

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

November 1, 2021

A meeting of the Louisville Metro Board of Zoning Adjustment was held on November 1, 2021 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

Lula Howard, Chair
Richard Buttorff, Vice Chair
Sharon Bond, Secretary
Kimberly Leanhart
Yani Vozos

Members Absent:

Brandt Ford

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Brian Davis, Planning & Design Manager
Jon Crumbie, Planning & Design Coordinator
Molly Clark, Planner I
Zach Schwager, Planner I
Heather Pollock, Planner I
Tara Sorrels, Associate Planner
Laura Ferguson, Legal Counsel
Sue Reid, Management Assistant

On the recommendation of the Louisville Metro Department of Public Health & Wellness regarding congregate events and social distancing, and as permitted by Commonwealth of Kentucky Senate Bill 150, the November 1, 2021 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

NOVEMBER 1, 2021 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:09:09 On a motion by Vice Chair Buttorff, seconded by Member Vozos, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the October 18, 2021 Board of Zoning Adjustment online meeting, with one correction as noted by Chair Howard.

The vote was as follows:

Yes: Members Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard

Abstain: Member Bond

Absent: Member Ford

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

BUSINESS SESSION
2022_BOZA_Meeting_Schedule

Approval of the 2022 Board of Zoning Adjustment meeting schedule

00:14:26 On a motion by Member Bond, seconded by Vice Chair Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the 2022 BOZA meeting schedule, with changes to the June and July meeting dates as follows:

Approved June meeting dates: June 13 and June 27

Approved July meeting dates: July 11 and July 25

The vote was as follows:

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

Absent: Member Ford

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

21-APPEAL-0007

Request:	Appeal of Administrative Official
Project Name:	South Park Rd Appeal
Location:	4220 South Park Rd
Owner/Appellant:	Jason Stanford
Representative:	Jason Stanford
Jurisdiction:	Louisville
Council District:	24 – Madonna Flood
Case Manager:	Chris French, AICP, Planning & Design Supervisor

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

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

Agency testimony:

00:15:50 Joe Haberman stated that Chris French had been in communication with the appellant and it sounded like he wasn't available for today's meeting and we never received anything in writing that he carried out the noticing he was responsible for. Mr. Haberman stated we can take Laura Ferguson's advice on what to do, but he thinks we should defer it to a date uncertain, and we'll carry out our part of the noticing again. Mr. Haberman stated he will note that there's a representative of some neighbors that wanted to speak, but it would be his recommendation to not take any testimony since the appellant is not here to ask questions and respond (see staff report and recording for detailed presentation).

00:17:08 Laura Ferguson, Legal Counsel, stated since the appellant has not done their part of the noticing, she would be more comfortable continuing to a date uncertain and getting that notice done (see recording for detailed presentation).

00:18:11 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based upon the testimony heard today, was adopted:

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

21-APPEAL-0007

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 21-APPEAL-0007 to a Date Uncertain.

The vote was as follows:

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

Absent: Member Ford

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0122

Request:	Variance to allow a private yard area to be less than the required 30% of the lot area
Project Name:	South 3rd Street Variance
Location:	4330 S. 3rd Street
Owner/Applicant:	Paula & Alexander Davis
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Heather Pollock, Planner I

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

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

Agency testimony:

00:20:21 Heather Pollock presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Paula Davis, 4330 S. 3rd Street, Louisville, KY 40214

Summary of testimony of those in favor:

00:24:42 Paula Davis 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.

00:32:03 Board Members' deliberation

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0122

00:32:26 On a motion by Member Leanhart, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the existing private yard area does not meet the current requirement and there is additional open space in the primary structure area that cannot be included in the private yard area calculation; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0122 does hereby **APPROVE** Variance from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of the lot (**Private Yard Area Requirement 1,800 sq. ft., Request 868 sq. ft., Variance 932 sq. ft.**).

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0129

Request:	Variance to allow an addition to a principal structure to encroach into the rear yard setback and associated landscape waivers
Project Name:	Dixie Highway Variance
Location:	8094 Dixie Highway
Owner:	Ehrlers Properties
Applicant:	Michael Pluta – MRP Associates, LLC
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler
Case Manager:	Zach Schwager, Planner I

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

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

00:34:26 NOTE: Chair Howard called Item #7 on today's agenda out of order. See pages 16-17 of these minutes.

Agency testimony:

00:40:16 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).

00:47:34 NOTE: The applicant was not present. Mr. Schwager stated he would attempt to contact the applicant. Mr. Haberman suggested continuing the case to the end of today's agenda (see recording for detailed presentation).

