

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT
January 23, 2023**

A meeting of the Louisville Metro Board of Zoning Adjustment was held on January 23, 2023 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
Brandt Ford
Yani Vozos
Kimberly Leanhart

Members absent:

Jan Horton

Staff Members present:

Brian Davis, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Molly Clark, Planner II
Beth Jones, Planner II
Heather Pollock, Planner I
Amy Brooks, Planner I
Clara Schweiger, Planner I
Laura Ferguson, Legal Counsel
Pamela Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

NOTE: THIS ITEM WAS HEARD 2ND ON THE DOCKET

JANUARY 9, 2023 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

On a motion by Member Ford, seconded by Member Vozos, the following resolution was adopted.

RESOLVED, that the Board of Zoning Adjustment does hereby **APPROVE** the minutes of its meeting conducted on January 9, 2023.

The vote was as follows:

**YES: Members Bond, Buttorff, Ford, Leanhart, Vozos and Howard
NOT PRESENT FOR THIS CASE: Member Horton**

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PUBLIC HEARING

CASE NO. 22-APPEAL-0011

Request: Appeal of an administrative decision regarding a zoning enforcement action.
Project Name: East Whitney Avenue Appeal
Location: 114 East Whitney Avenue
Owner: Glen E. Kerns
Appellant: Glen E. Kerns
Representative: Harry B. O'Donnell IV
Jurisdiction: Louisville Metro
Council District: 21 – Nicole George
Case Manager: Chris French, Planning Supervisor

NOTE: THIS CASE WAS HEARD FIRST

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.)

Discussion:

00:03:57 Harry O'Donnell, attorney for Glen Kerns, asked for a continuance because his client fell on the stairs in the Old Jail Building today and needs to seek medical attention for evaluation (see recording for detailed presentation).

Deliberation:

00:04:52 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.

On a motion by Member Bond, seconded by Member Ford, the following resolution was adopted.

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PUBLIC HEARING

CASE NO. 22-APPEAL-0011

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to the February 20, 2023 BOZA meeting to allow the applicant to be present.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Member Horton

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0154

Request: Variances to permit attached signs mounted more than 25ft above grade
Project Name: Burdorf Building Sign Variances
Location: 3939 Shelbyville Rd
Owner: Burdorf Properties LLC
Applicant: Signarama Northeast
Jurisdiction: Louisville Metro
Council District: 9 – Andrew Owen
Case Manager: Beth Jones, AICP, 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:

00:08:44 Beth Jones discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Tim Parsons, 2624 Chamberlain Lane, Louisville, Ky. 40245
Charles Canarym, 3939 Shelbyville Road, Louisville, Ky. 40207

Summary of testimony of those in favor:

00:17:16 Tim Parsons stated the 3rd floor is all one business (see recording for detailed presentation).

00:22:31 Charles Canarym represents the building owner and they're very conscious about the environment. The signs do not go above the building or skyline (see recording for detailed presentation).

The following spoke in opposition to this request:

Lou Fox, 531 West Ormsby Avenue, Louisville, Ky. 40203

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CASE NO. 22-VARIANCE-0154

Summary of testimony of those in opposition:

00:19:35 Lou Fox said the sign is not necessary and there will be a lot of light pollution. It will also cause a nuisance for wild life (see recording for detailed presentation).

Rebuttal:

00:25:07 Tim Parsons said Charles answered everything and the plans are very well thought out (see recording for detailed presentation).

Deliberation:

00:25:55 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.

Variance from City of St. Matthews Development Code to allow three attached business signs to extend to a height of more than 25ft above ground (Article 11.D.2.c.)

On a motion by Member Bond, seconded by Member Buttorff, the following resolution based on the Standard of Review and Staff Analysis, the fact that the city of St. Matthews' Land Development Code does make exceptions to the regulations depending upon the specific request and the testimony heard today was adopted.

