

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

**June 17, 2019**

A meeting of the Louisville Metro Board of Zoning Adjustment was held on June 17, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Members Present:**

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

**Members Absent:**

Dwight Young, Chair  
Lindsey Jagoe

**Staff Members Present:**

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  
Lacey Gabbard, Planner I  
Julia Williams, Planning & Design Supervisor  
John Carroll, Legal Counsel (left at approximately 3:55 p.m.)  
Paul Whitty, Legal Counsel (arrived at approximately 3:55 p.m.)  
Sue Reid, Management Assistant

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**APPROVAL OF MINUTES**

**JUNE 3, 2019 BOARD OF ZONING ADJUSTMENT MEETING MINUTES**

**00:03:23** On a motion by Member Howard, seconded by Member Buttorff, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on June 3, 2019.

**The vote was as follows:**

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

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**BUSINESS SESSION**

**CASE NUMBER 19VARIANCE1047**

Request:	Variances to allow a structure to encroach into the required side and front yard setbacks
Project Name:	Oak Valley Drive Variance
Location:	6303 Oak Valley Drive
Owner:	Victor & Ashley Torres
Applicant:	Victor Torres
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
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 5<sup>th</sup> Street.)

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

**Agency testimony:**

**00:04:12** 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:**

No one spoke.

**The following spoke in opposition of the request:**

No one spoke.

**00:07:34** On a motion by Member Howard, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, the site plan, and the variance justification, was adopted:

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**Variance from Land Development Code Table 5.3.1 to allow a structure to encroach into the required 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 be constructed to comply with all building codes, including fire codes, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are a variety of housing types including those with attached garages, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as there is an existing car port in the same general area, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the topography of the lot requires a garage to be attached, 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 property is similar in size, shape, and topography to the land in the general vicinity, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because there is nowhere else to construct a garage on the property, and

**WHEREAS**, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction, and

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

**Variance from Land Development Code Table 5.3.1 to allow a structure to encroach into the required front yard setback:**

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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 structure 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 there is not a distinct character in the general vicinity due to the variety of housing types, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as there is an existing car port in the same general area, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the topography of the lot requires a garage to be attached, 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 property is similar in size, shape, and topography to the land in the general vicinity, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because there is nowhere else to construct a garage on the property, and

**WHEREAS**, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction, and

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

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1047 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow a structure to encroach into the required side yard setback (**Requirement 6 ft. [18 ft. total], Request 1 ft. [14 ft. total], Variance 5 ft. [2 ft. total]**), and Variance from Land Development Code Table 5.3.1 to allow a structure to encroach into the required front yard setback (**Requirement 30 ft., Request 28 ft., Variance 2 ft.**).

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**The vote was as follows:**

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

**Absent: Member Jagoe, and Chair Young**

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### BUSINESS SESSION

#### CASE NUMBER 19VARIANCE1052

Request: Category 3 Plan, Height Variance, Setback  
Variances, Design Waivers, and Landscape Waiver  
Project Name: Sports and Learning Complex  
Location: 3029 W. Muhammad Ali Boulevard  
Owner: Louisville Metro Government  
Applicant: Louisville Urban League  
Jurisdiction: Louisville Metro  
Council District: 5 – Donna Purvis  
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 5<sup>th</sup> 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:

**00:09:28** Julia Williams presented the case and showed a Powerpoint presentation. Ms. Williams responded to questions from the Board Members (see recording for detailed presentation).

#### The following spoke in favor of the request:

Casey Elmer, 607 W. Main Street, #400, Louisville, KY 40202  
Sadiqa Reynolds, 1535 W. Broadway, Louisville, KY 40203  
Eric Browne, 1535 W. Broadway, Louisville, KY 40203

#### Summary of testimony of those in favor:

**00:19:55** Vice Chair Fishman swore in all parties who were present to speak in favor. Casey Elmer spoke in favor of the request and showed a Powerpoint presentation. Mr. Elmer responded to questions from the Board Members (see recording for detailed presentation).

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**00:31:43** Sadiqa Reynolds spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**00:37:18** Casey Elmer responded in regard to the types of trees that would be planted. Mr. Elmer, Ms. Reynolds and Mr. Browne responded to questions from the Board Members (see recording for detailed presentation).

#### **The following spoke in opposition of the request:**

Martina Kunnecke, 311 Northwestern Parkway, Louisville, KY 40212

#### **Summary of testimony of those in opposition:**

**00:42:14** Martina Kunnecke spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

#### **REBUTTAL:**

**00:46:41** Sadiqa Reynolds spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

#### **00:51:20 Board Members' deliberation**

**00:56:22** On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony and evidence presented today, and the variance justification, was adopted:

**Variance from Chapter 5.2.5.C.4.B & 5.7.1.B.1 to permit a building height of 63' instead of the required 45' (18' Variance):**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since the building is located within its own block and away from residential development, and



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**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the area over time has developed into a mix of residential, commercial, and residential. The dominant character is the traditional residential in the area but this block face between W. Market and W. Muhammad Ali does not have residential uses, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the structure is located where it is not in the vicinity to residential and the height will not interfere with the public ways, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the 3 story structures are located mainly interior to the site and adjacent to the non-residential use to the east. There is also increased distance between the nearest adjacent residential and one of the 3 story structures, and

**WHEREAS**, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since one of the proposed uses is an indoor track facility with raised seating which requires a taller building. The proposed building has an angled roof which accounts for some of the variance request, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the current block is vacant and the height variance is mainly due to accommodating the raised seating within the building, not allowing the extra height could be a hardship for the proposed use permitted on the site, 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, and

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

**Variance from Chapter 5.5.1.A.3.a to permit parking to encroach approximately 14' +/- into the 25' setback along W. Muhammad Ali and W. Market Street as shown on the development plan:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because the

