

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

May 1, 2023

A meeting of the Louisville Metro Board of Zoning Adjustment was held on Monday, May 1, 2023 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky, and also via Webex.

Members Present:

Sharon Bond, Chair
Richard Buttorff, Vice Chair
Kim Leanhart, Secretary
Brandt Ford
Lula Howard
Yani Vozos (left at 3:00 p.m.)
Jan Horton

Members Absent:

None

Staff Members Present:

Emily Liu, Director, Planning & Design Services
Chris French, Planning & Design Supervisor
Joe Haberman, Planning & Design Manager
Heather Pollock, Planner I
Amy Brooks, Planner I
Laura Ferguson, Legal Counsel
Chris Cestaro, Management Assistant (minutes)

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT
MEETING MINUTES**

May 1, 2023

No minutes to be approved.

**BOARD OF ZONING ADJUSTMENT
MEETING MINUTES**

May 1, 2023

BUSINESS SESSION

Case No. 22-VARIANCE-0157

Request: Waiver of BOZA Policy 3.02.04 to allow a new application for Board action within one year of Board action on the same tract of property.

Project Name: Northwestern Parkway Fence

Location: 2503 Northwestern Parkway

Owner/Applicant: Billy Simpson

Jurisdiction: Louisville Metro

Council District: 5-Donna Purvis

Case Manager: Amy Brook, Planner I

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

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

Agency testimony:

00:04:49 Amy Brooks presented the case, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation).

Waiver of BOZA Policy 3.02.04 to allow a new application for Board action within one year of Board action on the same tract of property

00:09:25 On a motion by Member Leanhart, seconded by Vice Chair Buttorff, the following resolution based on evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Waiver of BOZA Policy 3.02.04 to allow a new application for Board action within one year of Board action on the same tract of property.

**BOARD OF ZONING ADJUSTMENT
MEETING MINUTES**

May 1, 2023

BUSINESS SESSION

Case No. 22-VARIANCE-0157

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

BUSINESS SESSION

Case No. 23-VARIANCE-0004

Request:	Variance to allow the building to exceed the maximum permitted height of 50 feet or 4 stories in EZ-1.
Project Name:	NuLu Crossing
Location:	700 E Main St
Owner:	NuLu Central Station LLC
Applicant:	Martin Prus, Zygo
Representative:	Ann Richard, LD& D Inc
Jurisdiction:	Louisville Metro
Council District:	4- Jecorey Arthur
Case Manager:	Kat Groskreutz, Planning & Design Coordinator

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

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

Agency testimony:

00:10:26 Joe Haberman, Planning & Design Manager, presented the case on behalf of Kat Groskreutz, Planning & Design Coordinator. The case was heard by the Hearing Officer (Lula Howard) at the April 25, 2023 special joint meeting of the Board of Zoning Adjustment and NuLu Overlay Committee. Commissioner Howard continued the presentation as the Hearing Officer (see staff report and recording for detailed presentation.)

Variance of Land Development Code section 5.2.3.D.3.e to allow the building to exceed the maximum height allowed (23-VARIANCE-0004).

00:16:18 On a motion by Member Howard, seconded by Member Horton, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today from Member Howard, and testimony heard at the April 25, 2023 joint meeting, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since there other structures in

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

BUSINESS SESSION

Case No. 23-VARIANCE-0004

the vicinity of the subject site (specifically, Main and Clay located at 637 E Main Street, AC Hotels at 725 E Market Street, and Martin on Main at 835 E Market Street) which appear to exceed 50 feet in height; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since there are other structures in the vicinity of the subject site which appear to exceed the 50-foot maximum height. The subject site is located at the border of the Traditional Marketplace Corridor form district and the Downtown form district, which allows buildings of greater height than currently proposed; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since there appear to be other structures in the vicinity of the subject site which exceed 50 feet in height; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since there appear to be other structures in the vicinity of the subject site which exceed 50 feet in height; and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the subject site is located on the border of the Traditional Marketplace corridor form district and the Downtown form district, and there are other structures in the vicinity of the subject site which appear to exceed the 50-foot maximum height; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the reduction in height would make the project financially infeasible; and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance of Land Development Code section 5.2.3.D.3.e to allow the building to exceed the maximum height allowed (23-VARIANCE-0004), a variance from the 50-foot maximum building height or four floors (or five floors, with the LDC section 5.5.6 height incentive) to allow eight floors at 101'-4" feet tall.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
April 24, 2023

PUBLIC HEARING

Case No. 22-MCUP-0001

Request: A Modified Conditional Use Permit for a Scrap Metal Recycling and Storage Facility.
Project Name: River Metals Recycling
Location: 2110 Metal Ln, 2045 River Rd, 2114 Metal Ln, 2300 Metal Ln, 2255 Metal Ln, and 2601 River Green Cir.
Owner: River Metals Recycling, Inc.
Applicant: River Metals Recycling, Inc.
Representative: Nick Nicholson, Stoll Keenon Ogden, PLLC
Jurisdiction: Louisville Metro
Council District: 4 - Jecorey Arthur
Case Manager: Chris French, AICP, Planning Supervisor

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

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

Agency testimony:

00:18:18 Chris French presented the case, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in favor of the proposal:

Nick Nicholson, Stoll Keenon Ogden, 300 West Vine Street Suite 2100, Lexington, KY 40507-1801

Summary of testimony of those in favor of the proposal:

00:23:42 Nick Nicholson, the applicant's representative, presented the applicant's case, showed a Power Point presentation, and responded to questions from the Board members (see recording for detailed presentation.) He handed out photos to the Board members.

