

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

May 2, 2022

A meeting of the Louisville Metro Board of Zoning Adjustment was held on May 2, 2022 at 1:00 p.m. online via Cisco Webex Video Conferencing.

Members Present:

Lula Howard, Chair
Richard Buttorff, Vice Chair
Sharon Bond, Secretary
Brandt Ford
Yani Vozos

Members Absent:

Kimberly Leanhart

Staff Members Present:

Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Julia Williams, Planner & Design Supervisor
Jay Lockett, Planner II
Zach Schwager, Planner I
Laura Ferguson, Legal Counsel
Sue Reid, Management Assistant

The May 2, 2022 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

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APRIL 18, 2022 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:05:00 On a motion by Member Vozos, seconded by Vice Chair Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Minutes of the April 18, 2022 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Bond, Ford, Vozos, Vice Chair Buttorff, and Chair Howard
Absent: Member Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

BOZA_Special_Meeting

Request: BOZA Special Meeting
Case Manager: Chris French, Planning & Design Supervisor

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:

00:05:57 Chris French asked the Board to consider a Special Meeting either May 23 or June 6 to address a backlog in variances cases. Mr. French stated we are currently docketing into July (see recording for detailed presentation).

00:08:54 On a motion by Member Bond, seconded by Vice Chair Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** a Special Meeting to be scheduled for May 23, 2022.

The vote was as follows:

Yes: Members Bond, Ford, Vozos, Vice Chair Buttorff, and Chair Howard
Absent: Member Leanhart

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BUSINESS SESSION

CASE NUMBER 12476-PLN

Request:	Abandonment of Conditional Use Permit
Project Name:	Incredible Daves
Location:	9224 Westport Road
Owner:	Frank Taylor
Applicant:	Frank Taylor
Jurisdiction:	Louisville Metro
Council District:	7 – Paula McCraney
Case Manager:	Chris French, Planning & Design Supervisor

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:

00:10:14 Chris French presented the case (see recording for detailed presentation).

00:12:54 On a motion by Vice Chair Buttorff, seconded by Member Vozos, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 12476-PLN does hereby **APPROVE** Abandonment of Conditional Use Permit.

The vote was as follows:

Yes: Members Bond, Ford, Vozos, Vice Chair Buttorff, and Chair Howard

Absent: Member Leanhart

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BUSINESS SESSION

CASE NUMBER 22-VARIANCE-0031

Request: Variance to allow an addition to a private yard area to be less than the required 30% of the area of the lot.
Project Name: Sylvia Street Variance
Location: 1131 Sylvia Street
Owner/Applicant: Daniel & Sue DaPonte
Jurisdiction: Louisville Metro
Council District: 15 – Kevin Triplett
Case Manager: Heather Pollock, 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:

00:14:22 Zach Schwager presented the case on behalf of the Case Manager and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

00:18:26 On a motion by Member Ford, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

WHEREAS, the Board further finds that the proposed structure will not alter the essential character of the general vicinity as it is going to be built with material that will be in character with the existing residence and surrounding residential neighborhood, and

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BUSINESS SESSION

CASE NUMBER 22-VARIANCE-0031

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes and will not adversely impact the safe movement of vehicles or pedestrians, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as there is additional open space that cannot be counted towards the private yard area calculation. If this area could be counted toward the private yard, then a variance would not be required; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-VARIANCE-0031 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of the lot (**Private Yard Area Requirement 2,016.4 sq. ft., Request 1,652 sq. ft., Variance 364.4 sq. ft.**).

The vote was as follows:

Yes: Members Bond, Ford, Vozos, Vice Chair Buttorff, and Chair Howard

Absent: Member Leanhart

00:19:45 **Note:** Chair Howard called Item #10 on today's agenda at this time. Please see pages 22-25.

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0022

Request:	Variance to eliminate 15' setback from the private access easement
Project Name:	Shepherd Springs
Location:	8016 Shepherdsville Road
Owner:	Utica Investments LLC
Applicant:	Denton Floyd Real Estate Group
Representative:	Wyatt Tarrant and Combs PLLC; Heritage Engineering
Jurisdiction:	Louisville Metro
Council District:	24- Madonna Flood
Case Manager:	Julia Williams, AICP, Planning 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.