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone in that the existing structure on which the signs are to be placed is significantly different from other commercial buildings in the vicinity; and

WHEREAS, the requested variance would create an unnecessary hardship on the applicant in that the proposal is in character with the structure and the commercial uses in the vicinity and will not cause a nuisance for any residential uses; and

WHEREAS, the Board finds, the special circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations in that the structure itself is existing and the applicant has not yet installed the signs; and

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CASE NO. 22-VARIANCE-0154

WHEREAS, the Board further finds the requested variance will not adversely affect the public health, safety and welfare and will not cause a hazard or a nuisance to the public in that the proposed position of the signs will not negatively impact pedestrians or motorists. It will not alter the essential character of the general vicinity in that they are appropriately placed for the design of the existing structure.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the variance from city of St. Matthews Development Code to allow three attached business signs to extend to a height of more than 25 feet above ground (Article 11.D.2.c.), a requirement of 25 feet, a request of 42.5 feet, a variance of 17.5 feet.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Leanhart, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Horton

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PUBLIC HEARING

CASE NO. 20-VARIANCE-0169

Request: A variance to allow a fence in the front yard setback to exceed the maximum height
Project Name: Princess Way Variance
Location: 6000 Princess Way
Owner: Silver Lining Investments, LLC
Applicant: Robert Thomas
Jurisdiction: Louisville Metro
Council District: 23- Jeff Hudson
Case Manager: Amy Brooks, Planner I

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:

00:28:22 Amy Brooks discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Robert Thomas, 6000 Princess Way, Louisville, Ky. (inaudible)

Summary of testimony of those in favor:

00:39:21 Robert Thomas said this case has been going on for a while and he wants an understanding of what needs to be done. He said he has large dogs that need to be kept from getting out of the fenced yard (see recording for detailed presentation).

Deliberation:

00:45:25 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.

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PUBLIC HEARING

CASE NO. 20-VARIANCE-0169

Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence in the front yard setback to exceed the maximum height allowance

On a motion by Member Buttorff, seconded by Member Leanhart, 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 fence will be setback far enough from the edge of the pavement and any vehicle corridor to ameliorate any possible vision clearance issues; and

WHEREAS, the requested variance will alter the essential character of the general vicinity. There are not any other fences that exceed the allowed maximum height within the front yard setback to this degree within the surrounding neighborhood; and

WHEREAS, the variance site plan neither appears to reference a survey nor to have been drafted by a design professional. As such, the provided plan does not reflect accurate property lines, and it indicates that the existing fence may well be in the right-of-way, which would cause a hazard or nuisance to the public; and

WHEREAS, the requested variance will allow an unreasonable circumvention of the zoning regulations as the fence could be moved out of the required 15 feet front yard setback and be allowed at the requested height without the need for the variance; and

WHEREAS, the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the subdivision; 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 applicant could move the fence further from the public right-of-way and/or reduce the height; and

WHEREAS, the Board further finds the circumstances are the result of actions taken by the applicant subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has constructed the fence.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence in the front yard setback to exceed the maximum height allowance.

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PUBLIC HEARING

CASE NO. 20-VARIANCE-0169

The vote was as follows:

YES: Members Bond, Buttorff, Ford and Leanhart

NO: Member Vozos

NOT PRESENT AND NOT VOTING: Member Horton

ABSTAINING: Member Howard

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0158

Request: A variance to encroach into the front yard setback (22-VARIANCE-0158) and a variance to encroach into the rear yard setback (22-VARIANCE-0160)

Project Name: Speedwash Car Wash

Location: 4124 Shelbyville Road

Owner/Applicant: Speedwash 4124, LLC

Jurisdiction: City of St. Matthews

Council District: 9 – Bill Hollander

Case Manager: Clara Schweiger, Planner I

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:

00:53:47 Clara Schweiger discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kathy Linares, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Summary of testimony of those in favor:

01:00:22 Kathy Linares gave a power point presentation highlighting the changes and discussing the following: total of 16 vacuum bays in a row; front line setback dedicated more right-of-way; dumpster location; and the sign will be in character with the neighborhood (see recording for detailed presentation).

Deliberation:

01:06:56 Board of Zoning Adjustment deliberation.

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0158

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 of Chapter 6.4.C.2.e of the St. Matthews Development Code to allow a freestanding sign to encroach into the 15' front yard setback and to be as close as 1' from the right of way of Shelbyville Road for a variance of 14'. (22-VARIANCE-0158)

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

WHEREAS, the variance will not adversely affect the public health, safety or welfare because there are signs in the area that are similarly situated and nearly as close to the ROW; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity because there are signs in the area that are similarly situated and nearly as close to the ROW; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because there are signs in the area that are similarly situated and nearly as close to the ROW; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulation because there is more ROW on this site than other sites in the area and there are signs in the area that are similarly situated and close to the property line/ ROW line; and

WHEREAS, the requested variance does not arise from any special circumstances. The applicant is encroaching into the front yard setback with a sign; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the sign would not be able to be constructed; and

WHEREAS, the Board further finds the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant is not responsible for the existing size and layout of the lot, but they would like to encroach into the front yard setback with a freestanding sign.