BOARD OF ZONING ADJUSTMENT MINUTES
April 24, 2023

PUBLIC HEARING

Case No. 22-MCUP-0001

00:46:16 In response to questions from Member Howard and Laura Ferguson, legal counsel for the Board, Mr. Nicholson discussed Proposed Condition #6 (see recording for detailed presentation.) Ms. Ferguson clarified some of the Proposed Conditions of Approval regarding their adherence to the Metro Noise Ordinance.

00:51:11 In response to questions from Chair Bond and Member Howard, Ms. Ferguson said the Noise Ordinance applies whether it is specifically referred to in the Conditions of Approval or not. She reviewed specific language related to the Conditions of Approval and enforcement (see recording for detailed discussion.) Ms. Ferguson, Joe Haberman (Planning & Design Manager) and Mr. Nicholson discussed "Pile Integrity" and whether any Sunday hours might be needed.

00:55:35 In response to questions from Vice Chair Buttorff, Mr. Nicholson said the site is in operation 24-hours a day. The shredder usually operates between 6:00 a.m. and shuts down around 4:30 p.m. Sunday operations of the shredder might happen 2-5 times per year, depending on the status of the pile.

00:56:53 In response to a question from Vice Chair Buttorff, Mr. Haberman explained the procedure for obtaining a temporary activity permit to operate on a Sunday, and enforcement issues (see recording for detailed discussion.)

Ms. Ferguson suggested the following language:

The shredder shall not be operated more than five Sundays per calendar year, between the hours of 6:00 a.m. to 6 p.m. and notice shall be provided to Planning & Design Services staff before operation.

Mr. Nicholson said the company would not know if Sunday operations would be needed by either Friday evening or Saturday morning. Vice Chair Buttorff said he felt comfortable granting the applicant a maximum of 12 days per calendar year. Member Leanhart asked if the Sunday hours of operation could be limited to a later morning start time.

00:59:57 In response to questions from Member Horton, Mr. Nicholson said the company has 30 inspectors looking for propane tanks. Mr. Nicholson described how shipments are tracked to the supplier, and if materials like propane tanks are found within that shipment, the company no longer does business with that supplier.

The following spoke in opposition to the request:

M. Kaye Thompson, 42 Warre Road, Louisville, KY 40206

BOARD OF ZONING ADJUSTMENT MINUTES
April 24, 2023

PUBLIC HEARING

Case No. 22-MCUP-0001

David Vislisel, 45 Warren Road, Louisville, KY 40206
Kim Swenson, 13 Arctic Springs Road, Jeffersonville, IN 47130

Summary of testimony of those in opposition:

M. Kaye Thompson was called and was either not present or declined to speak.

01:03:01 Kim Swenson handed out copies of a 2017 engineering report to the Board members (already attached to today's staff report.) She said she appreciated the consideration of a later start time on Sundays (possibly after 7:00 a.m.) She said she had submitted to staff a log of explosions captured when she was in her home. She said she is concerned that the CIRP is an internal procedure and there do not seem to be any other outside reviewers examining this information. She asked for a yearly review of adherence to the CIRP brought to this Board.

01:09:15 David Vislisel said these propane tanks "should be stopped at the gate" and never allowed to enter the facility and felt there had not been serious consideration of this option. He said the noise issue is important, but the air overpressure is also a concern as well as the ground/structure shaking he and other neighbors' experience.

Rebuttal:

01:14:00 Mr. Nicholson noted that one Condition of Approval does have the Planning & Design Services Director and BOZA staff for oversight.

01:14:27 In response to questions from Vice Chair Buttorff, Mr. Nicholson described in detail the process of tracking down a supplier who included a propane tank within their shipment. He also answered Member Leanhart's questions about how suppliers are paid, and other business aspects. Member Howard and Mr. Nicholson discussed the idea of an annual review of the CIRP, which Mr. Nicholson said is within the Planning Director's purview. In response to questions from Member Howard, Mr. Nicholson discussed what is causing the over air pressure (see recording for detailed discussion.) In response to other questions from Member Howard, he said the wall barrier is 90 feet high; the shredder itself is about six feet off the ground.

01:21:49 In response to questions from Chair Bond, Mr. Nicholson discussed Conditions included in the CIRP (hours of operations, etc.) Chair Bond said the Board has not seen the updated CIRP. Mr. Nicholson said if the Board wants to include hours of operation with the CIRP, he said he would submit an updated copy and bring it back to the next BOZA meeting.

BOARD OF ZONING ADJUSTMENT MINUTES
April 24, 2023

PUBLIC HEARING

Case No. 22-MCUP-0001

01:22:30 Chair Bond discussed options for the hours of operation/s. Ms. Ferguson suggested that the case be continued to Business Session on condition that the only change is to the hours of operation consistent with the Board's discussion today. If there are additional changes, the case could be Continued to a public hearing to allow public comment. She suggested the following modification to Proposed Condition of Approval #8, to read as follows:

8. The shredder shall only operate on Monday through Saturday from 6 AM to 6 PM. The shredder shall operate on Sundays no more than five times per calendar year with the hours of operations between 7 AM to 6 PM. The applicant/owner shall provide Planning & Design Services staff at least 12 hours/24 hours' notice of its intent to operate on a particular Sunday.

Potential hours of operation on Sundays were discussed in detail (see recording for detailed discussion.)

01:33:24 On a motion by Member Howard, seconded by Member Ford, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to **Business Session** at the **May 15, 2023** Board of Zoning Adjustment meeting to allow the Board to review the updated CIRP.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. LIC-STA-23-00498

Request:	Short Term Rental Host Residency Hearing
Project Name:	Host William Thomas Nutt
Location:	1505 E Breckinridge St
Owner:	1505 East Breckenridge Street Land Trust
Applicant:	n/a
Representative:	William Thomas Nutt
Jurisdiction:	Louisville Metro
Council District:	8 - Ben Reno-Weber
Case Manager:	Joseph Haberman, Planning & Design Manager

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

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

Agency testimony:

01:34:46 Joe Haberman introduced the case, including describing the developments since the case was last heard. He noted that there will be no decision to be made today because the owner has withdrawn the request for a Conditional Use Permit registration (see recording for detailed presentation.)