Agency testimony:

02:08:39 Julia Williams stated the applicant is requesting for this case to be continued to a date uncertain (see staff report and recording for detailed presentation).

02:11:42 On a motion by Vice Chair Buttorff, seconded by Member Ford, the following resolution, based upon the testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 22-VARIANCE-0022 to a **Date Uncertain**.

The vote was as follows:

Yes: Members Bond, Ford, Vozos, Vice Chair Buttorff, and Chair Howard
Absent: Member Leanhart

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0024

Request:	Variance to allow an accessory structure to encroach into the side yard setback
Project Name:	Highland Avenue Variance
Location:	1308 Highland Avenue
Owner/Applicant:	Gary Hibbeln
Representative:	Stacey Mefford
Jurisdiction:	Louisville Metro
Council District:	8 – Cassie Chambers Armstrong
Case Manager:	Heather Pollock, 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:

02:12:40 Chris French stated, on behalf of the Case Manager, that this case also needs to be continued but for a date certain, June 13, 2022 (see staff report and recording for detailed presentation).

02:13:42 On a motion by Member Bond, seconded by Member Vozos, the following resolution, based upon the testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 22-VARIANCE-0024 to the June 13, 2022 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Bond, Ford, Vozos, Vice Chair Buttorff, and Chair Howard
Absent: Member Leanhart

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0020

Request:	Variance to allow a side porch to encroach into the side yard setback and a Variance to allow a carport to encroach into the side yard and rear yard setbacks.
Project Name:	Wainwright Avenue Variance
Location:	523 Wainwright Avenue
Owner/Applicant:	Sharon Conners Krauth
Representative:	Chris Brown, BTM Bowman Engineering
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Heather Pollock, 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:

02:15:16 Chris French presented the case on behalf of the Case Manager and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Chris Brown, 3001 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in favor:

02:18:25 Chris Brown spoke in favor of the request and showed a Powerpoint presentation. Mr. Brown 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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CASE NUMBER 22-VARIANCE-0020

02:25:18 Board Members' deliberation

02:26:10 On a motion by Member Bond, seconded by Member Ford, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from the Land Development Code Section 5.1.10.F to allow an addition to encroach into the 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, because the proposed structure must be constructed to comply with all building codes, including fire codes; however, staff is concerned that the variance could adversely affect the adjacent property owner because maintenance of the side porch addition may require encroachment onto the adjacent property, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the it will be built with material that will be in character with the existing residence and surrounding residential neighborhood, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the subject property is only 20 ft. in width and the side porch addition is similar to others in the area; and

Variance from Section 5.4.1.E to allow a carport to encroach into the side and rear yard setbacks:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare, because the proposed structure must be constructed to comply with all building codes, including fire codes; however, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the carport may require encroachment onto the adjacent property, and

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

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the subject property is only 20 ft. in width and the proposed location of the carport meets all other zoning regulations except where relief is requested; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-VARIANCE-0020 does hereby **APPROVE** Variance from the Land Development Code, Section 5.1.10.F to allow an addition to encroach into the side yard setback (**Side Yard Requirement 2 ft., Request 0 ft., Variance 2 ft.**), and Variance from Section 5.4.1.E to allow a carport to encroach into the side and rear yard setbacks (**Rear Yard Requirement 5 ft., Request 2.5 ft., Variance 2.5 ft.**).