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proposed encroachment will be mitigated by the LBA and required screening and landscaping along both roadway frontages, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the encroachment will be mitigated by plantings within the LBA. There are also phases to the overall development that will further decrease the impact of the parking within the setback making it less prominent in the future, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the proposed encroachment will be mitigated by the LBA and required screening and landscaping along both roadway frontages, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the proposed encroachment will be mitigated by the LBA and required screening and landscaping along both roadway frontages, and

**WHEREAS**, the Board further finds that the requested variance does not arise from any special circumstances but the request is mitigated through the required LBA plantings and the future development proposed for the site, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because it would shift the parking outside of the required LBA for the area unnecessarily increasing the LBA along the roadways, 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, and

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

**Variance from Chapter 5.5.1.A.1.a to permit the Phase 1 building to not be within 0' and 5' from the corner of W. Muhammad Ali and S. 30<sup>th</sup> Street:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since safe pedestrian access is provided from the public rights-of-way to the

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building entrance and the current proposal is part of a phased development where subsequent development will be placed within 0'-5' from the corners, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the proposal is only for phase I of the overall site development where subsequent development will meet the required setbacks, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since safe pedestrian access is provided from the public rights-of-way to the building entrance and since safe vehicular maneuvering has been provided, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulation since the proposed development is for phase I only where subsequent development will meet the required setbacks along both corners, and

**WHEREAS**, the Board further finds that the requested variance arises from special circumstances that do not generally apply to land in the general vicinity or the same zone. The circumstance for the current variance is that the proposal is for phase I where other phases of the development will meet the required setbacks at the corners, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant since the proposed development is for phase I where other subsequent phases will meet the required setbacks, 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, 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 19VARIANCE1052, does hereby **APPROVE** Variance from Chapter 5.2.5.C.4.B & 5.7.1.B.1 to permit a building height of 63' instead of the required 45' (**18' variance**), Variance from Chapter 5.5.1.A.3.a to permit parking to encroach approximately 14' +/- into the 25' setback along W. Muhammad Ali and W.

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Market Street as shown on the Development Plan, and Variance from Chapter 5.5.1.A.1.a to permit the Phase 1 building to not be within 0' and 5' from the corner of W. Muhammad Ali and S. 30<sup>th</sup> Street.

**The vote was as follows:**

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

**Absent: Member Jagoe, and Chair Young**

**00:57:28** On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the waiver justification, was adopted:

**Waiver from Chapter 5.5.1.A.1.a to permit the Phase 1 building to not have a primary entrance along S. 30<sup>th</sup> Street or have the building be oriented toward a focal point:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the site encompasses the entire lot. There is sufficient pedestrian access in and around the site as well as a large lawn amenity area that mitigates the request, and

**WHEREAS**, the Board further finds that Plan 2040 encourages large developments to be compact, multi-purpose centers designed around a central feature such as a public square or plaza or landscaped element. New development and redevelopment should be within the scale and site design of nearby existing development and with the pattern of development within the form district. The proposal is for phase I of the overall development. The amenity area acts as a focal point while not technically meeting the requirement. Other development on the site will meet the requirements, and

**WHEREAS**, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there is sufficient pedestrian access in and around the site as well as a large lawn amenity area that mitigates the request, and

**WHEREAS**, the Board further finds that the applicant has incorporated other design measures that exceed the minimums of the district there is sufficient

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pedestrian access in and around the site as well as a large lawn amenity area that mitigates the request, and

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

**Waiver from Chapter 5.5.1.A.3.a to permit parking in front of the principal structure as shown on the development plan:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public rights-of-way to the building entrance and additional development in phases will occur on the site reducing the need for the waiver, and

**WHEREAS**, the Board further finds that Plan 2040 encourages the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Ensures compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Evaluate developments for their ability to promote mass transit and pedestrian use. Encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. New development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. The proposal is for phase I of site development where subsequent phases will make the site more in compliance and reduce the need for the waiver, and

**WHEREAS**, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there are other phases of development that will occur that will reduce the need for the variance as well as sufficient pedestrian spaces and an amenity area that mitigate non-compliance, and

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**WHEREAS**, the Board further finds that the applicant has incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived as there are other phases of the site to be developed and there is sufficient pedestrian access that mitigates the request, and

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

**Waiver from Chapter 5.5.1.A.3.a to not provide the required 3' masonry wall along W. Muhammad Ali and W. Market Street:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since required landscaping will be provided for screening the parking from the adjacent right of way, and

**WHEREAS**, the Board further finds that Plan 2040 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Screening and buffering to mitigate adjacent incompatible uses. Required landscaping will be provided for screening the parking from the adjacent right of way, 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 required landscaping will be provided for screening the parking from the adjacent right of way. There is also a significant height difference between the sidewalk along W. Market and the site where the required wall would serve no purpose of screening, and

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**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 or would create an unnecessary hardship on the applicant since required landscaping will be provided for screening the parking from the adjacent right of way. There is also a significant height difference between the sidewalk along W. Market and the site where the required wall would serve no purpose of screening, and

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

**Waiver from Chapter 5.6.1.A, C, and D to not provide animating features along 50% of the S. 30th Street façade, to not provide clear windows and doors along the S. 30th Street façade, and to not vary the roofline:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested waiver will not adversely affect adjacent property owners as the site occupies one lot with no properties directly adjacent to the site. There are street trees shown along 30th Street that will help mitigate the request, and

**WHEREAS**, the Board further finds that Plan 2040 calls for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill; (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features. There are some variations in materials and some clear glass at the street level but not enough to meet the 50% requirement. The street trees provided as indicated on the development plan are being used to mitigate the request, and

**WHEREAS**, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed land use is affecting the building, and

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**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 or would create an unnecessary hardship on the applicant since the proposed land use is affecting the building. Street trees along building are being used to mitigate the request, and