The case was withdrawn. No action was taken.

BOARD OF ZONING ADJUSTMENT MINUTES

May 1, 2023

PUBLIC HEARING

Case No. 22-VARIANCE-0173

NOTE: Member Vozos left the meeting at approximately 3:00 p.m. and did not hear of vote on this or the subsequent cases.

Request:	Variance to allow a structure to exceed the maximum required height in EZ-1 zoning and associated waivers.
Project Name:	Advance Ready Mix
Location:	1000 W Kentucky Street
Owner:	Cambil, LLC & JDA Properties, LLC
Applicant:	Camilla Schroeder, Advance Ready Mix
Representative:	Nima Mahmoodi, The Kleingers Group
Jurisdiction:	Louisville Metro
Council District:	4- Jecorey Arthur
Case Manager:	Heather Pollock, Planner I

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

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

Agency testimony:

01:37:24 Heather Pollock presented the case, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation.)

01:43:11 In response to questions from Member Howard, Ms. Pollock said the applicant can give more detail about the outdoor storage for which the applicant is requesting the waiver. Member Howard asked about the height variance and if APCD has reviewed the proposal.

The following spoke in support of the proposal:

Jon Baker, Wyatt Tarrant & Combs, 40 West Market Street, Louisville, KY 40202
Nima Mahmoodi, 1100 Envoy Circle, Louisville, KY 40299
Beth Dean and Chelsea Sellers, 2401 Stanley Gault Parkway, Louisville, KY 40223
Roger Laslie, 11421 Blankenbaker Access Drive, Louisville, KY 40299

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-VARIANCE-0173

William Shane, ALL 4 Environmental Consulting, 1405 Mercer Road, Lexington, KY 40511

Summary of testimony of those in support:

01:47:03 Jon Baker, the applicant's representative, presented the applicant's case, showed a Power Point presentation, and responded to questions from the Board members (see recording for detailed presentation.)

01:58:35 William Shane, a civil and environmental engineer, discussed air pollution and other environmental concerns. He noted that this is not going to be a Portland cement manufacturing plant; this will not have burning fossil fuels in a cement kiln to heat limestone, or chemical reactions that occur when limestone is heated. There may be a small natural gas or diesel water heater. He addressed dust and noise pollution concerns and said the facility will have to obtain all appropriate environmental permits including from APCD, and will be required to meet limitations for dust and local ordinances for noise. He addressed fly-ash concerns. See recording for detailed presentation. In response to a question from Chair Bond, Mr. Shane said the applicant has not yet had preliminary discussions with APCD regarding this project.

02:03:48 Mr. Baker resumed and concluded the presentation.

02:05:31 In response to questions from Member Howard, Mr. Baker used the renderings and site plan to show the location of the proposed outdoor storage, and plantings along Kentucky Street. In response to questions from Member Leanhart, Mr. Shane said fine materials will be stored in the silo; fly-ash and cement will be in enclosed storage; larger particles (aggregate) would be stored in bins with concrete walls (that material comes pre-wetted to reduce dust.)

02:09:33 Nima Mahmoodi answered questions from Vice Chair Buttorff regarding the site plan, storage, irrigation, and drainage (see recording.)

02:12:05 In response to questions from Member Horton, Mr. Shane discussed small particulates. Mr. Mahmoodi discussed the retention basin, and water quality measures. Mr. Baker said there will not be any open bins of fly ash or cement – those are aggregates that will be completely contained.

The following spoke in opposition:

John Sistarenik, 1208 South 6th Street, Louisville, KY 40203

Lira Johnson, 1371 South 1st Street, Louisville, KY 40208

Dr. Angela Storey, 1479 South 4th Street, Louisville, KY 40208

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-VARIANCE-0173

Martina Kunnecke, 311 Northwestern Parkway, Louisville, KY
Stephen Peterson,
Whitney Ditzhazy, 940 South 6th Street, Louisville, KY 40203
Marissa Kenemer, 1036 Garvin Place, Louisville, KY

Summary of testimony of those in opposition:

02:17:09 John Sistarenik said his main concerns are air pollution/particulate emissions. There are heavily residential areas nearby, and the Advantage Ready-Mix in Butchertown has many years of violations. He asked if an environmental impact study could be done.

02:22:06 Lira Johnson said that her home, and the Old Louisville neighborhood, are within a mile downwind of this production facility. She is also concerned about air pollution, particularly particulate discharge, and said the applicant has not addressed questions about this. She also requested an environmental impact study.

02:24:45 Dr. Angela Storey said she has "significant concern" about this plant, particularly regarding air pollution/particulate emissions. There are several schools, playing fields, and residential areas downwind from this site.

02:28:12 Martina Kunnecke said she is speaking on behalf of Neighborhood Planning and Preservation, and also the California Neighborhood Association, both of which are in opposition (see recording.)

02:31:18 Stephen Peterson discussed the Limerick Neighborhood Association meeting at which applicant's representatives were present. The nearest residential residence is about 800 feet; particulate matter can travel up to 10 miles. He reiterated that winds in this area are mostly from the east, blowing west. There are new high school and college athletic fields to the west of this site. He commented on the site plan.

02:36:43 Whitney Ditzhazy said Kentucky Street is already a fairly busy street, and she expressed concerns about traffic. She said her house shakes sometimes from TARC buses and is concerned that heavy trucks on the street could cause damage to century-old structures in the neighborhood. She said the height variance is concerning, because the higher the structure, the further any particulates will be spread. She also noted that the new Spaulding sports complex is about 1 ½ blocks away. She objected to "less greenery" in the landscaping plan.