00:48:45 On a motion by Vice Chair Buttorff, seconded by Member Vozos, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 21-VARIANCE-0129 to the end of today's agenda.

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0129

The vote was as follows:

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

00:49:28 **NOTE: Item #6 on today's agenda was called at this time. Please see pages 13-15 of these minutes.**

02:33:22 **Chair Howard recalled this case (21-VARIANCE-0129) at this time. Mr. Schwager briefly reviewed the presentation (see recording for detailed presentation).**

The following spoke in favor of the request:

Michael Pluta, 2919 White Plains Road, Louisville, KY 40218

Summary of testimony of those in favor:

02:37:09 Michael Pluta spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:39:47 Mr. Schwager showed the site plan and reviewed the variance area (see recording for detailed presentation).

02:41:20 Mr. Pluta responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

02:47:42 **Board Members' deliberation**

02:50:46 On a motion by Vice Chair Buttorff, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, the owner's justification, and the testimony heard today, was adopted:

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0129

Variance from Land Development Code (LDC) Section 5.3.2.C.2.a 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, because the proposed addition must be constructed to comply with all building codes, including fire codes; however, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the property, 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 setbacks along Dixie Highway. Also, the existing building is at an angle and any rear addition will get closer to the side property line. Furthermore, the proposed addition is adjacent to the existing parking area behind the multi-family structure and not the structure itself, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition is adjacent to a parking area and not the multi-family structure, and

WHEREAS, the Board further finds that the owner's justification statements adequately justify the requested variance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0129 does hereby **APPROVE** Variance from Land Development Code (LDC) section 5.3.2.C.2.a to allow a structure to encroach into the required side yard setback (**Side Yard Requirement 25 ft., Request 1 ft., Variance 24 ft.**), **SUBJECT** to the following Condition of Approval.

Condition of Approval:

1. Prior to construction, the applicant must either obtain permission from the adjoining property owner(s) to access their property or assure that all construction and maintenance can be performed without encroaching onto the adjoining property.

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0129

The vote was as follows:

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

02:52:59 On a motion by Vice Chair Buttorff, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Waiver from Land Development Code section 10.2.4 to not provide the required Landscape Buffer Area (LBA) along the western property line, and Waiver from Land Development Code section 10.2.4 to not provide the required LBA along the northern and eastern property lines:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waivers will not adversely affect adjacent property owners as the subject property is a corner lot and there is existing landscaping along the western property line. The northern and eastern property lines are within the existing parking lot, and

WHEREAS, the Board further finds that Community Form Goal 1, Policies 9 and 10 of Plan 2040 call to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements and the impacts caused when incompatible developments unavoidably occur adjacent to one another. Community Form Goal 1, Policy 12 states design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. The waiver will not violate these guidelines as there is existing landscaping along the western property line and the northern and eastern property lines are in the existing parking lot, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the waiver is to bring the existing site conditions into compliance, 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 waiver is to bring the existing site conditions into compliance; now, therefore be it

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0129

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0129 (21-WAIVER-0118) does hereby **APPROVE** Waiver from Land Development Code section 10.2.4 to not provide the required Landscape Buffer Area (LBA) along the western property line, and Waiver from Land Development Code section 10.2.4 to not provide the required LBA along the northern and eastern property lines.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0131

Request:	Variance to allow an addition to encroach into the required side yard and street side yard setbacks
Project Name:	East Caldwell Street Variance
Location:	436 E. Caldwell Street
Owner/Applicant:	Kendra Obannon
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Heather Pollock, Planner I

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

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

Agency testimony:

00:50:26 Heather Pollock presented the case and showed a Powerpoint presentation. Ms. Pollock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kendra Obannon, 538 E. Caldwell St., Louisville, KY 40203

Summary of testimony of those in favor:

00:57:59 Kendra Obannon 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.

01:11:49 Board Members' deliberation

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0131

01:13:24 On a motion by Member Bond, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the subject property is only 21 ft. in width and the addition will not encroach any further than the existing structure; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0131 does hereby **APPROVE** Variance from Land Development Code table 5.2.2 to allow a principal structure to encroach into the side yard setbacks (**Side Yard Requirement 2.1 ft., Request 0 ft., Variance 2.1 ft.; Street Side Yard Requirement 3 ft., Request 0 ft., Variance 3 ft.**), **SUBJECT** to the following Condition of Approval.

Condition of Approval:

1. The applicant shall submit to Planning & Design Staff a letter from the adjoining property owner giving permission for encroachment onto their property for construction and maintenance.

**BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021**

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0131

The vote was as follows:

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

**01:16:31 NOTE: The meeting continued with Item #8 on today's agenda.
Please see pages 18-22 of these minutes.**

BOARD OF ZONING ADJUSTMENT MINUTES

November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0134

Request: Variance to allow a porch to encroach into the front yard setback
Project Name: Hoertz Avenue Variance
Location: 1314 Hoertz Avenue
Owner/Applicant: Katrina Miller
Representative: Cliff Ashburner
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
Case Manager: Heather Pollock, Planner I

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

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

00:34:26 NOTE: Chair Howard called this case out of order, prior to Item #5 on today's agenda. Chair Howard stated the applicant is requesting to continue this case. Mr. Haberman stated staff would be agreeable to a continuance (see recording for detailed presentation).

Testimony of applicant's representative:

00:35:40 Cliff Ashburner (Dinsmore & Shohl, 101 S. 5th Street, Louisville, KY) stated Katrina Miller was in the process of constructing a front porch addition when she was alerted that was not allowed without a variance. Mr. Ashburner stated they submitted material to support that variance request, but Heather Pollock identified that the location of the property line at the front of the home was very important. Mr. Ashburner stated they are now obtaining a survey to more precisely locate that front property line and they expect to have that this week and will gladly provide that to staff. Mr. Ashburner stated they are requesting continuance to November 15th (see staff report and recording for detailed presentation).

00:38:24 On a motion by Member Vozos, seconded by Vice Chair Buttorff, the following resolution, based upon the testimony heard today, was adopted:

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0134

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 21-VARIANCE-0134 to the November 15, 2021 Board of Zoning Adjustment meeting.

The vote was as follows:

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

Absent: Member Ford

NOTE: The meeting continued with Item #5 on today's agenda. Please see pages 8-12 of these minutes.

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-CAT3-0013

Request:	Category 3 with a Wavier and Variance
Project Name:	Reynolds Manufacturing Addition
Location:	3005 Grand Ave
Owner/Appellant:	Reynolds Consumer Products
Representative:	Michael Clayton – CFW Associates Charles Weber – CFW Associates
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green
Case Manager:	Molly Clark – Planner I

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

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

Agency testimony:

01:17:22 Molly Clark presented the case and showed a Powerpoint presentation. Ms. Clark responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Charles Weber, 1661 Cold Spring Road, Louisville, KY 40223

Summary of testimony of those in favor:

01:29:15 Charles Weber 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
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-CAT3-0013

01:34:55 Board Members' deliberation

01:37:00 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from Land Development Code Table 5.2.2 to allow a proposed structure to encroach in the required 10 ft side yard setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare because the applicant is proposing to build the exact same building that is currently existing with changes to the interior, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the tin foil manufacturing plant has been in the area since the 1920's and the existing addition that is being replaced has been around since the 1940's, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the tin foil manufacturer has been in the neighborhood since the 1920's and the rear addition has existed since the 1940's. The existing building is made of wood (combustible materials) and the applicant is proposing to replace with a metal frame (noncombustible materials), and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the existing building on the property is only set back less than 3 feet from the adjoining property line with the R-6 zoned lot; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CAT3-0013 (21-VARIANCE-0133) does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a proposed structure to encroach in the required 10 ft side yard setback (**Side Yard Requirement 10 ft., Request 2.5 ft., Variance 7.5 ft.**).

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-CAT3-0013

The vote was as follows:

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

Absent: Member Ford

01:39:14 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Waiver from Land Development Code Section 10.2.2 to allow a proposed structure to encroach into the required 25 ft. landscape buffer along the property line adjacent to R-6 zoning 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 existing rear addition has existed since the 1940's. The applicant is proposing a new addition that will look exactly like what is existing, and

WHEREAS, the Board further finds that Community Form Goal 1, Policy 6 calls to discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential. The applicant is building a new addition to match the old addition that has existed since the 1940's. This addition allows for the property owner to do indoor storage rather than outdoor storage of materials related to the manufacturing of tin foil. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke,

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-CAT3-0013

automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Residential uses that develop adjacent to agricultural land uses may be required to provide screening and buffering to protect both the farmer and homeowners. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. The applicant is still providing the 25 ft LBA and 15ft VUA/LBA for the areas with truck loading and parking. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. Economic Development goal 2 policy 3 calls to Encourage design elements that address the urban heat island effect and energy efficiency, such as the planting and preservation of trees, cool roofs and green infrastructure, for new development. The new plan will be providing actual landscape buffers and improving the site compared to what is existing, 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 existing addition that was built in the 1940's is not permitted by right with today's zoning regulations. The applicant is building back the exact same building but with structural integrity and better functionality inside. They are also using a metal frame instead of a wood frame, 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 because the tin foil manufacturing plat has existed for decades and the new regulation would not allow what is existing today; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CAT3-0013 (21-WAIVER-0121) does hereby **APPROVE** Waiver from Land Development Code Section 10.2.2 to allow a proposed structure to encroach into the required 25 ft. landscape buffer along the property line adjacent to R-6 zoning as shown on the development plan and to not provide the required plantings.