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

**Waiver from 10.2.12 eliminate the maximum distance between ILAs as shown on the development plan:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the number of trees and required square footage of ILAs will be in compliance. The location of the ILAs will still allow distribution of trees throughout the site to help with the heat island that is being created with the parking, and

**WHEREAS**, the Board further finds that Plan 2040 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. The number of trees and required square footage of ILAs will be in compliance. The location of the ILAs will still allow distribution of trees throughout the site to help with the heat island that is being created with the parking, and

**WHEREAS**, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the number of trees and required square footage of ILAs will be in compliance. The location of the ILAs will still allow distribution of trees throughout the site to help with the heat island that is being created with the parking, and

**WHEREAS**, the Board further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) the number of trees and required square footage of ILAs will be in compliance. The location of the ILAs will still allow distribution of trees throughout the site to help with the heat island that is being created with the parking. Additional ILA square footage is provided, 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 19VARIANCE1052 does hereby **APPROVE** Waiver from Chapter 5.5.1.A.1.a to permit the Phase 1 building to not have a primary entrance along S. 30th Street or have the building be oriented toward a focal point, Waiver from Chapter 5.5.1.A.3.a to permit parking in front of the principal structure as shown on the development plan, Waiver from Chapter 5.5.1.A.3.a to not provide the required 3' masonry wall along W. Muhammad Ali and W. Market Street, Waiver from Chapter 5.6.1.A, C, and D to not provide animating features along 50% of the S. 30th Street façade, to not provide clear windows and doors along the S. 30th Street façade, and to not vary the roofline, and Waiver from 10.2.12 eliminate the maximum distance between ILAs as shown on the development plan.

**The vote was as follows:**

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

**00:58:10** On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the proposal being in order because of the approval of the variances and waivers to allow this plan to be developed as shown, and the testimony heard today, was adopted:

#### **Category 3 Development Plan:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the proposal generally meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1052 does hereby **APPROVE** Category 3 Development Plan.

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**The vote was as follows:**

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

**Absent: Member Jagoe, and Chair Young**

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#### CASE NUMBER 19VARIANCE1051

Request: Height Variance for a signature entrance sign  
Project Name: Lynnvview Signature Entrance  
Location: Intersection of Pigeon Pass and Preston Hwy  
Owner/Applicant: City of Lynnvview  
Jurisdiction: Louisville Metro  
Council District: 21 – Nicole George  
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 5<sup>th</sup> 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:

**01:00:07** Jay Lockett presented the case and showed a Powerpoint presentation. Mr. Lockett responded to questions from the Board Members (see staff report and recording for detailed presentation).

#### The following spoke in favor of the request:

Nathan Wright, 5151 Jefferson Blvd., Louisville, KY 40219  
David Pearl, 1306 Pigeon Pass Rd., Louisville, KY 40213

#### Summary of testimony of those in favor:

**01:04:51** Nathan Wright spoke in favor of the request and showed a Powerpoint presentation. Mr. Wright responded to questions from the Board Members (see recording for detailed presentation).

**01:10:10** David Pearl, Administrative Officer and CFO for the City of Lynnvview, spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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**The following spoke in opposition of the request:**

No one spoke.

#### **01:11:38 Board Members' deliberation**

**01:11:47** On a motion by Member Leanhart, 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 requested variance will not adversely affect the public health, safety or welfare, as it is set back far enough from the intersection to allow for adequate site lines for traffic in all adjacent rights-of-way, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity, as it replaces a similar older sign in roughly the same position on the subject property, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, as the location will maximize setback from the nearby intersection and will replace an old sign that is in disrepair, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, as the sign is of a reasonable size but located on an exceptionally narrow parcel; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1051 does hereby **APPROVE** Variance from Table 4.4.1 to allow a signature entrance sign to exceed the 5 foot maximum height by up to 5 feet.

**The vote was as follows:**

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

**Absent: Member Jagoe, and Chair Young**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**CASE NUMBER 19VARIANCE1045**

Request:	Variance to allow a proposed drive lane and building to encroach into the 25 foot Wetland Buffer
Project Name:	McDeane Rd Apartments
Location:	5618 McDeane Rd
Owner:	R. Weston Marcum, McDeane Properties LLC
Applicant:	Gabe Fritz, McDeane Rd LLC by Winterwood
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
Case Manager:	Lacey Gabbard, 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 5<sup>th</sup> 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:**

**01:13:28** Lacey Gabbard presented the case and showed a Powerpoint presentation. Ms. Gabbard responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Cliff Ashburner, 101 S. 5<sup>th</sup> Street, Suite 2500, Louisville, KY 40202  
Kevin Young, 503 Washburn Ave., Louisville, KY 40222

**Summary of testimony of those in favor:**

**01:21:14** Cliff Ashburner spoke in favor of the request and showed a Powerpoint presentation Members (see recording for detailed presentation).

**01:28:26** Kevin Young spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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#### **CASE NUMBER 19VARIANCE1045**

**01:32:00** Cliff Ashburner completed his presentation (see recording for detailed presentation).

#### **The following spoke in opposition of the request:**

Pamela McGoughey, 5506 Brinson Dr., Louisville, KY 40216

Gilbert Lochner, 5608 McDeane Rd., Louisville, KY 40216

#### **Summary of testimony of those in opposition:**

**01:32:59** Pamela McGoughey spoke in opposition of the request. Ms. McGoughey stated the neighborhood opposes this project totally. Ms. McGoughey stated the safety of the people that are already there is a concern because they're using one way in, one way out (see recording for detailed presentation).

