

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT
October 3, 2022**

A meeting of the Louisville Metro Board of Zoning Adjustment was held on October 3, 2022 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members present:

Lula Howard, Chair
Richard Buttorff, Vice Chair
Sharon Bond, Secretary
Yani Vozos
Brandt Ford
Kimberly Leanhart
Jan Horton

Staff Members present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Molly Clark, Planner II
Laura Ferguson, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

APPROVAL OF MINUTES

NO MINUTES TO APPROVE

BOARD OF ZONING ADJUSTMENT MINUTES

October 3, 2022

PUBLIC HEARING

22-VARIANCE-0103

Request: Variance to allow a second story addition to encroach into the side yard setbacks.
Project Name: W. Chestnut Street Variance
Location: 1821 W. Chestnut Street
Owner: Jovan Williams
Applicant: Jovan Williams
Jurisdiction: Louisville Metro
Council District: 4 – Jecorey Arthur
Case Manager: Molly Clark, Planner II

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

Agency Testimony:

00:06:28 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

LaShanda Williams, 6426 Ernest Creek Boulevard, Louisville, Ky. 40258

Summary of testimony of those in favor:

00:13:26 LaShonda Williams stated the house is old and has been in the family several years. The 8-foot ceilings are necessary to make standard size bedrooms (see recording for detailed presentation).

Deliberation:

00:17:45 Board of Zoning Adjustment deliberation.

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.

BOARD OF ZONING ADJUSTMENT MINUTES

October 3, 2022

PUBLIC HEARING

22-VARIANCE-0103

Variance from the Land Development Code Table 5.2.2 to allow a principal structure to encroach into the side yard setback

On a motion by Member Leanhart, seconded by Member Ford, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

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

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the 2nd story addition will encroach the same distance as the existing structure; and

WHEREAS, 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 requested variance will not allow an unreasonable circumvention of the zoning regulations as the subject property is only 22 ft. in width and the addition will not encroach any further than the existing structure; and

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the lot is similar in size and shape as the surrounding properties; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the subject property is only 22 ft. in width. The existing primary structure is already encroaching into the side yard setback and the proposed 2nd story addition will line up with the existing structure; and

WHEREAS, the Board further finds 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 has not started construction and is requesting the variance.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from the Land Development Code Table 5.2.2 to allow a principal structure to encroach into the side yard setback.

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-VARIANCE-0103

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Horton, Leanhart, Vozos and Howard

BOARD OF ZONING ADJUSTMENT MINUTES

October 3, 2022

PUBLIC HEARING

22-VARIANCE-0104

Request: Variance to allow a proposed garage to encroach into the 5 ft. rear yard setback.
Project Name: Crestwood Avenue Variance
Location: 113 Crestwood Avenue
Owner: David Farmer
Applicant: David Farmer
Jurisdiction: Louisville Metro
Council District: 9 – Jecorey Arthur
Case Manager: Molly Clark, Planner II

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

Agency Testimony:

00:22:16 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

David Farmer, 113 Crestwood Avenue, Louisville, Ky. 40206

Summary of testimony of those in favor:

00:25:57 David Farmer discussed the following: Crabbs Ln. is an alley; there is more access available; he won't encroach on anyone; his existing garage is in disrepair; there are no structures behind him; and he has an agreement with Louisville Metro Public Works (see recording for detailed presentation).

Deliberation:

00:31:38 Board of Zoning Adjustment deliberation.

BOARD OF ZONING ADJUSTMENT MINUTES

October 3, 2022

PUBLIC HEARING

22-VARIANCE-0104

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.

Variance from the Land Development Code Section 5.4.1.E.2 to allow an accessory structure to encroach into the rear yard setback

On a motion by Member Bond, seconded by Member Buttorff, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today including the fact that the applicant has received a license agreement with Metro Public Works for the construction was adopted.