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-VARIANCE-0173

02:45:13 Marissa Kenemer said the applicant spoke to the Limerick and California neighborhoods and said the plant will be “operating without time restrictions.” She is concerned about noise disturbance as well as air pollution.

Rebuttal:

02:47:32 Jon Baker delivered rebuttal (see recording for detailed presentation.) He said the top of the silo is not a large emitter of particulates. The silo stores material used in the process. He discussed the applicant’s justification/s for the requested ILA waiver.

02:50:57 Mr. Shane resumed the podium and discussed what is at the top of the silo and emissions (see recording for detailed presentation.)

02:52:33 Mr. Baker concluded rebuttal.

02:54:43 Board Members’ deliberation.

03:01:31 In response to questions from Member Leanhart, the Board came out of deliberation to call Mr Baker back to the podium to discuss the differences between the current operation in Butchertown and the proposed operation on the subject site (See recording for detailed discussion.)

03:04:02 Mr. Sistarenik said that, according to a story on WDRB in 2020, the reporters talked to residents who said they had had problems with “the ash”.

03:06:19 Mr. Baker said there is testimony from one of the operators of the plant (see recording.) He said there are two operations being run in Butchertown: a ready-mix plant, and a dry batch plant. He said almost all of the violations were on the dry batch plant, which is being discontinued, not moved. Only the ready mix plant is being moved.

03:07:38 Roger Laslie, an applicant’s representative, explained the difference between the ready mix plant and the dry batch plant. The dry batch plant was discontinued two years ago.

03:09:31 Board Members deliberation resumed.

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-VARIANCE-0173

Variance from section 5.2.5.C.3.d to allow a proposed structure to exceed the maximum height in EZ-1 zoning district.

03:17:34 On a motion by Vice Chair Buttorff, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all building codes and the LDC except where relief is requested. The subject site will be fenced in and screened from the public right of way and closed to the public; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed use is compatible with other industrial uses in the area. In addition, there are other structures in the general vicinity that exceed the maximum height permitted. The closest residential use is over 900 ft. away; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes. The subject site will be fenced in and secured. The closest residential use is a little over 900 ft. away; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the requested height is standard for a concrete plant and there are other structures in the general vicinity that exceed the maximum height requirements; and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the proposed use is compatible with others in the area; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposed use can not fit within the 45 ft. height maximum; and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-VARIANCE-0173

relief is sought as the applicant has not started construction and is requesting the variance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **Variance** from section **5.2.5.C.3.d** to allow a proposed structure to exceed the maximum height in EZ-1 zoning district (requirement - 45 feet; request - 77.13 feet; Variance – 32.13 feet.)

The vote was as follows:

YES: Members Ford, Horton, Howard, Vice Chair Buttorff, and Chair Bond.

NO: Member Leanhart.

ABSENT: Member Vozos.

(Waiver #1) 23-WAIVER-0070: Landscape Waiver from section 10.2.12 to allow a reduction of the required interior landscape areas.

03:18:16 On a motion by Vice Chair Buttorff, seconded by Member Ford, the following resolution to approve the requested (Waiver #1) 23-WAIVER-0070: Landscape Waiver from section 10.2.12 to allow a reduction of the required interior landscape areas **failed by the following vote:**

The vote was as follows:

YES: Member Ford and Vice Chair Buttorff.

NO: Members Horton, Leanhart, Howard, and Chair Bond.

ABSENT: Member Vozos.

03:19:21 Additional Board Members' deliberation.

03:22:21 On a motion by Member Leanhart, seconded by Member Ford, the Board of Zoning Adjustment does hereby agree to **reconsider** its previous vote on (Waiver #1) 23-WAIVER-0070: Landscape Waiver from section 10.2.12 to allow a reduction of the required interior landscape areas.

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-VARIANCE-0173

The vote was as follows:

YES: Member Ford, Horton, Leanhart, Vice Chair Buttorff, and Chair Bond.

ABSTAIN: Member Howard.

ABSENT: Member Vozos.

RECONSIDERED - (Waiver #1) 23-WAIVER-0070: Landscape Waiver from section 10.2.12 to allow a reduction of the required interior landscape areas.

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the land uses in the area are similar in intensity and the perimeter of the subject site will have landscaping and screening; and

WHEREAS, the Board further finds that Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. Economic Development goal 2 policy 3 calls to Encourage design elements that address the urban heat island effect and energy efficiency, such as the planting and preservation of trees, cool roofs and green infrastructure, for new development. Applicant is providing ILAs in the employee parking areas as well as landscaping and visual screening around the perimeter of the subject site. The closest residential use to the subject site is over 900 ft. away; and

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-VARIANCE-0173

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the majority of the vehicle use area will be for heavy truck and industrial use. The applicant is providing landscaping around the perimeter of the subject site as well as ILAs in the employee parking area; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the majority of the subject site will vehicle use area for heavy trucks and storage for concrete making materials. The applicant will also provide landscaping and screening around the perimeter of the property as well as ILAs in the employee parking area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested (Waiver #1) 23-WAIVER-0070: Landscape Waiver from section 10.2.12 to allow a reduction of the required interior landscape areas 7.5% to 1.33%:

The vote was as follows:

YES: Member Ford, Leanhart, Vice Chair Buttorff, and Chair Bond.

NO: Members Horton and Howard.

ABSENT: Member Vozos.

23-WAIVER-0071: Waiver from section 4.4.8.C.2 to allow outdoor storage within 25ft. of a public right of way.