**01:33:58** Gilbert Lochner spoke in opposition of the request (see recording for detailed presentation).

#### **REBUTTAL:**

**01:37:32** Cliff Ashburner spoke in rebuttal (see recording for detailed presentation).

**01:39:16** Kevin Young spoke in regard to drainage issues and responded to questions from the Board Members. Mr. Young and Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

#### **01:50:10 Board Members' deliberation**

**0152:42** On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the applicant's justification, 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

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### PUBLIC HEARING

#### CASE NUMBER 19VARIANCE1045

since the majority of the ponds and wetland will be undisturbed and the applicant is only proposing to encroach into a relatively small portion, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the applicant is proposing to preserve the majority of the pond and wetlands, which is the primary natural feature of the site and is proposed to be a central feature of the redeveloped site, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the pond is existing, and the applicant is proposing to preserve the majority of the wetland buffer. The variance is requesting to allow a proposed parking area/drive lane and a small portion of Building 5 to encroach into the wetland buffer. The drive lane and building do not appear to pose a hazard or nuisance, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the applicant is proposing to preserve the pond, the encroachment is minimal, and will allow residents to park and maneuver vehicles in the proposed the development, and

**WHEREAS**, the Board further finds that the pond and wetlands are unique features. Additionally, steep slopes on the subject site present additional environmental constraints that restrict the layout of the site, and

**WHEREAS**, the Board further finds that the strict application of the regulation would deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant since the pond, wetlands, and steep slopes present unique environmental features and irregular shapes that require a custom site design, and

**WHEREAS**, the Board further finds that the circumstances are not the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought, since the pond and wetlands are existing on site, 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 19VARIANCE1045 does hereby **APPROVE** Variance from Land Development

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**CASE NUMBER 19VARIANCE1045**

Code Section 4.8.5 to allow a proposed drive lane and a portion of Building 5 to encroach into the 25 foot Wetland Buffer.

**The vote was as follows:**

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

**Abstain: Member Leanhart**

**Absent: Member Jagoe, and Chair Young**

**01:54:20      Meeting was recessed.**

**01:54:40      Meeting was reconvened.**



## BOARD OF ZONING ADJUSTMENT MINUTES

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### PUBLIC HEARING

#### CASE NUMBER 19VARIANCE1041

Request: Variance to allow an addition to encroach into the minimum allowed infill street side yard setback  
Project Name: Gilliland Road Variance  
Location: 301 Gilliland Road  
Owner: Howard Davenport  
Applicant: Charlie Williams – Charlie Williams Design, Inc.  
Jurisdiction: Louisville Metro  
Council District: 19 – Anthony Piagentini  
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 5<sup>th</sup> 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:

**01:54:49** 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:

Charlie Williams, 1626 Windsor Pl., Louisville, KY 40204

#### Summary of testimony of those in favor:

**01:57:45** Charlie Williams 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 19VARIANCE1041**

**02:03:30**      **Board Members' deliberation**

**02:07:14**      On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the location being the street side yard, and the proposal not meeting the block face of other yards in the area, was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will alter the essential character of the general vicinity because there is no distinct character in the general vicinity that is similar to what is proposed; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1033 does hereby **DENY** Variance from Land Development Code Section 5.1.12.B.2.e.i.1 to allow an addition to encroach into the minimum allowed infill street side yard setback.

**The vote was as follows:**

**Yes: Members Buttorff, Howard, Turner, and Leanhart**

**No: Vice Chair Fishman**

**Absent: Member Jagoe, and Chair Young**

## BOARD OF ZONING ADJUSTMENT MINUTES

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### PUBLIC HEARING

#### CASE NUMBER 19VARIANCE1042

Request: Variances to allow a structure to encroach into the required side yard setback and a private yard area to be less than the required 30% of the area of a lot

Project Name: Cherokee Parkway Variance

Location: 2211 Cherokee Parkway

Owner: G. Walter Christopherson

Applicant: Charlie Williams – Charlie Williams Design, Inc.

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 5<sup>th</sup> 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:

**02:09:49** 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:

Charlie Williams, 1626 Windsor Pl., Louisville, KY 40204

#### Summary of testimony of those in favor:

**02:14:10** Charlie Williams 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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## **PUBLIC HEARING**

### **CASE NUMBER 19VARIANCE1042**

**02:15:07      Board Members' deliberation**

**02:15:32**      On a motion by Member Leanhart, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, was adopted:

**Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required 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 structure will need to be in compliance with the conditions of approval of the approved Certificate of Appropriateness, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as there is an existing accessory structure in the same general location, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the encroachment is similar to the existing garage; and

**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 a lot:**

**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 structure will need to be in compliance with the conditions of approval of the approved Certificate of Appropriateness, and

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**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as there is an existing accessory structure in the same general location, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as there is more open space to the side of the house that is not counted toward private yard area; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1042 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required side yard setback (**Requirement 5 ft., Request 1 ft., Variance 4 ft.**), and 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 a lot (**Requirement 3,184 sq. ft., Request 2,157 sq. ft., Variance 1,027 sq. ft.**).

**The vote was as follows:**

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

**Absent: Member Jagoe, and Chair Young**

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**PUBLIC HEARING**

**CASE NUMBER 19VARIANCE1043**

Request:	Variances to allow a structure to encroach into the required side yards and rear yard setbacks
Project Name:	Everett Avenue Variance
Location:	1266 Everett Avenue
Owner:	Adam Turla & Sarah Balliet
Applicant:	Charlie Williams – Charlie Williams Design, Inc.
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 5<sup>th</sup> 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:**

**02:17:21** 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:**

Charlie Williams, 1626 Windsor Pl., Louisville, KY 40204

**Summary of testimony of those in favor:**

**02:20:48** Charlie Williams 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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**CASE NUMBER 19VARIANCE1043**

**02:21:46      Board Members' deliberation**

**02:22:35**      On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

**Variance from Land Development Code Table 5.2.2 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 structure will need to be in compliance with the conditions of approval of the approved Certificate of Appropriateness, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as there is an existing accessory structure in the same general location, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the encroachment is similar to the existing garage, 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 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 by requiring the applicant to change the setback pattern from the existing garage and other surrounding garages, 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