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested. The applicant has also received an encroachment permit from Louisville Metro to allow the encroachment into Crabbs Lane right-of-way; and

WHEREAS, the structure will not alter the essential character of the general vicinity as it will be built with material that is in character with the surrounding residential neighborhood; and

WHEREAS, 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 requested variance will not allow an unreasonable circumvention of the zoning regulations as the subject property has double frontage and the applicant is proposing access off of the rear from Crabbs Lane which is where the other residential properties use to access the rear of their properties; and

WHEREAS, the requested variance does not arise from special circumstances which do generally apply to the land in the generally vicinity or the same zone as the lot is similar in size and shape to the surrounding properties; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the proposed garage could be moved to meet the setback requirements; and

WHEREAS, the Board further finds 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 has not started construction and is requesting the variance.

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-VARIANCE-0104

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from the Land Development Code Section 5.4.1.E.2 to allow an accessory structure to encroach into the rear yard setback, requirement 5 feet, request 0 feet resulting in a variance of 5 feet.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Horton, Leanhart, Vozos and Howard

BOARD OF ZONING ADJUSTMENT MINUTES

October 3, 2022

PUBLIC HEARING

22-CUP-0153

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: View Crest Drive Short Term Rental
Location: 1116 View Crest Drive
Owner: Property Group Pros, LLC
Applicant: Luda Hager
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox
Case Manager: Chris French, Planning & Design Supervisor

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

Agency Testimony:

00:33:50 Chris French discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Luda Hager, 1116 Hillcrest, Fairdale, Ky. 40118

Summary of testimony of those in favor:

00:37:21 Luda Hager stated she wants to provide short-term rental and she will manage it (see recording for detailed presentation).

The following spoke in opposition to this request:

Mike Maple, 121 South 7th Street, 4th floor, Louisville, Ky. 40202
Dana Bond, 1110 View Crest Drive, Fairdale, Ky. 40118
Gale Hancock, 1115 View Crest Drive, Louisville, Ky. 40118

Summary of testimony of those in opposition:

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-CUP-0153

00:41:07 Mike Maple is the attorney for a neighbor and discussed the following: the proposed house has been used as a group or border housing; proposal is not compatible with the neighborhood; grass is not cut on regular basis; absentee management; people coming in and out at all times; private street; increase in traffic; and no answers at the neighborhood meeting (see recording for detailed presentation).

00:49:18 Dana Bond stated the property has been used to harbor dozens of men sharing bedrooms. The prior residents were arrested for drugs and weapons. The peace and security have been taken away from neighboring residents (see recording for detailed presentation).

00:57:04 Gale Hancock said she has lived in her home for 63 years. Safety is a major concern (see recording for detailed presentation).

Rebuttal:

01:00:38 Luda Hager said anyone could have purchased the home. It has been remodeled and is beautiful. Also, 6 contractors rented before and they were nice people (6 months long-term) (see recording for detailed presentation).

Deliberation:

01:04:19 Board of Zoning Adjustment deliberation.

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.

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in an R-4 zoning district and Village form district

On a motion by Member Buttorff, seconded by Member Ford, the following resolution based on testimony and evidence presented today was adopted.

WHEREAS, the proposed use is not compatible with the surrounding community.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in an R-4 Zoning District and Village Form District.

The vote was as follows:

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-CUP-0153

YES: Members Bond, Buttorff, Ford, Horton, Leanhart, Vozos and Howard

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-CUP-0181

Request:	Conditional Use Permit to allow the short-term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Kennedy Avenue Short Term Rental
Location:	120 R. Kennedy Avenue
Owner:	Thomas Faversham
Applicant:	Skyler Smith
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Molly Clark, Planner II

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

Agency Testimony:

01:28:00 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Skylar Smith, 120 Kennedy Avenue, Louisville, Ky. 40206
Shane Nearman, 1967 Richmond Drive, Louisville, Ky. 40205

Summary of testimony of those in favor:

01:32:11 Skylar Smith said she built the accessory unit on the property, basically a garage with an apartment above for short-term rentals (see recording for detailed presentation).

01:37:05 Shane Nearman stated he supports the applicant and proposal (see recording for detailed presentation).

Deliberation:

01:39:20 Board of Zoning Adjustment deliberation.

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-CUP-0181

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.