The vote was as follows:

Yes: Members Bond, Ford, Vozos, Vice Chair Buttorff, and Chair Howard
Absent: Member Leanhart

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CASE NUMBER 22-VARIANCE-0011

Request:	Variance to exceed infill setbacks and a waiver to allow a buffer to overlap an existing utility easement
Project Name:	Axis St Andrews Church Rd
Location:	3305 Blanton Ln
Owner:	Axis Investments LLC
Applicant:	Axis Investments LLC
Representative:	Land Design and Development
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
Case Manager:	Jay Lockett, 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:

02:28:20 Jay Lockett presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Ted Bernstein, 503 Washburn Ave., Suite 101, Louisville, KY 40222

Summary of testimony of those in favor:

02:31:58 Ted Bernstein spoke in favor of the request and showed a Powerpoint presentation. Mr. Bernstein responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

Tom Hans, 3328 Blanton Lane, Louisville, KY 40214

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CASE NUMBER 22-VARIANCE-0011

Maureen Welch, 7101 Venetian Way, Louisville, KY 40214

Summary of testimony of those neither for nor against:

02:39:23 Tom Hans spoke neither for nor against the request. Mr. Hans stated he joined this meeting because he didn't know what this case was about. Mr. Hans stated he does not have a problem with the construction and development of this corner. Mr. Hans stated he has a concern in that he believes St. Andrews Church Road is on the plans to be widened which will affect that corner as that's already a tight intersection (see recording for detailed presentation).

02:42:49 Maureen Welch spoke neither for nor against the request. Ms. Welch stated she is glad to see something positive going there (see recording for detailed presentation).

The following spoke in opposition of the request:
No one spoke.

REBUTTAL:

02:43:43 Mr. Bernstein stated they have worked with Transportation Planning and they have preliminarily approved the plan (see recording for detailed presentation).

02:44:28 Jay Luckett stated as far as the road widening goes, in front of this site you have a travel lane each way, as well as a left turn lane and a right turn lane, so this section of St. Andrews Church Road is significantly wider than the sections that are further to the east. Mr. Luckett stated KYTC did comment on this and said the applicant has agreed to install a sidewalk that is actually in excess of the minimum, so there has been communication with the relevant agencies with respect to future road plans (see recording for detailed presentation).

02:45:11 Board Members' deliberation

02:46:20 On a motion by Member Ford, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0011

Variance from Land Development Code Section 5.1.12 to exceed the 45-foot maximum infill setback by up to 45 feet along Blanton Ln and by up to 140 feet along St Andrews Church Rd as shown on the proposed development plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect public health safety or welfare since adequate buffering will be provided adjacent to neighboring homes. MSD and Transportation Planning have approved the preliminary plan and will ensure safety through the construction permitting process, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the proposed development is consistent with similar developments in the area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since adequate buffering and screening will be provided, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations since the proposed plan is consistent with similar development in the area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-VARIANCE-0011 does hereby **APPROVE** Variance from Land Development Code Section 5.1.12 to exceed the 45-foot maximum infill setback by up to 45 feet along Blanton Ln and by up to 140 feet along St Andrews Church Rd as shown on the proposed development plan.

The vote was as follows:

Yes: Members Bond, Ford, Vozos, Vice Chair Buttorff, and Chair Howard

Absent: Member Leanhart

02:47:32 On a motion by Member Ford, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Waiver from Land Development Code Section 10.2.4.B.3 to allow a required landscape buffer area to overlap an existing utility easement by greater than 50%:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners. All buffering and screening required by the Land Development Code be provided, and

WHEREAS, the Board further finds that the waiver will not violate the Comprehensive Plan. The development will be compatible with other development in the area and the form district. The waiver will not result in a nuisance or hazard to the public, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since they will still provide all required planting and screening as well as the full width of the buffer, 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. The applicant is able to provide the full buffer including all planting and screening without negatively impacting the existing utility infrastructure in the area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-VARIANCE-0011 (22-WAIVER-0010) does hereby **APPROVE** Waiver from Land Development Code Section 10.2.4.B.3 to allow a required landscape buffer area to overlap an existing utility easement by greater than 50%.

The vote was as follows:

Yes: Members Bond, Ford, Vozos, Vice Chair Buttorff, and Chair Howard

Absent: Member Leanhart

02:48:32 Meeting was recessed.