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#### **CASE NUMBER 19VARIANCE1043**

from which relief is sought as the applicant is requesting the variance and has not begun construction; and

**Variance from Land Development Code Table 5.2.2 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 structure will need to be in compliance with the conditions of approval of the approved Certificate of Appropriateness, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as there is an existing accessory structure in the same general location, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the encroachment is similar to the existing garage, 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 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 by requiring the applicant to change the setback pattern from the existing garage and other surrounding garages, 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 from Land Development Code Table 5.2.2 to allow a structure to encroach into the required rear 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 structure will need to be in compliance with the conditions of approval of the approved Certificate of Appropriateness, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as there is an existing accessory structure in the same general location, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the encroachment is similar to the existing garage, 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 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 by requiring the applicant to change the setback pattern from the existing garage and other surrounding garages, 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 19VARIANCE1043 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required western side

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yard setback (**Requirement 3 ft., Request 0.19 ft., Variance 2.81 ft.**), Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required eastern side yard setback (**Requirement 3 ft., Request 0.02 ft., Variance 2.98 ft.**), and Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required rear yard setback (**Requirement 5 ft., Request 4 ft., Variance 1 ft.**), **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. A survey of the southern property line shall be completed prior to the commencement of construction activity and shall be staked in the field. No projections from the façade or building foundation shall cross the property line; any such projections shall be accommodated by stepping back the proposed structure from the property line.

**The vote was as follows:**

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

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**CASE NUMBER 19VARIANCE1046**

Request:	Variance to allow an existing structure to encroach into the required rear yard setback
Project Name:	Triple Crown Court Variance
Location:	12102 Triple Crown Court
Owner:	Gregory & Deidra Arends
Applicant:	Danny Wilkerson – Champion Window
Jurisdiction:	City of Middletown
Council District:	20 – Stuart Benson
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 5<sup>th</sup> 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:**

**02:24:49** Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

No one spoke.

**The following spoke in opposition of the request:**

No one spoke.

**02:34:55 Board Members' deliberation**

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**PUBLIC HEARING**

**CASE NUMBER 19VARIANCE1046**

**02:34:59** On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the structure 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 only alteration to the structure is changing existing screens to windows, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as there is no change to the building footprint or gross floor area, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as there is no change to the building footprint or gross floor area, 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 to the 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 because the only proposal is to change the existing screens to glass windows, 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 19VARIANCE1046 does hereby **APPROVE** Variance from City of Middletown Development Code Table 5.3.1 to allow a structure to encroach into the required rear yard setback (**Requirement 25 ft., Request 3.3 ft., Variance 21.7 ft.**).

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**The vote was as follows:**

**Yes: Members Buttorff, Howard, Turner, and Leanhart**

**No: Vice Chair Fishman**

**Absent: Member Jagoe, and Chair Young**

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### **PUBLIC HEARING**

#### **CASE NUMBER 19WAIVER1025**

Request:	Sign Authorization for attached and projecting signage on a multi-family residential building in the Regional Center Form District
Project Name:	Simcoe Lane Sign Authorization
Location:	4201 Simcoe Lane
Owner:	Flats at Springhurst, LLC
Applicant:	Jon Baker – Wyatt, Tarrant & Combs, LLP
Jurisdiction:	Louisville Metro
Council District:	17 – Markus Winkler
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 5<sup>th</sup> 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:**

**02:36:47** 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, 500 W. Jefferson St., Suite 2800, Louisville, KY 40202  
Charles Adcock, 4113 Hartwick Village Pl., Louisville, KY 40241

#### **Summary of testimony of those in favor:**

**02:40:16** Jon Baker spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

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**02:49:22** Charles Adcock stated they have no problem with the projected sign, except they would ask that the back side of the sign not be illuminated (see recording for detailed presentation).

**02:51:14** Jon Baker stated in speaking with his client they would agree with that, and would agree to a Condition that the sign façade facing Brownsboro Road will be the only sign façade of the projecting sign illuminated (see recording for detailed presentation).

**The following spoke in opposition of the request:**

No one spoke.

**02:53:05 Board Members' deliberation**

**02:53:23** On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the applicant's justification, was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the proposed signage is visually consistent with the architecture, colors, and overall design of the building and surrounding buildings. Therefore, the signage will not adversely affect adjacent property owners, and

**WHEREAS**, the Board further finds that the proposed signage is in conformance with the underlying form district as described within Plan 2040 and all other applicable guidelines of the plan, and

**WHEREAS**, the Board further finds that the proposed signage is appropriately visible to surrounding properties and public rights-of-way. The waiver is the minimum necessary to afford relief to the applicant to allow signage to be placed on the structure, and

**WHEREAS**, the Board further finds that the strict application of the regulations would not allow signage for this development and would create an unnecessary hardship. The signage is consistent with other signs in the vicinity and the proposed signs are in conformance with Regional Center sign restrictions in place for office uses within the OR-3 Zoning District, 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 19WAIVER1025 does hereby **APPROVE** Sign Authorization from Section 8.4.1.C.3 for attached and projecting signage on a multi-family residential building in the Regional Center Form District, **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The sign on the façade facing south on Simcoe Lane shall not be illuminated.

**The vote was as follows:**

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



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### **PUBLIC HEARING**

#### **CASE NUMBER 19CUP1057**

Request: Modification of a Conditional Use Permit, nursing home to a Senior Care Facility (assisted living and memory care) with a canopy, port cochere, parking reconfiguration and two interior patios

Project Name: Modification

Location: 9701 Whipps Mill Road

Owner: Creekside Whipps Mill, LLC.

Applicant: Blomquist Design Group, LLC.

Jurisdiction: Louisville Metro

Council District: 7 – Paula McCraney

Case Manager: Steve Hendrix, Planning and Design Coordinator

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

**02:56:33** Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see staff report and recording for detailed presentation).