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CASE NO. 22-VARIANCE-0158

Variance of Chapter 6.4.C.2.e of the St. Matthews Development Code to allow a service structure to encroach into the rear yard and to be as close as 15' from the rear property line for a variance of 10'. (22-VARIANCE-0160)

WHEREAS, the variance will not adversely affect the public health, safety or welfare because the service structure will still be screened and buffered in accordance with Development Code regulations; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity because the service structure will still be screened and buffered in accordance with Development Code regulations; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the service structure will still be screened and buffered in accordance with Development Code regulations; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulation because in order for cars to be able to maneuver around the site and into the car wash the service structure needs to be set back on the lot, and the service structure will be screened and buffered in accordance with Development Code regulations; and

WHEREAS, the requested variance does not arise from any special circumstances. The applicant is encroaching into the rear yard setback; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the service structure would block the flow of traffic on the site; and

WHEREAS, the Board further finds the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant is not responsible for the existing size and layout of the lot, but they would like to encroach into the rear yard setback with a service structure.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance of Chapter 6.4.C.2.e of the St. Matthews Development Code to allow a freestanding sign to encroach into the 15 foot front yard setback and to be as close as 1 foot from the right of way of Shelbyville Road for a variance of 14 feet (22-VARIANCE-0158) and a Variance of Chapter 6.4.C.2.e of the St. Matthews Development Code to allow a service structure to encroach into the rear yard and to be

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CASE NO. 22-VARIANCE-0158

as close as 15 feet from the rear property line for a variance of 10 feet (22-VARIANCE-0160).

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Leanhart, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Horton

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0150

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

Project Name: Peterson Avenue Variance
Location: 321 S. Peterson Avenue
Owner: Benjamin Brainard
Applicant: Benjamin Brainard
Jurisdiction: Louisville Metro
Council District: 9- Andrew Owen
Case Manager: Amy Brooks, Planner I

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:

01:08:43 Staff received a late comment after the deadline. The Chair stated it's past the deadline and will not be accepted. Amy Brooks discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Benjamin Brainard, 321 South Peterson Avenue, Louisville, Ky. 40206

Summary of testimony of those in favor:

01:15:23 Benjamin Brainard said he started building without getting appropriate permits but has stopped once informed. He intends to build a screened-in porch (see recording for detailed presentation).

The following spoke neither for nor against the request:

William Ruf, 325 South Peterson, Unit 102, Louisville, Ky. 40206

Summary of testimony of those spoke neither for nor against:

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CASE NO. 22-VARIANCE-0150

01:20:55 William Ruf said he and Benjamin discussed a condition of approval that was not mentioned in his testimony. The condition is that the structure being constructed will not be enclosed. Benjamin Brainard agreed to the condition (see recording for detailed presentation).

Deliberation:

01:23:02 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.

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

On a motion by Member Ford, seconded by Member Leanhart, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and it meets Standard A 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. 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 adjacent property along the north side yard; 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. In addition, there are other primary structures along South Peterson Avenue that appear encroach into the side yard setback; 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 location of the proposed structure is similar to others in the neighborhood; and

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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 screened in porch could be modified to align with the primary structure thereby reducing the need for a variance; and

WHEREAS, the Board further finds the circumstances are 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 begun construction.

Modified 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

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, including fire codes, and the Land Development Code, except where relief is requested; and

WHEREAS, the proposed private yard area reduction will not alter the essential character of the general vicinity as many properties in the area seemingly have reduced private yard areas; 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 proposed accessory structure will comply will all other regulations, except where relief is requested, and there are other properties within the block that have seemingly reduced open space between the principal and accessory use areas; and

WHEREAS, the requested variance does arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the lot is similar in size and shape to the surrounding properties. The property is adjacent to an alleyway which serves as a public school entrance; and

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CASE NO. 22-VARIANCE-0150

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 plan could be modified to reduce its encroachment into the private yard area; and

WHEREAS, the Board further finds the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The circumstances are 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 started construction.