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R5-A Multi Family Zoning District and Traditional Neighborhood Form District

On a motion by Member Leanhart seconded by Member Bond, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the proposal does not conflict with Comprehensive Plan policies; and

WHEREAS, when appropriately managed, the proposed use is compatible with surrounding development and land uses; and

WHEREAS, the Board finds, 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 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

BOARD OF ZONING ADJUSTMENT MINUTES

October 3, 2022

PUBLIC HEARING

22-CUP-0181

bedrooms plus six individuals. The applicant states that the residence has 1 bedroom that will allow a maximum number of 4 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 is 1 property with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. The applicant is requesting relief to the 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 applicant has been informed of this requirement.

F. Food and alcoholic beverages shall not be served by the host to any guest. The applicant has been informed of this requirement.

G. Outdoor signage which identifies the short-term rental is prohibited in residential zoning districts. The applicant has been informed of this requirement.

H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. The applicant states that there are 2 off-street parking spaces in the garage. In addition, there appears to be available on-street parking in the area.

BOARD OF ZONING ADJUSTMENT MINUTES

October 3, 2022

PUBLIC HEARING

22-CUP-0181

I. The short-term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. The applicant has been informed of this requirement.

J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. The applicant has been informed of this requirement.

K. Prior to commencement of any short-term rental on the subject property, the host shall register the short-term rental pursuant to the Louisville Metro Code of Ordinances. If the short-term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. The applicant has been informed of this requirement.

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

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow short-term rental of dwelling unit that is not the primary residence of the host in the R5-A Multi Family Zoning District and Traditional Neighborhood Form District, **SUBJECT** to the following Conditions of Approval:

1) The conditional use permit approval for this short-term rental shall be limited to the dwelling unit within the accessory structure, and it shall be allowed up to 1 bedroom (with a maximum of 4 guests at any time). Prior to use, bedrooms must meet all occupancy requirements set forth in Louisville Metro Code of Ordinances. A

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-CUP-0181

modification of the conditional use permit shall be required to allow additional bedrooms.

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

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Horton, Leanhart, Vozos and Howard

BOARD OF ZONING ADJUSTMENT MINUTES

October 3, 2022

PUBLIC HEARING

22-CUP-0211

Request: Conditional Use Permit to allow the short-term rental of a dwelling unit that is not the primary residence of the host
Project Name: Richmond Drive Short Term Rental
Location: 1967 Richmond Drive
Owner: Shane and Christina Nearman
Applicant: Shane and Christina Nearman
Jurisdiction: Louisville Metro
Council District: 8 – Cassie Chambers Armstrong
Case Manager: Chris French, Planning & Design Supervisor

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

Agency Testimony:

01:43:00 Chris French discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Shane Nearman, 1967 Richmond Drive, Louisville, Ky. 40205
Christina Nearman, 1967 Richmond Drive, Louisville, Ky. 40205

Summary of testimony of those in favor:

01:47:47 Christina Nearman said she would be living in the main home with a detached garage across the back yard as the short-term rental (see recording for detailed presentation).

01:49:53 Shane Nearman discussed concerns from the neighborhood meeting. Mr. and Mrs. Nearman both will be managing the short-term rental and there will be security cameras (see recording for detailed presentation).

Deliberation:

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-CUP-0211

01:54:26 Board of Zoning Adjustment deliberation.

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.

Conditional Use Permits to allow short term rental of dwelling unit that is not the primary residence of the host in an R-5 zoning district and Traditional Neighborhood Form District

On a motion by Member Bond, seconded by Member Leanhart, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the proposal does not conflict with Comprehensive Plan policies; and

WHEREAS, when appropriately managed, the proposed use is compatible with surrounding development and land uses; and

WHEREAS, the Board finds, 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 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

BOARD OF ZONING ADJUSTMENT MINUTES

October 3, 2022

PUBLIC HEARING

22-CUP-0211

bedrooms plus two individuals. The subject property is smaller than two acres. The applicant states that the ADU units will have 1 bedroom that will allow a maximum number of 4 guests.