03:25:33 On a motion by Member Howard, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waivers will not adversely affect adjacent property owners as the use is compatible with other uses in the area and the outdoor storage areas will be screened with fencing, landscaping, and a masonry wall; and

WHEREAS, the Board further finds that Community Form Goal 1, Policies 4 of Plan 2040 calls to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District Community Form. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-VARIANCE-0173

areas, roadway corridors, and public spaces. The waiver will not violate these guidelines as the property will be screened with fencing, landscaping, and a masonry wall; and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as all other site design standards of the Land Development Code will be met on the subject site; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as this property has double street frontage and there is extensive vehicle use areas in the interior of the property due to the nature of the proposed use. The applicant will also provide landscaping around the perimeter of the property; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested (Waiver #2) 23-WAIVER-0071: Waiver from section 4.4.8.C.2 to allow outdoor storage within 25ft. of a public right of way.

The vote was as follows:

YES: Member Ford, Horton, Howard, Vice Chair Buttorff, and Chair Bond.

NO: Member Leanhart.

ABSENT: Member Vozos.

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0030

Request:	Variances to allow a fence to exceed the maximum height in a required yard setback .
Project Name:	North 21st Street Variance
Location:	329 N. 21 Street
Owner:	Donnie Fulkerson
Applicant:	Donnie Fulkerson
Jurisdiction:	Louisville Metro
Council District:	5- Donna Purvis
Case Manager:	Amy Brooks, Planner I

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

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

Agency testimony:

03:27:18 Amy Brooks presented the case, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation and discussion.)

The following spoke in support of the request:

Donnie Fulkerson, 331 West 21st Street, Louisville, KY

Summary of testimony of those in support:

03:31:40 Donnie Fulkerson said he made the fence higher to protect his family's privacy, and also to keep his dogs from jumping over the fence. He said he did not receive enforcement citations in the mail.

03:35:03 In response to questions from Vice Chair Buttorff, Mr. Fulkerson said he did not know that there were rules about how high a fence can be. He said the lower/wooden section of the fence had been there 30 years. Ms. Brooks submitted an email of support from the adjoining neighbor who said she was in favor of the tall fence (see recording.)

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0030

03:39:15 In response to questions from Chair Bond, Ms. Brooks explained that Mr. Fulkerson was full owner of one property and joint owner of the one next door (see recording for detailed discussion.) Ms. Brooks noted that there are some safety concerns/structural integrity issues with the fence.

03:42:49 In response to questions from Member Horton, Laura Ferguson, legal counsel for the Board, discussed how to proceed regarding cases which have an ongoing violation (see recording for detailed explanation.)

03:45:14 Mr. Fulkerson responded to questions from the Board members regarding the height and materials of the fence. He said he had had the property surveyed 30 years ago before he built the wooden fence. Other structures in the yard were discussed (see recording for detailed discussion.)

03:54:10 Ms. Brooks discussed who owns which property; the property lines; and where the fencing is located (see recording.)

04:04:47 Board Members' deliberation.

Variance #1 – Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 42 inches in height in the front yard.

Variance #2 - Variance from Land Development Code section 4.4.3.A.1.a.ii to allow a fence to exceed 8 feet in height within the required side and rear yard.

04:08:09 On a motion by Vice Chair Buttorff, seconded by Member Horton, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

(Variance #1) WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will adversely affect the safety of pedestrians moving along N.21st Street because this portion of the fence appears to be attached to the existing retaining wall rather than the posts being driven into the ground. This raises ongoing stability questions; and

WHEREAS, the Board further finds that the proposed height will alter the essential character of the general vicinity. While there are other privacy fences in the

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0030

neighborhood that exceed the allowed maximum height in a front yard setback (see Site Photos for example), none of them exceed the required regulations to this degree; and

WHEREAS, the Board further finds that the requested variance site plan does not reference a survey and does not appear to have been drafted by a design professional. As such, the plan does not reflect existing property lines accurately and it appears that the fence could be located on the adjoining property; and

WHEREAS, the Board further finds that the requested variance will allow an unreasonable circumvention of the zoning regulations because the fence was/is capable of being modified to be within the height limits or at a lesser height that would require a smaller dimensional variance request; and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the area of Portland; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the height of the proposed fence could be reduced to conform with the existing regulations or shifted out of required front yard setback; and

WHEREAS, the Board further finds that 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 already constructed the fence; and

(Variance #2) WHEREAS, the Board further finds that the existing fence in the rear yard will adversely affect the public health, safety or welfare, because the metal on leaning up against the chain-link fence does not appear to be attached. This could impact the safe movement of traffic and pedestrians along the rear alleyway. In addition, the side yard fence is a partial double-decker fence that is not flush with the ground giving staff concern about structural integrity, and there are screws facing outward that could pose potential harm to the adjacent property owner; AND

WHEREAS, the Board further finds that the proposed variance will alter the essential character of the general vicinity. While there are several other privacy fences in the neighborhood that are on the located on rear and side property lines, there appears no fences that exceed eight feet: the prescribed maximum in these yard setbacks; and

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0030

WHEREAS, the Board further finds that the rear yard and side yard fences will cause a hazard or nuisance to the public as it potentially impacts the safety of both pedestrians and vehicles along the rear alleyway. There is also concern about the stability and safety of the fence in the side yard; there are screws facing outward and a portable air conditioning unit with an electrical cord that is running along the outside perimeter of the fence; and

WHEREAS, the Board further finds that the requested variance will allow an unreasonable circumvention of the zoning regulations because the fence was/is capable of being modified to be within the height limits or at a lesser height that would require a smaller dimensional variance request; and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the area of North 21st Street; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the existing fence height could be reduced/modified to conform with the existing regulations; and

WHEREAS, the Board further finds that 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 already constructed the fence; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the requested (Variance #1) **Variance** from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 42 inches in height in the front yard; **AND** the requested (Variance #2) **Variance** from Land Development Code section 4.4.3.A.1.a.ii to allow a fence to exceed 8 feet in height within the required side and rear yard.

The vote was as follows:

YES: Members Ford, Horton, Leanhart, Howard, Vice Chair Buttorff, and Chair Bond.