#### **The following spoke in favor of the request:**

Marv Blomquist, 10529 Timberwood Circle, Suite D, Louisville, KY 40223

#### **Summary of testimony of those in favor:**

**03:01:18** Marv Blomquist spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**June 17, 2019**

**PUBLIC HEARING**

**CASE NUMBER 19CUP1057**

**The following spoke in opposition of the request:**

No one spoke.

**03:04:51      Board Members' deliberation**

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

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

**WHEREAS**, the Board further finds that the proposal is compatible with the general character of the surrounding neighborhood in terms since the renovation will be minor and the facility remains the same height, and

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

**WHEREAS**, the Board further finds that:

Nursing Homes and Homes for the Infirm or Aged may be permitted in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings shall be located at least 30 feet from any property line.
- B. One sign, not to exceed 60 square feet and six feet in height, may be placed at each of the major entrances.
- C. The Board of Zoning Adjustment shall add any restrictions to mitigate nuisances or adverse effects; now, therefore be it

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**June 17, 2019**

**PUBLIC HEARING**

**CASE NUMBER 19CUP1057**

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1057 does hereby **APPROVE** Modification of a Conditional Use Permit allowing a nursing home to a Senior Care facility with construction of a new canopy and port cochere, reconfiguration of the parking lot and the creation of two interior patios, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a senior care facility without further review and approval by the Board.

**The vote was as follows:**

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

## BOARD OF ZONING ADJUSTMENT MINUTES

June 17, 2019

### PUBLIC HEARING

#### CASE NUMBER 19CUP1074

Request:	Modification of a Conditional Use Permit that allows a Commercial Kennel
Project Name:	Modification
Location:	7924 Vine Crest Avenue
Owner:	Golden Retriever Rescue & Adoption of Needy Dogs, Inc.
Applicant:	Heritage Engineering
Jurisdiction:	City of Lyndon
Council District:	7 – Paula McCraney
Case Manager:	Steve Hendrix, Planning and Design Coordinator

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

**03:07:34** Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix presented emails that he had received this morning from neighbors to the Board Members. Mr. Hendrix stated a sign was posted and notices were sent, but they were not required to hold a Neighborhood Meeting (see staff report and recording for detailed presentation).

#### **The following spoke in favor of the request:**

Jon Baker, 500 W. Jefferson St., Suite 2800, Louisville, KY 40202  
Nina Scott, 607 Hatherleigh Lane, Louisville, KY 40222  
Scott Hannah, 642 South 4<sup>th</sup> Street, Louisville, KY 40202  
Paul Blackburn, 8814 Featherbell Blvd., Prospect, KY 40059  
Lauren Vaughan, 524 Fenley Ave., Louisville, KY 40222  
Frank Csapo, 3810 Springhurst Blvd., Louisville, KY 40241  
Donna Milam, 815 Echo Bridge Rd., Louisville, KY 40243

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**June 17, 2019**

**PUBLIC HEARING**

**CASE NUMBER 19CUP1074**

**Summary of testimony of those in favor:**

**03:14:32** Jon Baker spoke in favor of the request and showed a Powerpoint presentation. Mr. Baker spoke in regard to the partnership of the owner (GRAND) and The Pet Station. Mr. Baker presented a petition to the Board Members signed by Louisville Metro residents in support of this union of these two entities and the proposal for this site (see recording for detailed presentation).

**03:17:20** Nina Scott spoke in favor of the request and provided a brief history of the operation and the partnership with The Pet Station. Ms. Scott responded to questions from the Board Members (see recording for detailed presentation).

**03:24:42** Mr. Baker continued his presentation and responded to questions from the Board Members (see recording for detailed presentation).

**03:37:09** Scott Hannah spoke in favor of the request (see recording for detailed presentation).

**03:38:59** Paul Blackburn spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**03:42:38** Lauren Vaughan spoke in favor of the request (see recording for detailed presentation).

**03:45:05** Frank Csapo spoke in favor of the request (see recording for detailed presentation).

**03:50:01** Donna Milam spoke in favor of the request (see recording for detailed presentation).

**The following spoke in opposition of the request:**

Virginia Sill and Michael Sill, 509 Fenley Avenue, Louisville, KY 40222  
Zack Estes, 507 Vineleaf Dr., Louisville, KY 40222

**Summary of testimony of those in opposition:**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**June 17, 2019**

**PUBLIC HEARING**

**CASE NUMBER 19CUP1074**

**03:54:37** Virginia Sill and Michael Sill spoke in opposition of the request. Mrs. Sill provided a petition of signatures in opposition to the Board Members. Mr. Sill stated they are opposed to additional traffic. Mr. Sill stated they feel it is going to be a removal of green space. Mr. Sill spoke in regard to concerns about drainage issues. Jon Baker responded to a question from Mr. Sill. Mrs. Sill spoke in opposition and stated some of the concerns are property value and traffic. Mr. and Mrs. Sill responded to questions from the Board Members (see recording for detailed presentation).

**04:12:40** Zack Estes spoke in opposition of the request (see recording for detailed presentation).

**04:13:48** Paul Blackburn responded to questions from Mr. Estes (see recording for detailed presentation).

**04:16:02** Nina Scott responded to questions from Mr. Estes (see recording for detailed presentation).

**04:18:53** Mr. Estes continued to speak in opposition (see recording for detailed presentation).

**04:20:26** Steve Hendrix and Joe Haberman, Planning & Design Manager, responded to questions from the Board Members regarding the request that is before the Board today (see recording for detailed presentation).