02:49:12 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0029

Request:	Variance to exceed the 5' maximum corner lot setback, with Waivers to allow parking and circulation in front of the structure, to not provide a customer entrance towards New Cut Rd, to not provide cross-connection to adjacent commercial properties and to encroach into a required landscape buffer area.
Project Name:	New Cut Liquors
Location:	5389 New Cut Rd
Owner:	Gajmukh LLC
Applicant:	Gajmukh LLC
Representative:	Miller/Wihry
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
Case Manager:	Jay Lockett, 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:

02:49:53 Jay Lockett presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

John Miller, 1387 S. 4th Street, Louisville, KY 40208

Summary of testimony of those in favor:

02:55:54 John Miller spoke in favor of the request and showed a Powerpoint presentation. Mr. Miller responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

Councilwoman Nicole George, 601 W. Jefferson St., Louisville, KY 40202

Ann Ramser, 307 E. Kenwood Drive, Louisville, KY 40214

Maureen Welch, 7101 Venetian Way, Louisville, KY 40214

Councilwoman Amy Holton-Stewart, 601 W. Jefferson St., Louisville, KY 40202

Summary of testimony of those in opposition:

03:10:14 Councilwoman Nicole George spoke in opposition of the request. Councilwoman George stated the neighbors matter, and while she appreciates that the owner needs a drive-through, she feels certain that the neighbors do not. Councilwoman George stated she takes issue with Mr. Miller's comments about the Comp Plan being out of step as it relates to the area, and she is in opposition to the variance and the four waivers. Councilwoman George stated that she finds Mr. Miller's comments about how fundamental the drive-through would have been to the previous owner disingenuous, and she thinks anyone who is familiar with the area and the site would also find that to be disingenuous, so she thinks it's important to note for the record in terms of the importance of a drive-through to the site (see recording for detailed presentation).

03:12:23 Ann Ramser spoke in opposition of the request. Ms. Ramser stated as you can see from the pictures that were provided, the property owner is not currently taking care of the property. Ms. Ramser stated the property has been cited and that is a concern. Ms. Ramser stated the liquor license has not been approved, the ABC denied the liquor license and the property owner has appealed that. Ms. Ramser stated the reasons for the variance and waiver applications are all based on the ability to have the drive-through window. Ms. Ramser stated Mr. Miller implies it is a requirement for this business to survive, however Kenwood Liquors does not have a drive-through window and as far as she knows they have been operating without any issues. Ms. Ramser stated the Land Development Code doesn't apply equally across Metro Louisville and we need to make sure it's always applied equally. Ms. Ramser stated having a street address of New Cut Road with no entrance on New Cut Road concerns her greatly. Ms. Ramser discussed accessibility, safety issues and setbacks (see recording for detailed presentation).

03:20:05 Councilwoman George asked Mr. Luckett if, in the review of the case, there was another site along the New Cut corridor that had the potential intensity of use directed both entrance and exit to the local road? Mr. Luckett stated he didn't specifically analyze other sites for that situation (see recording for detailed presentation).

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03:21:10 Maureen Welch spoke in opposition of the request. Ms. Welch stated she was pleased that the owners planned to demolish the existing structure and start from scratch. Ms. Welch stated reasons that the variance and waivers should be denied (see recording for detailed presentation).

03:28:00 Councilwoman Amy Holton-Stewart spoke in opposition of the request. Councilwoman Holton-Stewart stated she wanted to support Councilwoman George's position against this proposal, since this is so close to her district, for the integrity of this neighborhood (see recording for detailed presentation).

REBUTTAL:

03:29:18 Mr. Miller spoke in rebuttal. Mr. Miller stated he doesn't think all the criticisms are valid. Mr. Miller stated they are not given the choice of where to put the vehicular access to the site. Mr. Miller stated a lot of these decisions are made on the technical level by the appropriate staff people. Mr. Miller stated in order to have a viable commercial site here they need the drive-through and he doesn't think that's a particularly unusual situation. Mr. Miller responded to questions from the Board Members (see recording for detailed presentation).