ABSENT: Member Vozos.

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0031

Request:	Variance to allow a fence to exceed the maximum height in a street side yard setback .
Project Name:	Hull Street Variance
Location:	1201 Hull Street
Owner:	Eastland Properties, LLC
Applicant:	Hunter Makk
Jurisdiction:	Louisville Metro
Council District:	9- Andrew Owen
Case Manager:	Amy Brooks, Planner I

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

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

Agency testimony:

04:09:45 Amy Brooks presented the case, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Hunter Makk, 1201 Hull Street, Louisville, KY 40204

Davis Makk, 2904 Falmouth Drive, Louisville, KY 40205

Summary of testimony of those in support:

04:13:11 Hunter Makk, the applicant, presented the case and showed a Power Point presentation (see recording for detailed presentation.)

04:19:12 Davis Makk said he built the fence for the applicant. He said the sidewalk itself is at a grade change – where the fence is measured makes a difference (see recording for detailed presentation.) He said that, at the time he built the fence, he was

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0031

not aware of the requirement not to exceed 42 inches. He explained where he got his measurements.

04:22:11 In response to questions from Member Howard and Vice Chair Buttorff, Ms. Brooks said that when a fence is being built within 5 feet of a public sidewalk then the change of grade should be included in the overall calculation. Joe Haberman, Planning & Design Manager, also explained Land Development Code requirements and calculations (see recording for detailed discussion.)

The following spoke in opposition to the request:

Lisa Santos, 1318 Hull Street, Louisville, KY 40204

Summary of testimony of those in opposition:

04:26:57 Lisa Santos, representing the Irish Hill neighborhood association, said she is concerned about setting a precedent. She said she did not think that the condominium residents cannot see into their yard. She said she did not think that the applicant uses the garage, and is concerned about sight-line issues when exiting the garage.

Rebuttal:

04:30:23 Hunter Makk presented rebuttal (see recording for detailed presentation.)

04:34:15 In response to some discussion questions, Ms. Santos said that removing the addition from the top of the fence would not mitigate the safety issues for vehicles and pedestrians. She said the neighborhood is amenable to the six-foot fence, but they do not want the garage to be used. It is the exit of vehicles from the garage that she believes is a safety issue.

04:37:27 Ms. Brooks said she had just spoken with Ms. Santos. She said Ms. Santos stated that she wanted to ask about moving the fence out of that sight triangle, if the applicant wants to use the garage.

04:38:31 Board Members' deliberation.

Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 42 inches in height in the street side yard setback.

BOARD OF ZONING ADJUSTMENT MINUTES

May 1, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0031

04:48:11 On a motion by Member Leanhart, seconded by Member Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the built fence will adversely affect the public health, safety or welfare, because the increase in height will impede vision clearance for the vehicles exiting the existing garage at the rear of the property. This would adversely impact the safe movement of traffic and pedestrians along Cooper Street; and

WHEREAS, the Board further finds that the fence will alter the essential character of the general vicinity. While there are other examples of wooden privacy fences in the neighborhood that exceed the allowed maximum height in a street side yard setback, none of those fences exceed the prescribed height regulations to this extent. Adjacent properties on Cooper St and Hull Street have street side yard fences that appear to exceed 42 inches, but they are not compatible to the scale and impact of this fence. (See site photos for examples); and

WHEREAS, the Board further finds that the requested variance will cause a hazard or nuisance to the public as it potentially impacts the safety of both pedestrians and vehicles traveling along Cooper Street; and

WHEREAS, the Board further finds that the requested variance will allow an unreasonable circumvention of the zoning regulations because the fence was/is capable of being modified to be within the height limits or at a lesser height that would require a smaller dimensional variance request; and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the area of Irish Hill; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the height of the proposed fence could be reduced to conform with the existing regulations or shifted out of required side yard setback; and

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0031

WHEREAS, the Board further finds that 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 already constructed the fence; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the requested Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 42 inches in height in the street side yard setback.

The vote was as follows:

YES: Members Ford, Horton, Leanhart, Howard, Vice Chair Buttorff, and Chair Bond.

ABSENT: Member Vozos..

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-CUP-0376

Request: Conditional Use Permit for a Community Service Facility in R- 7 zoning.
Project Name: UCHM Food Pantry
Location: 1815 Arlington Avenue
Owner/Applicant: Franklin School Partners, LTD
Representative: Becky Roehrig, River City Housing
Jurisdiction: Louisville Metro
Council District: 9 -Andrew Owen
Case Manager: Heather Pollock, Planner I

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

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

Agency testimony:

04:49:25 Heather Pollock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation). She confirmed that there will be no external changes to the site.

The following spoke in favor of the request:

Becky Roehrig, River City Housing, 120 Webster Street Suite 325, Louisville, KY 40206

Mark Howell, United Crescent Hill Ministries, 7306 Sunset Lane, Crestwood, KY 40014

Mike O'Leary, Clifton Community Council, 1963 Payne Street, Louisville, KY 40206

Summary of testimony of those in favor:

04:54:30 Mark Howell, the applicant, presented the case. He discussed the food pantry operations and the shared parking (see recording for detailed presentation.)

04:57:52 Becky Roehrig was called but declined to speak. She said she was available to answer questions.

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-CUP-0376

04:58:02 Mike O'Leary said the Clifton Community Council supports this request (see recording.)

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

05:02:23 Board Members' deliberation

Conditional Use Permit for a Community Service Facility in R-7 zoning and Traditional Neighborhood form district.

05:02:32 On a motion by Member Howard, seconded by Member Leanhart, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that 4.2.54. Community Service Facility may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, UN, R-5A, R-5B, R-6, R-7, R-8A, M-1, M-2, M-3, W-1, W-2, W-3, TNZD (Neighborhood General) districts upon the granting of a conditional use permit and compliance with the listed requirements.