D. The property on which the short-term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short-term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. As of the date of this report, within 600' of the subject property, there are no properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.

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

F. Food and alcoholic beverages shall not be served by the host to any guest. The applicant has been informed of this requirement.

G. Outdoor signage which identifies the short-term rental is prohibited in residential zoning districts. The applicant has been informed of this requirement.

H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. The applicant states that there is room for two vehicles in the garage. The LDC also credits the property with 1 on-street parking space.

BOARD OF ZONING ADJUSTMENT MINUTES

October 3, 2022

PUBLIC HEARING

22-CUP-0211

I. The short-term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. The applicant has been informed of this requirement.

J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. The applicant has been informed of this requirement.

K. Prior to commencement of any short-term rental on the subject property, the host shall register the short-term rental pursuant to the Louisville Metro Code of Ordinances. If the short-term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. The Board granted relief to this requirement because the applicant is improving an existing accessory structure to add a second dwelling unit to the property. The Board granted relief to the 30 days and added a condition of approval that the dwelling unit be registered as a short-term rental within 6 months of the approval of this conditional use permit.

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.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permits to allow short term rental of dwelling unit that is not the primary residence of the host in an R-5 zoning district and Traditional Neighborhood Form District, **SUBJECT** to the following Conditions of Approval:

1. The conditional use permit for this short-term rental approval is limited to the accessory dwelling unit, this unit shall allow up to 1 bedroom (with a maximum of 4

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-CUP-0211

guests at any time). Prior to use, the bedroom must meet all occupancy requirements set forth in Louisville Metro Code of Ordinances. A modification of the conditional use permit shall be required to allow additional bedrooms.

2. The applicants shall have 6 months from the approval of this conditional use permit to register the short-term rental pursuant to the Louisville Metro Code of Ordinances. The conditional use permit shall become null and void if the short-term rental is not registered within this timeframe.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Horton, Leanhart, Vozos and Howard

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-CUP-0210

Request:	Conditional Use Permit for an accessory dwelling unit
Project Name:	Richmond Drive Accessory Dwelling Unit
Location:	1967 Richmond Drive
Owner:	Shane and Christina Nearman
Applicant:	Shane and Christina Nearman
Jurisdiction:	Louisville Metro
Council District:	8 – Cassie Chambers Armstrong
Case Manager:	Chris French, Planning & Design Supervisor

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

Agency Testimony:

01:56:08 Chris French discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Christina Nearman, 1967 Richmond Drive, Louisville, Ky. 40205
Shane Nearman, 1967 Richmond Drive, Louisville, Ky. 40205

Summary of testimony of those in favor:

01:58:16 Christina Nearman is here to answer questions (see recording for detailed presentation).

01:58:33 Shane Nearman said he has a deed restriction (see recording for detailed presentation).

Deliberation:

01:59:58 Board of Zoning Adjustment deliberation.

BOARD OF ZONING ADJUSTMENT MINUTES

October 3, 2022

PUBLIC HEARING

22-CUP-0210

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.

Conditional Use Permit for an accessory dwelling unit

On a motion by Member Vozos, seconded by Member Buttorff, the following resolution, based on the Standard of Review and Staff Analysis, testimony heard today and the fact that 22-CUP-0211 was approved, was adopted.

WHEREAS, the proposal does not conflict with Comprehensive Plan policies; and

WHEREAS, when appropriately managed, the proposed use is compatible with surrounding development and land uses; and

WHEREAS, the Board finds, 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 4.2.3 Accessory Dwelling Unit (ADU)
Accessory dwelling units that do not meet the provisions of Section 4.3.27 may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N districts upon the granting of a conditional use permit and compliance with the listed requirements.

A. All special standards outlined within Section 4.3.27 are met unless relief is granted by the Board. Applications requesting relief from special standards in Section 4.3.27 shall provide written justification demonstrating the reasons why relief should be granted and how such relief would retain the accessory nature of the dwelling unit.