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 primary structure to encroach into the side yard setback, a requirement of 3 feet, request of 1 foot and a variance of 2 feet and a Modified 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, a requirement, a requirement of 3000 square feet, request of 2520 square feet and a variance of 480 square feet.

The vote was as follows:

YES: Members Bond, Ford, Leanhart, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Horton
ABSTAINING: Member Buttorff

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0140

Request: A variance to exceed the maximum fence height and a variance to encroach into the rear yard setback.

Project Name: Bierhaus Variance

Location: 1036 Bardstown Road

Owner: Bierhaus, LLC

Applicant: Rachel Harman

Jurisdiction: Louisville Metro

Council District: 8 – Cassie Chambers Armstrong

Case Manager: Amy Brooks, Planner I

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:

01:28:08 Amy Brooks discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Rachel Harman, 1621 Windsor Place, Louisville, Ky. 40204
Lori Beck, 1328 Lexington Road, Louisville, Ky. 40206

Summary of testimony of those in favor:

01:32:27 Rachel Harman is the architect for the project. A building permit has been issued for the interior work. The design of the fence is to create a private garden (see recording for detailed presentation).

01:40:41 Lori Beck said she's here to answer questions. They just want to make the Highlands safer, better and cleaner with less abandoned buildings (see recording for detailed presentation).

Deliberation:

01:42:20 Board of Zoning Adjustment deliberation.

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0140

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 5.5.5.to allow an accessory structure to encroach into the rear yard setback

On a motion by Member Vozos, seconded by Member Bond, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and the concerns in Standard D have been addressed 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, including fire codes, and the Land Development Code, except where relief is requested; and

WHEREAS, the structure will not alter the essential character of the general vicinity as it has been built with material that is in character with the surrounding residential neighborhood. The applicant has gotten approval from the Bardstown Road/Baxter Avenue Corridor Overlay District for the proposed exterior alterations. According to the permit, the proposed changes will have little to no impact on the Corridor; 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. In addition, the entire structure will not be visible from any public way; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the accessory structure is compatible with other development in the area; 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 create an unnecessary hardship on the applicant as the required rear yard setback for accessory structures on this site is almost the entire rear yard itself; and

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CASE NO. 22-VARIANCE-0140

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. The applicant has not begun construction and has applied for a variance.

Variance from Land Development Code section 4.4.3.A.1.b.i to allow a fence to exceed the maximum allowed height within a required rear yard

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, including fire codes, and the Land Development Code, except where relief is requested; and

WHEREAS, the proposed private yard area reduction will not alter the essential character of the general. The applicant has gotten an overlay permit from the Bardstown Road/Baxter Avenue Corridor Overlay District for the proposed fence. According to Overlay report findings, the proposed changes will have little to no impact; 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 allow an unreasonable circumvention of the zoning regulations as the proposed fence is taller than those on surrounding properties in this portion of Cherokee Triangle; 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 create not an unnecessary hardship on the applicant as the applicant could modify the height of the fence to be more compliant with the allowed maximum height regulations within abutting office and residentially zoned properties; 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. The applicant has not begun construction and has applied for a variance.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from the Land Development Code section 5.5.5.to allow an accessory structure to encroach into the rear yard setback, a requirement of 15 feet, request of 4 feet, variance of 11 feet and a Variance from Land Development Code

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CASE NO. 22-VARIANCE-0140

section 4.4.3.A.1.b.i to allow a fence to exceed the maximum allowed height within a required rear yard, a requirement of 8 feet, request of 11 feet, a variance of 3 feet.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Leanhart, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Horton

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0155

Request: A modified variance to allow a private yard area to be less than the required 30% of the area of the lot and a variance to allow an accessory use area to exceed the maximum depth.

Project Name: Pennsylvania Avenue Variance
Location: 156 Pennsylvania Avenue
Owner: Andrew Meredith
Applicant: Andrew Meredith
Jurisdiction: Louisville Metro
Council District: 9- Andrew Owen
Case Manager: Amy Brooks, Planner I

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:

01:44:55 Amy Brooks discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Andrew Meredith, 156 Pennsylvania Avenue, Louisville, Ky. 40206

Summary of testimony of those in favor:

01:51:33 Andrew Meredith explained why the variances are needed. Every adjacent neighbor signed off in favor of the request except the man that lives on Hillcrest side (see recording for detailed presentation).