03:33:22 Board Members' deliberation

03:41:51 On a motion by Member Ford, seconded by Member Bond, the following resolution, based upon the testimony heard today, was adopted:

Variance from Land Development Code Section 5.5.1.A.2 to exceed the 5-foot maximum setback from Woodmore Ave. by up to 47 feet as shown on the proposed development plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will adversely affect the public health, safety, or welfare; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-Variance-0029 does hereby **DENY** Variance from Land Development Code Section 5.5.1.A.2 to exceed the 5-foot maximum setback from Woodmore Ave. by up to 47 feet as shown on the proposed development plan.

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NOTE: Vice Chair Buttorff left the meeting at approximately 4:00 p.m.

The vote was as follows:

Yes: Members Bond, Ford, Vozos, and Chair Howard

Absent: Member Leanhart, and Vice Chair Buttorff

03:44:41 On a motion by Member Ford, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Waiver from Land Development Code Section 5.7.1.B.3 and Table 10.2.2 to encroach up to 11 feet into the required 15-foot property perimeter buffer adjacent to the residential development (22-WAIVER-0029):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will adversely affect adjacent property owners and residents. The buffering proposed is not adequate to provide reasonable transition between incompatible uses. The residents of the apartment community are likely to experience noise and other nuisances due to drive-thru queuing being so close to their dwellings, and

WHEREAS, the Board further finds that the waiver will violate the Comprehensive Plan. Community Form Goal 1 Policy 18 requires that we mitigate adverse impacts of noise from proposed development on existing communities. Community form Goal 1 Policy 10 requires that we mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. The buffer proposed is not adequate to mitigate adverse impacts on the apartment community adjacent to the site, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant since they could remove the drive-thru and remove the encroachment upon their neighbors, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not deprive the applicant of reasonable use of the land as the applicant could remove the drive-thru and redesign the site according to Land Development Code requirements; and

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CASE NUMBER 22-VARIANCE-0029

Waiver from Land Development Code Sections 5.5.1.A.3 and 5.9.2.A.1.b to not provide cross-connection to adjacent commercial properties (22-WAIVER-0051):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will adversely affect adjacent property owners. Cross connectivity is valuable for commercial uses within the Neighborhood Form district to allow customers to visit multiple establishments with reduced turns to and from major roadways, and

WHEREAS, the Board further finds that the waiver will violate the Comprehensive Plan. Community form Goal 1 Policy 17 requires that we mitigate adverse impacts of traffic from proposed development on nearby existing communities. Community form Goal 2 Policy 6 states that we should encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment. Mobility Goal 3 Policy 5 states that we should evaluate developments for their impact on the transportation net-work (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. The proposed drive-thru and required buffer make it impossible for the applicant to provide functional cross-connectivity with future commercial development in the area. The applicant could provide this if the drive-thru was removed, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant since they could remove the drive-thru and provide the required connectivity, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not deprive the applicant of reasonable use of the land as the applicant could remove the drive-thru and redesign the site according to Land Development Code requirements; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-VARIANCE-0029 (22-WAIVER-0029/22-WAIVER-0051) does hereby **DENY** Waiver from Land Development Code Section 5.7.1.B.3 and Table 10.2.2 to encroach up to 11 feet into the required 15-foot property perimeter buffer adjacent to the residential development and Waiver from Land Development Code Sections 5.5.1.A.3 and 5.9.2.A.1.b to not provide cross-connection to adjacent commercial properties.

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CASE NUMBER 22-VARIANCE-0029

The vote was as follows:

Yes: Members Bond, Ford, Vozos, and Chair Howard

Absent: Member Leanhart, and Vice Chair Buttorff

03:46:26 On a motion by Member Ford, seconded by Member Vozos, the following resolution, based upon the testimony heard today, was adopted:

Waiver from Land Development Code Section 5.5.1.A.1.B to not provide a customer entrance facing New Cut Rd (22-WAIVER-0028):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the strict application of the provisions of the regulation would not deprive the applicant of reasonable use of the land as the applicant could remove the drive-thru and redesign the site according to Land Development Code requirements; and

Waiver from Land Development Code Sections 5.5.1.A.3 and 5.9.2.C.2 to permit parking and circulation in front of the building (22-WAIVER-0054):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the strict application of the provisions of the regulation would not deprive the applicant of reasonable use of the land as the applicant could remove the drive-thru and redesign the site according to Land Development Code requirements; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-VARIANCE-0029 (22-WAIVER-0028/22-WAIVER-0055) does hereby **DENY** Waiver from Land Development Code Section 5.5.1.A.1.B to not provide a customer entrance facing New Cut Rd and Waiver from Land Development Code Sections 5.5.1.A.3 and 5.9.2.C.2 to permit parking and circulation in front of the building.