All standards in Section 4.3.27 have been met except for item F, which states, "ADUs approved under this provision shall not be used as a short-term rental". The applicant is requesting to use the ADU for both long term and short-term rental. Long term rentals are permitted in any ADU without a CUP approval. Short term rentals require CUP approval on a case by case basis. The Board approved the short-term rental conditional use permit for this property under case number 22-CUP-0211; therefore, the Board finds that relief to this provision is warranted based on this short-term rental approval.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit for an accessory dwelling unit, **SUBJECT** to the following Conditions of Approval:

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-CUP-0210

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 an accessory dwelling unit until further review and approval by the Board.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Horton, Leanhart, Vozos and Howard

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-APPEAL-0006

Request: Appeal of an administrative decision regarding nonconforming rights
Project Name: Fischer Avenue Appeal
Location: 1200 Fischer Avenue
Owner: Kevin Medley
Appellant: Kevin Medley
Jurisdiction: Louisville Metro
Council District: 6 – David James
Case Manager: Chris French, Planning & Design Supervisor

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

Agency Testimony:

02:06:30 Chris French discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kevin Medley, 1903 (inaudible) Road, Prospect, Ky. 40059

Summary of testimony of those in favor:

02:11:51 Kevin Medley stated he bought the building as a 7-plex. The extra unit in the basement is being used for storage (see recording for detailed presentation).

Deliberation:

02:24:15 Board of Zoning Adjustment deliberation.

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.

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-APPEAL-0006

Appeal of an administrative decision regarding nonconforming rights for seven dwelling units on one property in a R-6 zoning district

On a motion by Member Leanhart, seconded by Member Bond, the following resolution based on information provided and testimony heard today was adopted.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **OVERTURN** the Appeal of an administrative decision regarding nonconforming rights for seven dwelling units on one property in a R-6 zoning district and finds that 5 units had conforming rights from 1971 to the present day.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Horton, Leanhart, Vozos and Howard

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-APPEAL-0007

Request: Appeal of an administrative official decision that the provisions of Chapter 7.2.20.A.3 of the LDC regarding ineligibility of filing an application cannot be waived

Project Name: Greenridge Estates

Location: 9551 Brooks Bend Rd

Owner: Jagoe Land Corporation

Appellant: Jagoe Land Corporation

Jurisdiction: Louisville Metro

Council District: 14 – Cindi Fowler

Case Manager: Joe Reverman, AICP

NOTE: THIS CASE WAS HEARD WITH 22-APPEAL-0008. THIS CASE WAS HEARD AFTER 22-APPEAL-0008

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

Agency Testimony:

02:59:52 Joe Reverman discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Kent Gootee, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Manuel Ball, Jagoe Homes, 6565 Roy Wells Road, Owensboro, Ky. 42303

Summary of testimony of those in favor:

03:08:30 Nick Pregliasco gave a power point presentation discussing the following: tree preservation; large subdivision; what part of plan expires; previous minutes; affordable houses; proposed condition of approval; and vested rights (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES

October 3, 2022

PUBLIC HEARING

22-APPEAL-0007

03:41:25 Kent Gootee said this site already had a plan and the subdivision plan expired (see recording for detailed presentation). Nick Pregliasco added, if you have vested rights, the plan does not expire (see recording for detailed presentation).

03:46:23 Manull Ball said he has owned the property since 2003-2005. He gave the approval to move forward with the tree clearing (see recording for detailed presentation).

Rebuttal:

04:00:35 Joe Reverman said there was no approved tree preservation plan on this site. There needs to be a way around the 2-year rule, but there doesn't appear to be one (see recording for detailed presentation).

Joe Reverman explained vested rights (see recording for detailed presentation).

Deliberation:

04:06:19 Board of Zoning Adjustment deliberation.

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.

Appeal of an interpretation of an administrative official decision that the provisions of chapter 7.2.20.A.3 of the Land Development Code (LDC) cannot be waived, and that the Tree Preservation Plan approved in 2006 is no longer valid

On a motion by Member Leanhart, seconded by Member Ford, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, Chapter 11.7.3.B.1 provides a 30-day time period to appeal a decision or interpretation of staff of the Planning Director or administrative official; and

WHEREAS, the appellant was notified of the decision or interpretation on, or before January 12, 2022, as evidenced by emails submitted by the applicant; and

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-APPEAL-0007

WHEREAS, the appellant submitted the appeal to Planning & Design Services on August 15, 2022.