Deliberation:

01:58:50 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
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PUBLIC HEARING

CASE NO. 22-VARIANCE-0155

Modified 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

On a motion by Member Bond, seconded by Member Buttorff, 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 structure must be constructed to comply with all applicable building codes, including fire codes, and the Land Development Code, except where relief is requested; and

WHEREAS, the proposed private yard area reduction will not alter the essential character of the general vicinity as many properties in the area seemingly have reduced private yard areas to accommodate for the more compacted urban lots that are common in this area of Crescent Hill; 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 proposed accessory structure will comply with all other regulations, except where relief is requested, and there are other properties within the block that have seemingly reduced open space between the principal and accessory use area; and

WHEREAS, the requested variance does 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. The property is the in the curve of the alley meaning there could be vehicle maneuvering safety issues involved with the garage being locate closer to the alley; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as there is sufficient open space behind the proposed garage to allow it to be moved to meet the private yard area reduction that was approved in 2016; 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 is requesting the variance and has not begun construction.

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0155

Variance from the Land Development Code section 5.4.1.E.1 to allow an accessory use area to exceed the maximum depth

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the proposed garage must be constructed to comply with all building codes, including fire codes, and land development code regulations, except where relief is requested; and

WHEREAS, the proposed accessory structure will not alter the essential character of the general vicinity. The property has access from the primary street and has not historically accessed the property from the alleyway. the proposed garage/carriage house will complement the existing character of the neighborhood as the surrounding area includes a diverse array of accessory structures of varying styles and sizes; 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 proposed accessory structure will comply will all other regulations, except where relief is requested, and there are other properties within this block that have access both off the primary street; 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 plan could be modified to bring the proposed back within the allowed maximum depth of the accessory use area; 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 Modified 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, a requirement of 1033 feet, request of 634 feet, a variance of 399 feet and a Variance from the Land Development Code section 5.4.1.E.1 to allow an accessory use area to

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CASE NO. 22-VARIANCE-0155

exceed the maximum depth, a requirement of 50 feet, a requirement of 50 feet, request of 54 feet, a variance of 4 feet.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Leanhart, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Horton

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PUBLIC HEARING

CASE NO. 22-CUP-0349

Request: Conditional Use Permit for short term rental of a dwelling unit that is not the primary residence of the host
Project Name: 6th Street Short Term Rental
Location: 940 S. 6th St.
Owner: Jonathan Pacilio
Applicant: Jonathan Pacilio
Representative: Nick Pregliasco
Jurisdiction: Louisville Metro
Council District: 6-Vacant
Case Manager: Amy Brooks, Planner I

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:

02:01:44 Amy Brooks said she received comments after the deadline. Joe Haberman said one person was going to speak today but had an emergency. The Chair will allow the comments from the person who had an emergency (see recording for detailed presentation).

Amy Brooks 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
Jonathan Pacilio, 940 South 6th Street, Louisville, Ky. 40203
Kathleen J. Fleck, 1106 Rammers Avenue, Louisville, Ky. 40204
Justin Reid, 950 South 6th Street, Louisville, Ky. 40203
Jonathan Klunk, 940 S. 6th Street, Louisville, Ky. 40203

Summary of testimony of those in favor:

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02:08:24 Nick Pregliasco gave a power point presentation. This case was heard previously with the outcome of a tie vote. Mr. Pregliasco also discussed the following: procedural questions raised; parking issue; and the proposal meets the intent of the regulation (see recording for detailed presentation).

02:24:37 Jonathan Pacilio said he invests money in short-term rentals to support his family.

Mr. Pacilio said he provides a map for guests and steers them toward local establishments (see recording for detailed presentation).

02:30:26 Kathleen Fleck stated she is a real estate investor and developer and has a long-term rental home in the area. The proposal will be a great addition to the neighborhood (see recording for detailed presentation).

02:34:04 Justin Reid said the proposed short-term rental will add value to the community. The renovations are stunning and modern (see recording for detailed presentation).