A. General Standards – All Zoning Districts

1. Parking spaces shall be determined by the board of zoning based on the number of employees and the potential number of visitors to the site as described by the applicant in a parking study of similar uses. ***Staff does not know the number of employees; the applicant needs to address this at the public hearing. The pantry serves 140-150 households per month.***

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-CUP-0376

There is an existing parking lot behind the structure. In addition, there is an existing shared parking agreement with the adjacent property to the north.

2. Signage for community service facility shall be in accordance with chapter 8 of the LDC for nonresidential uses. ***Signage will be Land Development Code compliant.***

3. All applicable land development code requirements including but not limited to floor area ratio, building setback, landscape buffers and building heights shall be maintained. ***The community service facility will be located in an existing structure. The applicant proposes interior renovations only.***

4. Conversion of Existing Structures: A report from the applicable fire official shall be provided to the Board outlining the necessary steps for compliance with fire code safety standards prior to establishing occupancy of the structure for the proposed use. ***The community service facility will need to have the applicable fire code official's approval before occupancy.***

B. Conditional Use Standards – Single Family Zoning Districts Only:

1. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building. ***Signage will be Land Development Code compliant.***

2. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential. ***The structure is not residential.***

3. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time. ***The structure is not residential.***

4. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). ***The off-street parking will be located behind the existing structure.***

now, therefore be it

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-CUP-0376

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit for a Community Service Facility in R-7 zoning and Traditional Neighborhood form district; **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a rehabilitation home use until further review and approval by the Board.
3. The existing parking agreement for the subject property shall remain in effect for the term of the conditional use permit.

The vote was as follows:

YES: Members Ford, Horton, Leanhart, Howard, Vice Chair Buttorff, and Chair Bond.

ABSENT: Member Vozos..

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-CUP-0393

Request:	Conditional Use Permit for Short Term Rental of a Dwelling Unit That is Not the Primary Residence of the Host
Project Name:	Rimonte Drive Short Term Rental
Location:	3819 Rimonte Drive
Owner/Applicant:	Hamesh Gul
Representative:	Misbah Zehra
Jurisdiction:	Louisville Metro
Council District:	26 Brent Ackerson
Case Manager:	Molly Clark, Planner II

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

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

Agency testimony:

05:03:35 Heather Pollock presented the case on behalf of Molly Clark. She presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation). She noted that the property is zoned R-5, not R-4.

The following spoke in favor of the request:

Misbah Zehra, 3819 Rimonte Drive, Louisville, KY 40220

Summary of testimony of those in favor:

05:05:55 Misbah Zehra, the applicant, presented the case and responded to questions from the Board members (see recording for detailed presentation.) In response to questions from member Howard, she said she is currently looking for a larger home for herself and her family, so she does not know how far away from this property she will be living. She said cleaning and landscaping companies will be maintaining the property. She will be booking the guests and running the business.

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-CUP-0393

05:10:20 Chair Bond said her only concern is having 12 people in a five-bedroom home. In response to questions from Member Horton, Ms. Zehra said she is on good terms with her neighbors, and they have her contact information. There is already an active ADT system connected to Fire and Police departments.

05:12:22 Ms. Zehra and Member Howard discussed the letters of opposition that the Board received prior to today's meeting, most of which had concerns about parties. In response to a question from member Howard, Joe Haberman, Planning & Design Manager, explained that the Board may grant relief from the 30-day-registry requirement (if people are moving, if there is construction taking place on the site, etc.) See recording for detailed discussion.

The following spoke in opposition to the request:

No one spoke.

05:17:36 Board Members' deliberation

The Board discussed limiting the number of renters from 12 to a maximum of 8. This was noted in the Condition of Approval.

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R5 Single Family Residential Zoning District and Neighborhood Form District.

05:19:11 On a motion by Member Ford, seconded by Member Horton, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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

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

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-CUP-0393

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

WHEREAS, the Board further finds that **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 applicant states that the residence has 5 bedrooms that will allow a maximum number of 12 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

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-CUP-0393

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 1 on street and 3 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 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.***

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 22-CUP-0393

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

Now, therefore be it

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

Condition of Approval

1. The conditional use permit approval for this short term rental shall be allowed up to 5 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 Ford, Horton, Leanhart, Howard, Vice Chair Buttorff, and Chair Bond.

ABSENT: Member Vozos.

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0033

Request:	Conditional Use Permit for Short Term Rental of a Dwelling Unit That is Not the Primary Residence of the Host
Project Name:	Tyler Park Drive Short Term Rental
Location:	1511 Tyler Park Drive
Owner/Applicant:	Anne Long
Jurisdiction:	Louisville Metro
Council District:	8 - Benjamin Reno-Weber
Case Manager:	Chris French, AICP, Planning Supervisor

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

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

Agency testimony:

05:21:25 Chris French presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Anne Long, 1515 Tyler Park Drive, Louisville, KY 40204

Summary of testimony of those in favor:

05:23:25 Anne Long, the applicant, presented the case (see recording for detailed presentation.) She noted that three households had signed a petition of opposition, and she addressed their concerns. She said the petitioners either had, or were soon to have, short-term rental properties right next to their homes. She said the petitioners are well outside of the notification zone for neighborhood meetings. She said her neighbors already have her contact information and she is on the Tyler Park neighborhood Board.

The following spoke in opposition to the request:

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0033

Ed and Donna Huttunen, 1531 Tyler Park Drive, Louisville, KY 40204

Summary of testimony of those in opposition:

05:33:01 Ed Huttunen said he has homes on either side of his property that are or are likely to be short-term rentals. He said he has experienced garbage, noise, unruliness, and difficulty getting hold of the property owners.