Now, therefore, be it **RESOLVED** that the Appeal is hereby **DENIED** due to an untimely filing of the request.

Notwithstanding the untimely nature of the appeal, The Board provides the following ruling on the substance of the appeal. Regarding appeal of the administrative decision that the Tree Preservation Plan from 2006 is expired;

WHEREAS, the preliminary subdivision plan for Greenridge Estates, under Planning Commission docket number 10-32-92 is expired under sections 1.1.9 and 7.2.20 of the Land Development Code; and

WHEREAS, the Land Development Code does not provide an expiration time period for Tree Preservation Plans because they are not considered preliminary development plans or preliminary subdivision plans; and

WHEREAS, Tree Preservation Plans are not valid permits to allow for clearing of trees on the subject site; and

WHEREAS, Tree Preservation Plans are part and parcel with other permits that allow for construction activity, such as a Clearing & Grading, which themselves provide a time period for expiration; and

WHEREAS, any permits that may have been let on or around 2006 have long expired; and

WHEREAS, in lack of adherence to permitting expiration periods, property owners could theoretically construct buildings, infrastructure, or clear trees based on permits that were approved decades earlier, under ordinances in effect at that time; and

WHEREAS, the interpretation of the Planning Director does not necessarily preclude the owner from developing the lot for the intended purpose, but rather provides a process to be followed to obtain approval.

Now, therefore, be it **RESOLVED** that the Appeal is hereby **DENIED**. Regarding appeal of the administrative decision that sections 7.2.20.A.3 and 11.4.4.B of the Land Development Code cannot be waived in accordance with the provisions of section 11.8;

WHEREAS, when the provisions of 7.2.20.A.3 and 11.4.4.B were adopted, it was not

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-APPEAL-0007

contemplated that the provisions would be allowed to be waived; and

WHEREAS, the provisions of section 11.8 of the Land Development Code state that only site, building and structure design elements are subject to the waiver provisions, and that other non-design related standards may not be waived; and

WHEREAS, the provisions of 7.2.20.A.3 and 11.4.4.B are not related to design elements; and

WHEREAS, the provisions of 7.2.20.A.3 and 11.4.4.B are related to procedural standards; and

WHEREAS, there are no provisions in either section 7.2 or 11.4 to allow for a waiver of the 2-year application ineligibility provision.

Now, therefore, be it **RESOLVED** that the Appeal is hereby **DENIED**.

The vote was as follows:

YES: Members Bond, Ford, Horton, Leanhart, Vozos and Howard

NO: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES

October 3, 2022

PUBLIC HEARING

22-APPEAL-0008

Request: Appeal of an administrative official decision that the preliminary plan for Greenridge Estates subdivision is expired

Project Name: Greenridge Estates

Location: 9551 Brooks Bend Rd

Owner: Jagoe Land Corporation

Appellant: Jagoe Land Corporation

Jurisdiction: Louisville Metro

Council District: 14 – Cindi Fowler

Case Manager: Joe Reverman, AICP

NOTE: THIS CASE WAS HEARD WITH 22-APPEAL-0007. THIS CASE WAS HEARD BEFORE 22-APPEAL-0007

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

Agency Testimony:

02:50:43 Joe Reverman discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Kent Gootee, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Manual Ball, Jagoe Homes, 6565 Roy Wells Road, Owensboro, Ky.

Summary of testimony of those in favor:

03:08:30 Nick Pregliasco gave a power point presentation discussing the following: tree preservation; large subdivision; what part of plan expires; previous minutes; affordable houses; proposed condition of approval; and vested rights (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES

October 3, 2022

PUBLIC HEARING

22-APPEAL-0008

03:41:25 Kent Gootee said this site already had a plan and the subdivision plan expired (see recording for detailed presentation). Nick Pregliasco added, if you have vested rights, the plan does not expire (see recording for detailed presentation).