The vote was as follows:

Yes: Members Bond, Ford, Vozos, and Chair Howard

Absent: Member Leanhart, and Vice Chair Buttorff

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PUBLIC HEARING

CASE NUMBER 21-CUP-0195

Request:	Conditional Use Permit to allow a Recreational Vehicle Park in the R-4 and R-5 Residential Single Family zoning district
Project Name:	Regency Park
Location:	8816 – 8820 W Manslick Road, & Parcel 104900700000
Owner:	CAT VVB, LLC
Applicant:	Derek Triplett – Land Design & Development, Inc.
Jurisdiction:	Louisville Metro
Council District:	25 – Amy Holton Stewart
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.

Note: This case was called out of order, prior to Item #5 on today's agenda.

Agency testimony:

00:22:13 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jon Baker, 400 W. Market St., Suite 2000, Louisville, KY 40202
Derek Triplett, 503 Washburn Ave., Louisville, KY 40222

Summary of testimony of those in favor:

00:30:25 Chair Howard swore in Jon Baker and Derek Triplett at the same time. Jon Baker spoke in favor of the request and showed a Powerpoint presentation. Mr. Baker stated they are not asking for any relief from any of the listed requirements (see recording for detailed presentation).

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00:43:03 Derek Triplett spoke in favor of the request and referred to the Powerpoint presentation. Mr. Triplett reviewed previous versions of proposed plans for this property (see recording for detailed presentation).

00:51:28 Mr. Baker concluded his presentation. Mr. Baker and Mr. Triplett responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

Councilwoman Amy Holton-Stewart, 601 W. Jefferson St., Louisville, KY 40202

Councilwoman Cindi Fowler, 601 W. Jefferson St., Louisville, KY 40202

Maureen Welch, 7101 Venetian Way, Louisville, KY 40214

Summary of testimony of those neither for nor against:

01:06:30 Councilwoman Amy Holton-Stewart spoke neither for nor against the request. Councilwoman Holton-Stewart stated she received numerous types of communication from her constituents and she wanted to make sure their voices were heard. Councilwoman Holton-Stewart stated the concerns that were presented to her (see recording for detailed presentation).

01:19:03 Councilwoman Cindi Fowler spoke neither for nor against the request. Councilwoman Fowler asked if there was going to be a dump station for the RV's waste water. Zach Schwager stated there is a proposed waste station on the site (see recording for detailed presentation).

01:21:37 Maureen Welch spoke neither for nor against the request. Ms. Welch asked how the thirty day stay will be enforced and who would enforce it. Ms. Welch asked if they have reached out to and partnered with Jefferson Memorial Forest. Chair Howard stated the applicant will answer in rebuttal (see recording for detailed presentation).

The following spoke in opposition of the request:

Suzanne Miller-Nolte, 107 Ridgelake Circle, Peachtree City, GA 30269

Ann Ramser, 307 E. Kenwood Drive, Louisville, KY 40214

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Summary of testimony of those in opposition:

01:24:01 Suzanne Miller-Nolte stated she owns the property at 8802 West Manslick Road that backs up to the proposed RV park. Ms. Miller-Nolte spoke in opposition of the request. Ms. Miller-Nolte stated they are very concerned with security and safety (see recording for detailed presentation).

01:35:06 Ann Ramser spoke in opposition of the request. Ms. Ramser stated she believes we need to keep residential property residential. Ms. Ramser said she thinks if the developer would work with the neighbors that they could come to something agreeable (see recording for detailed presentation).