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-CAT3-0013

The vote was as follows:

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

Absent: Member Ford

01:41:50 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Category 3 Development Plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that all of the applicable Guidelines and Policies of the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CAT3-0013 does hereby **APPROVE** Category 3 Development Plan, **SUBJECT** to the following Condition of Approval.

Condition of Approval:

1. Prior to obtaining a building permit, the alley closure (21-STRCLOSUREPA-0029), as shown on the Category 3 development plan, shall be approved.

The vote was as follows:

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

Absent: Member Ford

01:43:53 Meeting was recessed

01:45:15 Meeting was reconvened.

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-CUP-0162

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Shelbyville Road Short Term Rental
Location:	9916 Shelbyville Road
Owner:	Chris McCarty
Applicant:	Kelly Lyons
Jurisdiction:	Louisville Metro
Council District:	18 – Marilyn Parker
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

01:45:54 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:

Chris McCarty, 5314 River Creek Court, Prospect, KY 40059

Summary of testimony of those in favor:

01:59:49 Chris McCarty 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
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-CUP-0162

02:13:52 Board Member's deliberation

02:14:30 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that:

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

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

BOARD OF ZONING ADJUSTMENT MINUTES

November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-CUP-0162

- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there are zero properties with an approved conditional use permit for a non-host occupied short term rental within 600 ft. of the subject property.**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The dwelling unit is a single-family residence.**
- F. Food and alcoholic beverages shall not be served by the host to any guest. **The applicant has been informed of this requirement.**
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **LDC standards credit the site with zero on-street parking spaces and there is parking for two cars in the garage.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. **The applicant has been informed of this requirement.**

BOARD OF ZONING ADJUSTMENT MINUTES

November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-CUP-0162

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0162 does hereby **APPROVE** Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Condition of Approval.

Condition of Approval:

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

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-CUP-0162

The vote was as follows:

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

Absent: Member Ford

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-CUP-0165

Request:	Conditional Use Permit to allow an existing private institutional use in a single-family zoning district
Project Name:	Ninth & O Baptist Church
Location:	4401 Breckenridge Lane
Owner:	Ninth & O Baptist Church
Applicant:	Larry Buchanan – Ninth & O Baptist Church
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

02:16:57 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Larry Buchanan, 4401 Breckenridge Lane, Louisville, KY 40218

Summary of testimony of those in favor:

02:19:47 Larry Buchanan 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
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-CUP-0165

02:25:48 Board Members' deliberation

02:29:31 On a motion by Member Leanhart, seconded by Member Bond, the following resolution, based upon the testimony heard today, was adopted:

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

WHEREAS, the Board further finds that 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. Transportation Planning and MSD have reviewed and approved the proposal, and

WHEREAS, the Board further finds that:

There are five listed requirements and the applicant will need relief from Item C. Item D. must be met and Item E. is to be determined by the Board of Zoning Adjustment. Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

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

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

PUBLIC HEARING

CASE NUMBER 21-CUP-0165

parking in front of the existing structure. The applicant will need relief from this requirement.

- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **This item must be met.**
- E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties. **The Board must determine whether hours of operation are appropriate for this use and location; the Board finds that hours of operation do not need to be set,** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0165 does hereby **APPROVE** Conditional Use Permit to allow an addition to an existing private institutional use (LDC) 4.2.65, with **RELIEF** from Standard 4C due to existing conditions of the property, and **SUBJECT** to the following Conditions of Approval.

Conditions of Approval:

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

The vote was as follows:

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

02:33:22 Chair Howard recalled Item #5; please see pages 8-12 of these minutes.

BOARD OF ZONING ADJUSTMENT MINUTES
November 1, 2021

02:54:51 Prior to adjournment, the Board Members discussed the mandatory training. Mr. Haberman advised the Board Members that the Mayor's office is tracking attendance and will be sending a link to the video out to anyone who missed the training.

The meeting adjourned at approximately 4:15 p.m.

Chair

Secretary