03:46:23 Manual Ball said he has owned the property since 2003-2005. He gave the approval to move forward with the tree clearing (see recording for detailed presentation).

Rebuttal:

04:00:35 Joe Reverman said there was no approved tree preservation plan on this site. There needs to be a way around the 2-year rule, but there doesn't appear to be one (see recording for detailed presentation).

Joe Reverman explained vested rights (see recording for detailed presentation).

Deliberation:

04:06:19 Board of Zoning Adjustment deliberation.

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.

Appeal of an interpretation of an administrative official decision that the preliminary plan for Greenridge Estates subdivision, subject of Planning Commission docket numbers 10-32-92 and 9-48-96, is expired pursuant to Land Development Code (LDC) sections 1.1.9 and 7.2.20.D.5, specifically as it relates to property known as 9551 Brooks Bend Rd.

On a motion by Member Leanhart, seconded by Member Ford, the following resolution based on the Staff Report Staff Findings and testimony heard today was adopted.

WHEREAS, Chapter 11.7.3.B.1 of the Land Development Code provides a 30-day time period to appeal a decision or interpretation of an administrative official; and

WHEREAS, the appellant was notified of the decision or interpretation on, or before January 12, 2022, as evidenced by emails submitted by the applicant; and

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-APPEAL-0008

WHEREAS, the appellant submitted the appeal to Planning & Design Services on August 15, 2022.

Now, therefore, be it **RESOLVED** that the Appeal is hereby **DENIED** due to an untimely filing of the request.

Notwithstanding the untimely nature of the appeal, The Board provides the following ruling on the substance of the appeal.

WHEREAS, the Land Development Code (hereinafter LDC) defines vested rights for preliminary plans that have obtained approval from the Planning Commission or Board of Zoning Adjustment by providing an expiration to those plans; and

WHEREAS, Chapter 1.1.9 of the LDC provides a two-year time limit for obtaining permits or requesting an extension of the expiration date; and

WHEREAS, the strict reading of Chapter 1.1.9 of the LDC does not allow permits to be let after this two-year time limit; and

WHEREAS, the practice of Planning & Design Services provides a more lenient approach to the time limit established by Chapter 1.1.9 of the LDC by allowing building permits to be let beyond the two-year expiration if there are other active permits on the development site; and

WHEREAS, the subdivision regulations in effect today, and at the time of approval of this preliminary plan, provide a 1-year time period for submittal of construction plans; and

WHEREAS, the subdivision regulations in effect today, and at the time of approval of this preliminary plan, provide a 1-year time period to record the plat after approval of construction plans; and

WHEREAS, the subdivision regulations in effect today, and at the time of approval of this preliminary plan, state that for subdivisions developed in sections, the preliminary plan is valid for a period of 5 years so long as construction is in progress, or under an approved extension; and

WHEREAS, construction of roadways or other infrastructure in the subdivision have not been in progress for at least 10 years, and

WHEREAS, there has been no extension approved; and

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

PUBLIC HEARING

22-APPEAL-0008

WHEREAS, one of the purposes of defining vested rights for development projects is to provide guidance on when newly adopted ordinances will apply to a development project; and

WHEREAS, in lack of adherence to preliminary plan expiration periods established by the LDC, property owners could theoretically obtain permits today for a plan that was approved decades earlier, under ordinances in effect at that time; and

WHEREAS, the interpretation of the Planning Director does not necessarily preclude the owner from developing the lot for the intended purpose, but rather provides a process to be followed to obtain approval.

Now, therefore, be it **RESOLVED** that the Appeal is hereby **DENIED**.

The vote was as follows:

YES: Members Bond, Ford, Horton, Leanhart, Vozos and Howard

NO: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
October 3, 2022

REPORTS OF OFFICERS AND COMMITTEES

No report given

ADJOURNMENT

The meeting adjourned at approximately 5:20 p.m.

DocuSigned by:

Lula Howard

Chair

DocuSigned by:

Sharon Bond

Secretary