REBUTTAL:

01:37:03 Jon Baker spoke in rebuttal. Mr. Baker and Mr. Triplett responded to questions from the speakers (see recording for detailed presentation).

01:44:38 Board Members' deliberation

02:05:07 On a motion by Vice Chair Buttorff, seconded by Member Ford, the following resolution, based upon the testimony heard today, was adopted:

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0195 does hereby **DENY** Conditional Use Permit to allow a Recreational Vehicle Park in the R-4 and R-5 Residential Single Family zoning district (LDC 4.2.12).

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PUBLIC HEARING

CASE NUMBER 21-CUP-0195

The vote was as follows:

Yes: Members Bond, Ford, Vozos, and Vice Chair Buttorff

No: Chair Howard

Absent: Member Leanhart

02:07:35 NOTE: Chair Howard returned to Item #5 on today's agenda at this time.
Please see page 7.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0068

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Camden Avenue Short Term Rental
Location:	814 Camden Avenue
Owner/Applicant:	Timothy & Marjorie Stout
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
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:

03:53:32 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Timothy Stout, 36936 W. Mondragone Ln., Maricopa, AZ 85138

Summary of testimony of those in favor:

03:55:54 Timothy Stout 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.

04:02:21 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 22-CUP-0068

04:02:46 On a motion by Member Vozos, seconded by Member Ford, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with 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. **The applicant has been informed of this requirement.**
- B. The dwelling unit shall be limited to a single short term rental contract at a time. **The applicant has been informed of this requirement.**
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **According to the applicant, there are three bedrooms; LDC regulations permit up to eight 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

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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 zero properties with an approved conditional use permit for a non-host occupied short term rental within 600 ft. of the subject property.**

- 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. **The applicant has been informed of this requirement.**
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **LDC standards credit the site with one on-street parking space. In addition, there appears to be available parking in the area.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. **The applicant has been informed of this requirement.**
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the

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owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. **The applicant has been informed of this requirement.**

- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. **The applicant has been informed of this requirement.**
- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. **The applicant has been informed of this requirement;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-CUP-0068 does hereby **APPROVE** Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Condition of Approval.

Condition of Approval:

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

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The vote was as follows:

Yes: Members Bond, Ford, Vozos, and Chair Howard

Absent: Member Leanhart, and Vice Chair Buttorff

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PUBLIC HEARING

CASE NUMBER 22-CUP-0072

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Preston Highway Short Term Rental
Location:	3339 Preston Highway
Owner:	B&B Properties AirBNB, LLC
Applicant:	Donna Baugh
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
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:

04:05:43 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Donna Baugh, 1212 Larue Ave., Louisville, KY 40213

Summary of testimony of those in favor:

04:08:29 Donna Baugh 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 22-CUP-0072

04:12:19 Board Members' deliberation

04:12:38 On a motion by Member Vozos, seconded by Member Ford, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with 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. **The applicant has been informed of this requirement.**
- B. The dwelling unit shall be limited to a single short term rental contract at a time. **The applicant has been informed of this requirement.**
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **According to the applicant, there are four bedrooms; LDC regulations permit up to ten 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, there are zero properties with an approved conditional use permit for a non-host occupied short term rental within 600 ft. of the subject property.**
- 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. **The applicant has been informed of this requirement.**
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **LDC standards credit the site with zero on-street parking spaces. There is parking for four cars in the driveway. In addition, there appears to be available parking in the area.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. **The applicant has been informed of this requirement.**

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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. **The applicant has been informed of this requirement.**
- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. **The applicant has been informed of this requirement.**
- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. **The applicant has been informed of this requirement;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-CUP-0072 does hereby **APPROVE** Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Condition of Approval.

Condition of Approval:

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

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The vote was as follows:

Yes: Members Bond, Ford, Vozos, and Chair Howard

Absent: Member Leanhart, and Vice Chair Buttorff

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Prior to adjournment, Chair Howard reminded the Board Members that the May 16, 2022 meeting will be in person at the Old Jail Building. Joe Haberman reminded the Board Members to park in the Gardens Garage.

The meeting adjourned at approximately 5:30 p.m.

Chair

Secretary