The following spoke in opposition to this request:

Helga Ulrich 112 East Ormsby Avenue, Louisville, Ky. 40203
Court Blankenship, 1425 South 3rd Street, Louisville, Ky. 40208
Lou Fox, 531 West Ormsby Avenue, Louisville, Ky. 40203
Stephen Peterson, 932 South 6th Street, Louisville, Ky. 40203
Whitney Ditzhazy, 914 South 6th Street, Louisville, Ky. 40203
Jen Bidwell, 934 South 6^h Street, Louisville, Ky. 40203

Summary of testimony of those in opposition:

02:38:51 Helga Ulrich stated some realtors are seeking buyers to provide short-term rentals, particularly from out of state. This is a dangerous trend. The case before the committee today is requesting short-term rental while also being for sale.

Helga Ulrich read reviews from other short-term rentals. They were professionally managed and had a lot of negative issues (see recording for detailed presentation).

02:47:57 Court Blankenship stated the 600-foot rule is in effect for a reason and should be followed. The applicant has 9 other properties and lives in South Carolina. A major concern regarding the applicant is the fact that he credits his success to his automation process - there is no accountability (see recording for detailed presentation).

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02:53:01 Lou Fox said the proposed area needs revitalization, but for people to live. "We're losing more and more habitable houses in low income areas because of predatory capitalists. They're encroaching on these areas where impoverished families live, the elderly and disabled people". (see recording for detailed presentation)

02:55:30 Stephen Peterson said this case contradicts BOZA's by-laws. Please consider the comments of the citizens and deny this case (see recording for detailed presentation).

02:58:48 Whitney Ditzhazy said she is concerned for the neighborhood. The short-term rentals take away housing from the market and drives up rental prices (see recording for detailed presentation).

03:04:30 Jen Bidwell said her main concerns are the fact that the proposal is not in character with the neighborhood and the cost. The out of town owner does not know the neighborhood (see recording for detailed presentation).

Rebuttal:

03:07:47 Nick Pregliasco said there's plenty of parking, a Comprehensive Plan item that's a legitimate concern. There were unfounded accusations/attacks made toward the applicant and aren't applicable (see recording for detailed presentation).

03:13:40 Member Buttorff asked Jonathan Klunk if he sold the property to the applicant. Mr. Klunk said he was the real estate agent who helped the buyer prior to Mr. Pacilio and will not be part of the management team for the property (see recording for detailed presentation).

Deliberation:

03:15:50 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 the TNZD and Traditional Neighborhood Form District

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PUBLIC HEARING

CASE NO. 22-CUP-0349

On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and there was not enough evidence to give relief for the 600-foot rule 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 bedrooms plus six individuals. The subject property is smaller than 2 acres. The applicant states that the residence has 4 bedrooms that will allow a maximum number of 10 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

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that is not the primary residence of the host. The applicant's justification is attached to this agenda item as part of the applicant's information. **The Board cannot approve this conditional use permit without granting relief to this standard.**

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 there is a rear parking pad that would accommodate 2- 3 cars. The LDC also credits the property with 2 on-street parking spaces.

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,

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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 **DENY** the Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the TNZD and Traditional Neighborhood Form District.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Leanhart, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Horton

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PUBLIC HEARING

CASE NO. 22-CUP-0355

Request: Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host
Project Name: Sonoma Lane Short Term Rental
Location: 3733 Sonoma Lane
Owner/Applicant: Robert Hefferman – HPJ, LLC.
Sandra Holmes
Jurisdiction: Louisville Metro
Council District: Dan Seum Jr. - District 13
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:

03:22:28 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Hannah Hernandez, 3729 Sonoma Lane, Louisville, Ky. 40219

Summary of testimony of those in favor:

03:24:53 Hannah Hernandez said the property was recently remodeled to make it unique within the short-term rental market. It is highly accessible for people with limited mobility and meets all safety standards (see recording for detailed presentation).

Deliberation:

03:28:53 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.

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PUBLIC HEARING

CASE NO. 22-CUP-0355

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R-5 Single Family Residential Zoning District and Neighborhood form district

On a motion by Member Vozos, seconded by Member Buttorff, the following resolution based on the Standard of Review and Staff Analysis, testimony, the fact that there are no other short-term rentals within a 600-foot radius and it's handicap accessibility 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 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. ***The subject property is smaller than two acres. The applicant states that the dwelling unit has 3 bedrooms that will allow a maximum number of 8 guests.***

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D. The property on which the short-term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short-term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. ***As of the date of this report, within 600' of the subject property, there are 0 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. ***LDC standards credit the site with 2 off-street parking spaces. There appears to be on street parking available in the immediate area.***