**REBUTTAL:**

**04:23:11** Jon Baker spoke in rebuttal (see recording for detailed presentation).

**04:27:02 Board Members' deliberation**

**04:30:49** On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, was adopted:

## BOARD OF ZONING ADJUSTMENT MINUTES

June 17, 2019

### PUBLIC HEARING

#### CASE NUMBER 19CUP1074

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

**WHEREAS**, the Board further finds that the proposal is compatible with the general character of the surrounding neighborhood in terms of scale, intensity, traffic, noise, drainage and appearance, and

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

**WHEREAS**, the Board further finds that:

Commercial Kennels may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, C-1, C-2, C- M, M-1, M-2, and M-3 Zoning Districts where such use is compatible with surrounding land uses upon the granting of a Conditional Use Permit when developed in compliance with the listed requirements.

- A. Facilities Enclosed - All facilities, except parking, shall be within a totally enclosed building except where it can be demonstrated that a nuisance is not created thereby.
- B. Signs - Except in districts where signs are allowed, there shall be no more than one non-illuminated sign not to exceed 12 square feet in area and not to exceed 6 feet in height.
- C. Fences - A continuous fence at least 6 feet high shall be erected around the portion of the site used for the kennel operation.
- D. Screening – Any outdoor animal facilities shall be screened from view.
- E. Noise - The design of the structures shall include features that acoustically shield any animal noises from surrounding property.
- F. The applicant shall demonstrate adequate provisions to prevent surface water quality impacts due to animal waste; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1074 does hereby **APPROVE** Modification of a Conditional Use Permit that allows a commercial kennel in an R-4 Zoning District, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**June 17, 2019**

**PUBLIC HEARING**

**CASE NUMBER 19CUP1074**

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a commercial kennel without further review and approval by the Board.

**The vote was as follows:**

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

**Absent: Member Jagoe, and Chair Young**

**04:31:40 Meeting was recessed.**

**04:32:38 Meeting was reconvened.**



**BOARD OF ZONING ADJUSTMENT MINUTES**  
**June 17, 2019**

**PUBLIC HEARING**

**CASE NUMBER 19CUP1061**

Request:	Modified Conditional Use Permit and Variance
Project Name:	Assumption High School
Location:	2140 Tyler Lane
Owner/Applicant:	Assumption High School, Inc.
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

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

**04:32:43** Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie provided letters in support to the Board Members that were received over the weekend (see recording for detailed presentation).

**The following spoke in favor of the request:**

Kevin Young, 503 Washburn, Louisville, KY 40222  
Mary Lang, 2170 Tyler Lane, Louisville, KY 40205  
Mark Trier, 829 East Market, Louisville, KY 40206

**Summary of testimony of those in favor:**

**04:37:48** Kevin Young spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

**04:41:03** Mary Lang spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**June 17, 2019**

**PUBLIC HEARING**

**CASE NUMBER 19CUP1061**

**04:48:09** Mark Trier spoke in favor of the request (see recording for detailed presentation).

**04:50:13** Kevin Young continued his presentation and responded to questions from the Board Members (see recording for detailed presentation).

**The following spoke neither for nor against the request:**

Honi Goldman, President of Upper Highlands Neighborhood Association, 2727 Lamonte Rd., Louisville, KY 40205

**Summary of testimony of those neither for nor against:**

**04:56:16** Honi Goldman spoke neither for nor against the request and responded to questions from the Board Members (see recording for detailed presentation).

**The following spoke in opposition of the request:**

Leslie Cissell, 2156 Gladstone Ave., Louisville, KY 40205

**Summary of testimony of those in opposition:**

**04:59:20** Leslie Cissell spoke in opposition of the request. Ms. Cissell stated she could support the plan if it had larger setbacks and buffers, and she thinks it's possible to do away with some of the parking spots and still be in compliance with the required minimum number of spots. Ms. Cissell stated she believes the plan could be changed so it's better for the residents and Assumption would still be in compliance with the number of parking spaces. Ms. Cissell spoke further about parking and drainage issues (see recording for detailed presentation).

**REBUTTAL:**

**05:05:34** Kevin Young spoke in rebuttal. Mr. Young and Ms. Lang responded to questions from the Board Members (see recording for detailed presentation).

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**CASE NUMBER 19CUP1061**

**05:13:20      Board Members' deliberation**

**05:17:30**      On a motion by Member Howard, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and that the modification occurred because of an addition to the building where the existing parking was, was adopted:

**Modified Conditional Use Permit to allow the expansion of an existing off-street parking area:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan. Lighting will not be added, and

**WHEREAS**, the Board further finds that the proposal is an expansion of a partial area of the existing off-street parking area. The proposal will have the required landscaping and buffering. The appearance of the parking area along the west property line will be enhanced by the proposed landscaping, and

**WHEREAS**, the Board further finds that the proposal has been reviewed by Transportation Planning and MSD and both have approved the modified conditional use permit 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.

## BOARD OF ZONING ADJUSTMENT MINUTES

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### PUBLIC HEARING

#### CASE NUMBER 19CUP1061

- C. The minimum front, street side, and side yards required in the district shall be maintained free of parking. The applicant will be asking for relief to allow the proposed parking to be located 0 feet from the east property line. The applicant received relief and was granted a variance (B- 180-00) to allow the existing parking to be 0 feet from the east property line.
- 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; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1061 does hereby **APPROVE** Modified Conditional Use Permit to allow the expansion of an existing off-street parking area, **SUBJECT** to the following Conditions of Approval:

#### Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for off-street parking without further review and approval by the Board.

#### The vote was as follows:

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

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**CASE NUMBER 19CUP1061**

**05:20:05** On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

**Variance to allow proposed structure to exceed the maximum height requirement:**

**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 according to all building codes, including fire codes and will be the same height as the existing classroom structure, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the streetscape has been established along Tyler Lane with the original construction, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed structure will have to follow all building codes, including fire codes, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed and existing height will be the same, and

**WHEREAS**, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the original structure was built in 1955 at its present height, 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 by requiring the applicant to lower the height of the structure which would create a variety of internal room heights, 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 original structure was built in 1955; now, therefore be it

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**June 17, 2019**

**PUBLIC HEARING**

**CASE NUMBER 19CUP1061**

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1061 does hereby **APPROVE** Variance to allow proposed structure to exceed the maximum height requirement (**Requirement 35 ft., Request 38 ft., Variance 3 ft.**).

