – Donna Purvis
Case Manager: Chris French, AICP, Planning and Design Supervisor

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.

Case Number 19APPEAL1002 has been WITHDRAWN. Therefore, no vote or action was taken.

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05:56:30 Prior to adjournment, Chris French suggested the Board Members approve a Special Meeting on July 8, 2019 in order to work through the backlog of Conditional Use Permits as well as other cases. The Board Members discussed this and agreed to hold two meetings on July 8, 2019.

The meeting adjourned at approximately 7:29 p.m.

Chair

Secretary