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

J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the

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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 the primary residence of the host in the R-5 Single Family Residential Zoning District and Neighborhood form district, **SUBJECT** to the following Condition of Approval:

1. The conditional use permit approval for this short-term rental shall be allowed up to 3 bedrooms (with a maximum of 8 guests at any time). Prior to use, bedrooms 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.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Leanhart, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Horton

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PUBLIC HEARING

CASE NO. 22-CUP-0360

Request: Conditional Use Permit for short-term rental of a dwelling unit that is not the primary residence of the host
Project Name: Boyle Street Short Term Rental
Location: 1240 Boyle Street
Owner: Ken Sumner
Applicant: Ken Sumner
Jurisdiction: Louisville Metro
Council District: 6-Vacant
Case Manager: Amy Brooks, Planner I

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:

03:31:21 Amy Brooks discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Ken Sumner, 909 Vine Street, Louisville, Ky. 40204

Summary of testimony of those in favor:

03:37:58 Ken Sumner said he bought the house to renovate it. The Airbnb, which has been a short-term rental for 3 years, is very successful. He said he didn't know that there was \$100 payment to renew the CUP (see recording for detailed presentation).

Deliberation:

03:55:09 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.

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CASE NO. 22-CUP-0360

Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in R-6 Multi-family zoning and Traditional Neighborhood Form District

On a motion by Member Leanhart, seconded by Member Vozos, the following resolution based on the Standard of Review and Staff Analysis, giving relief to the 600-foot rule because the other property 19-CUP-0280 is past the 6 months registration 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 bedrooms plus six individuals. **The subject property is smaller than two acres. The applicant states that the residence has 2 bedrooms that will allow a maximum number of 6 guests.**

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D. The property on which the short-term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short-term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there is 1 property with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. The applicant's justification is attached to this agenda item as part of the applicant's information. The Board cannot approve this conditional use permit without granting relief to this standard.**

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. **There is a parking pad at the rear of the property that will accommodate 2 cars. Also, the site has credit for 1 on-street parking space.**

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

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PUBLIC HEARING

CASE NO. 22-CUP-0360

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 a dwelling unit that is not the primary residence of the host in R-6 Multi-family zoning and Traditional Neighborhood Form District, **SUBJECT** to the following Condition of Approval:

1. The conditional use permit for this short-term rental approval shall allow up to 1 bedroom (with a maximum of 4 guests at any one time). Prior to use, bedrooms 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.

The vote was as follows:

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CASE NO. 22-CUP-0360

YES: Members Bond, Buttorff, Ford, Leanhart, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Horton

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PUBLIC HEARING

CASE NO. 22-CUP-0361

Request: Conditional Use Permit for short term rental of a dwelling unit that is not the primary residence of the host.
Project Name: S. 1st Street Short Term Rental
Location: 4332 S. 1st Street
Owner/Applicant: Christopher Allen
Jurisdiction: Louisville Metro
Council District: 21 – Betsy Ruhe
Case Manager: Heather Pollock, Planner I

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:

03:58:17 Heather Pollock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Christopher Allen, 1046 Everett Avenue, Louisville, Ky. 40204

Summary of testimony of those in favor:

04:01:07 Christopher Allen said he didn't know the neighbor was applying for short-term rental as well. The neighbor applied for the CUP and was not approved. The intention is to do short-term and medium length rentals (see recording for detailed presentation).

The following spoke in opposition to this request:

Ann Ramser, 307 East Kenwood Drive, Louisville, Ky. 40214

Summary of testimony of those in opposition:

04:09:17 Ann Ramser is concerned about safety and asked questions of Christopher Allen (see recording for detailed presentation).

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Ann Ramser is also concerned about the 600-foot rule (see recording for detailed presentation).

Deliberation:

04:15:28 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 the R-5 Single Family Zoning District and Traditional Neighborhood Form District

On a motion by Member Ford, seconded by Member Buttorff, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and information provided 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.**

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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. **The applicant states that the residence has 3 bedrooms that will allow a maximum number of 8 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.**

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H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **The applicant has stated there are 3 off street parking spaces. In addition, there appears to be on street parking available in the area.**

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

J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the 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 **DENY** the Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R-5 Single Family Zoning District and Traditional

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Neighborhood Form District due to the 600-foot rule as there's an existing short-term rental up and operating.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Leanhart, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Horton

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PUBLIC HEARING

CASE NO. 22-CUP-0367

Request: Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host
Project Name: Cross Hill Road Short Term Rental
Location: 2309 Cross Hill Road
Owner/Applicant: Luke Neubauer
Jurisdiction: Louisville Metro
Council District: District 9 – Andrew Owen
Case Manager: Chris French, AICP, Planning 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:

04:18:50 Chris French discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Luke Neubauer, 2309 Cross Hill Road, Louisville, Ky. 40206

Summary of testimony of those in favor:

04:22:04 Luke Neubauer has lived in the home for 3+ years, will be moving but wants to come back at a later date (see recording for detailed presentation).