**The vote was as follows:**

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

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**June 17, 2019**

**PUBLIC HEARING**

**CASE NUMBER 18CUP1053**

Request:	Conditional Use Permit for a short term rental of a duplex that is not the primary residence of the host
Project Name:	Short Term Rental
Location:	909 East Washington Street
Owner/Applicant:	Brad Titzer
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Steve Hendrix, Planning and Design Coordinator

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

**05:22:17** Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see staff report and recording for detailed presentation).

**05:25:48** Joe Haberman, Planning & Design Manager, responded to questions from the Board Members regarding providing relief from the 600 foot rule (see recording for detailed presentation).

**The following spoke in favor of the request:**

Brad Titzer, 915 E. Washington Street, Louisville, KY 40206

**Summary of testimony of those in favor:**

**05:28:53** Brad Titzer spoke in favor of the request (see recording for detailed presentation).

# **BOARD OF ZONING ADJUSTMENT MINUTES**

**June 17, 2019**

## **PUBLIC HEARING**

### **CASE NUMBER 18CUP1053**

**The following spoke in opposition of the request:**

No one spoke.

#### **05:31:05 Board Members' deliberation**

**05:32:25** On a motion by Member Buttorff, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, and the owner's justification, 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. No exterior construction or alterations to the building or the site will be required, and

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

**WHEREAS**, the Board further finds that:

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

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



## BOARD OF ZONING ADJUSTMENT MINUTES

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### PUBLIC HEARING

#### CASE NUMBER 18CUP1053

- 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 applicant states that each unit has two bedrooms which would allow for each unit to have six guests.**
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there are three properties with an approved Conditional Use Permit allowing short term rental that is not the primary residence of the host. The applicant has request relief to this provision in accordance with LDC Section 4.2.2.B. 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. **The building is a duplex.**
- F. Food and alcoholic beverages shall not be served by the host to any guest.

## BOARD OF ZONING ADJUSTMENT MINUTES

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### PUBLIC HEARING

#### CASE NUMBER 18CUP1053

- 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 parking space on East Washington Street and two spaces parking at the rear of the property.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- 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, and

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

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**June 17, 2019**

**PUBLIC HEARING**

**CASE NUMBER 18CUP1053**

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1053 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a duplex that is not the primary residence of the host in an R-6 Zoning District and Traditional Neighborhood Form District, granting **RELIEF** from Item D.

**The vote was as follows:**

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

## BOARD OF ZONING ADJUSTMENT MINUTES

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### PUBLIC HEARING

#### CASE NUMBER 18CUP1207

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

Project Name: Boyle Short Term Rental

Location: 1240 Boyle Street

Owner/Applicant: Karen and Ken Sumner

Jurisdiction: Louisville Metro

Council District: 10 – Pat Mulvihill

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 5<sup>th</sup> 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:

**05:33:59** Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

#### **The following spoke in favor of the request:**

Ken Sumner, 909 Vine Street, Louisville, KY 40204

#### **Summary of testimony of those in favor:**

**05:36:13** Ken Sumner 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.

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**June 17, 2019**

**PUBLIC HEARING**

**CASE NUMBER 18CUP1207**

**05:39:42 Board Members' deliberation**

**05:39:56** On a motion by Member Buttorff, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the owner's justification statement, was adopted:

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

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

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

**WHEREAS**, the Board further finds that:

Short Term Rental 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 smaller than two acres. The applicant states that the**

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**residence has one bedroom that will allow a maximum number of four 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. **There are no other approved short term rentals conditional use permits within 600 feet.**
- 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. **There is a parking pad at the rear of the property that will accommodate two cars. Also, the site has credit for one on-street parking space.**

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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, 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 18CUP1207 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner in an R-6 Zoning District and Traditional Neighborhood Form District.

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**The vote was as follows:**

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

**Absent: Member Jagoe, and Chair Young**



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Request:	Conditional Use Permit for short term rental of a dwelling unit not the primary residence of the host
Project Name:	S. 2nd Street Short Term Rental
Location:	4117 S. 2nd Street
Owner/Applicant:	Turner Homes LLC
Host:	David Orange
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 5<sup>th</sup> 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:**

**05:42:34** Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones provided public comment emails to the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

David Orange, 1427 Texas Ave., Louisville, KY 40217

**Summary of testimony of those in favor:**

**05:46:23** David Orange 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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#### 05:50:15 Board Members' deliberation

**05:50:20** On a motion by Member Leanhart, seconded by Member Buttorff, 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 applicant, there are three bedrooms; LDC regulations permit up to eight 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 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 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 along the property frontage. There is additional parking for three vehicles on a graveled parking area off a rear alley, which will require improvement to meet LDC standards (Attachment 4).**

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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; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1209 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), **SUBJECT** to the following Condition of Approval:

#### Condition of Approval:

1. Before the subject dwelling unit may be used for short-term rental purposes, the applicant will improve the existing parking area at the rear of the property, accessible from the rear alley, with a hard and durable surface sufficient to

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accommodate parking for three vehicles. This parking area shall be required to meet all applicable Metro regulations and shall be inspected and approved by staff prior to use.

**The vote was as follows:**

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

**Absent: Member Jagoe, and Chair Young**

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**05:51:50** Prior to adjournment, Joe Haberman, Planning & Design Manager reminded the Board Members there will two meetings on July 8, 2019. A Special Meeting for Short Term Rental Applications will begin at 9:00 a.m., followed by the regular meeting beginning at 1:00 p.m.

The meeting adjourned at approximately 7:17 p.m.

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**Chair**

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**Secretary**