Luke Neubauer discussed the management of the property, cleaning, neighbor concerns and parking (see recording for detailed presentation).

The following spoke in opposition to this request:

Emily Allen Kirby, 2340 Top Hill Road, Louisville, Ky. 40206

Summary of testimony of those in opposition:

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04:34:43 Emily Kirby stated she has the following concerns: location is not appropriate for short-term rental, especially for 14 guests; safety and quality of life; community; pedestrian traffic; alley; another short-term rental within 600-feet; requests postponement of decision today; noise; and congestion on roads (see recording for detailed presentation).

Rebuttal:

04:46:18 Luke Neubauer said parking is not an issue and he's willing to add additional parking in the front. The home is a 6-bedroom home according to the guidelines, but is willing to decrease the number of 14 users if necessary (see recording for detailed presentation).

Deliberation:

04:56:25 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

On a motion by Member Buttorff, seconded by Member Ford, 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

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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. **The subject property is smaller than two acres. The applicant states that the residence has 6 bedrooms that will allow a maximum number of 14 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.**

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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. **There is a paved area at the rear of the site that appears large enough to accommodate 4 vehicles parked parallel to the street at the rear of the property.**

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

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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, **SUBJECT** to the following Condition of Approval:

1. The conditional use permit for this short-term rental approval shall allow up to 6-bedroom (with a maximum of 8 guests at any time). Prior to use, bedrooms 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.

The vote was as follows:

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

NO: Member Leanhart

NOT PRESENT AND NOT VOTING: Member Horton

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PUBLIC HEARING

CASE NO. 22-CUP-0372

Request: Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host
Project Name: Heatherbrook Drive Short Term Rental
Location: 4412 Heatherbrook Drive
Owner/Applicant: Jordan Heil
Jurisdiction: Louisville Metro
Council District: District 26 – Brent Ackerson
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:

05:00:04 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Jordan Heil, 4412 Heatherbrook Drive, Louisville, Ky. 40220

Summary of testimony of those in favor:

05:01:59 Jordan Heil said he has spoken with neighbors and answered questions (see recording for detailed presentation).

Deliberation:

05:08:56 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.

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CASE NO. 22-CUP-0372

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R-5 Single Family Residential Zoning District and Neighborhood form district

On a motion by Member Vozos, seconded by Member Bond, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and the fact that there are no other short-term rentals within 600-feet 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 bedrooms plus six individuals. **The subject property is smaller than two acres. The applicant states that the dwelling unit has 3 bedrooms that will allow a maximum number of 8 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

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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 0 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. **LDC standards credit the site with 2 on street and 2 off-street parking spaces.**

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

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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 R-5 Single Family Residential Zoning District and Neighborhood form district, **SUBJECT** to the following Condition of Approval:

1. The conditional use permit approval for this short-term rental shall be allowed up to 3 bedrooms (with a maximum of 8 guests at any time). Prior to use, bedrooms 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.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Leanhart, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Horton

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REPORTS OF OFFICERS AND COMMITTEES

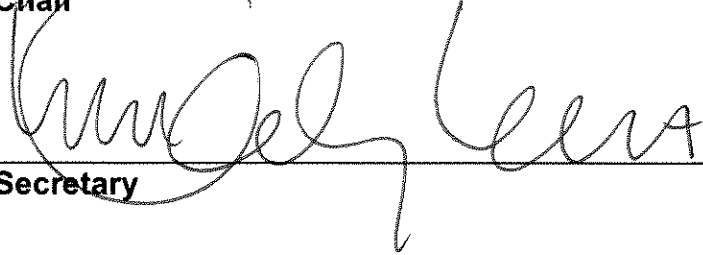
No report given

ADJOURNMENT

The meeting adjourned at approximately 6:11 p.m.



Chair



Secretary