05:34:57 Donna Huttunen said she also had some questions about the 600-foot rule. She also reiterated concerns about not being able to reach property owners in case of a problem.

05:36:00 In response to questions from the Huttunens, Chair Bond and Joe Haberman, Planning & Design Manager, explained the 600-foot ordinance, passed by Metro Council in 2019 (see recording for detailed discussion.)

Rebuttal:

05:38:16 Ms. Long said the Huttunens live about four houses down from hers and she would share her contact information with them. She said she agreed with a proposed modification of the Condition of Approval to limit the number of guests to six.

05:39:05 Board Members' deliberation

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R-4 single-family residential zone and Traditional Neighborhood form district.

05:39:13 On a motion by Member Howard, seconded by Vice Chair Buttorff, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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

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

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0033

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

WHEREAS, the Board further finds that **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 3 bedroom 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 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

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0033

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. ***4 off-street spaces provided; two under the carport and up to 2 in the driveway.***
- 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.***

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0033

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

The applicant has been informed of this requirement

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

Now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R-4 single-family residential zone and Traditional Neighborhood form district; **SUBJECT** to the following Condition of Approval:

Condition of Approval

1. The conditional use permit for this short term rental approval shall allow up to 3 bedroom (with a maximum of 6 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:

YES: Members Ford, Horton, Leanhart, Howard, Vice Chair Buttorff, and Chair Bond.

ABSENT: Member Vozos.

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0038

Request:	Conditional Use Permit for Short Term Rental of a Dwelling Unit That is Not the Primary Residence of the Host
Project Name:	Tremont Drive Short Term Rental
Location:	3010 Tremont Drive
Owner:	Lou Properties LLC
Representative:	Zachary Schwager
Jurisdiction:	Louisville Metro
Council District:	8 - Benjamin Reno-Weber
Case Manager:	Amy Brooks, Planner I

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

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

Agency testimony:

05:40:31 Amy Brooks presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Zach Schwager, 2704 Brownsboro Road, Louisville, KY 40206
Nikki Judd, 8012 Stonemeadow Drive, Louisville, KY
Stephanie Jacobi, 15424 Beckley Hills Drive, Louisville, KY 40245
Linda Brun, 1312 Tycoon Way, Louisville, KY 40213
Angie Tonini-Rogers, 5910 Outer Loop, Louisville, KY 40219

Summary of testimony of those in favor:

05:43:22 Zach Schwager, the applicant's representative, presented the applicant's case, showed a Power Point presentation, and responded to questions from the Board members (see recording for detailed presentation.)

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0038

05:48:07 Nikki Judd, the applicant, presented additional details (see recording.)

05:52:17 Stephanie Jacobi spoke in support. She said the property looks much better after renovations and landscaping; that guests who choose to stay in a traditional neighborhood are not looking for a “party house”; Air BnB has consequences for guests or hosts who violate policies; and BOZA has the option of revoking a CUP if two verified complaints are found to be justified.

05:56Z:49 Linda Brun spoke in support. She said her husband travels frequently for his work, and explained why renting a home like this would be preferable to staying in a hotel.

05:59:00 Angie Tonini-Rogers said she no longer stays in hotels when she travels but prefers short-term rentals. As an operator of short term rentals, she described some of the business practices and platform requirements of hosting AirBnB’s (see recording for detailed presentation.)

The following spoke in opposition to the request:

Joseph Brashear, 3015 Tremont Drive, Louisville, KY 40205

Chris Hettinger, 3005 Pleasant Drive, Louisville, KY 40205

Robert James, 3009 Piedmont Drive, Louisville, KY 40205

James Dockins, 3019 Tremont Drive, Louisville, KY 40205

Summary of testimony of those in opposition:

06:03:28 James Dockins said he is concerned about children’s safety, and speeding cars. He said the remodeling looks good; however, he said he was not aware of any residents on the street who were in favor of short-term rentals. He is concerned about changes to the neighborhood.

06:11:19 Robert James said the back of his yard backs up to the backyard of the subject site. He said this is a very stable neighborhood and many residents here are retirees, having lived here most of their lives. There is concern about parties. He suggested reducing the number of renters from eight to six.

06:14:50 Chris Hettinger reiterated the stability and longevity of the neighborhood. He noted that AirBnB is not the only short-term rental company available.

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0038

06:17:14 Joseph Brashear said he lives directly across the street from the subject site, and said the renovations have been very good. He said he is concerned because the owners are not residents of the neighborhood. He said he is concerned because he had heard that the owners have renovated the house to have five bedrooms; also, the neighborhood has restrictions on street parking. He said he has spoken with the former resident of the home, who said she was "very upset" about having it converted to a short-term rental.

Rebuttal:

06:20:14 Mr. Schwager presented rebuttal (see recording for detailed presentation.) He reiterated that there are three bedrooms in the home, not five.

06:24:11 Ms. Judd said she was very close to the person she purchased the home from, and also the neighbors on either side of the home, who she said are all in "full support". She noted that she and her husband have strict rules about parties, but also have many neighbors who will be watching the property.

06:27:53 Board Members' deliberation

06:29:30 Member Leanhart requested changing the maximum number of guests from eight to six in the Condition of Approval.

Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in the R-5 single family residential zone and Neighborhood form district.

06:28:27 On a motion by Member Ford, seconded by Member Leanhart, the following resolution, based on Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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

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

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0038

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

WHEREAS, the Board further finds that **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 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 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

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0038

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 also a one-vehicle garage on the site with a driveway that can accommodate two to three vehicles.***
- 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.***

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0038

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

The applicant has been informed of this requirement

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

now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in the R-5 single family residential zone and Neighborhood form district; **SUBJECT** to the following Condition of Approval:

Condition of Approval

1. The conditional use permit for this short term rental approval shall allow up to 3 bedrooms (with a maximum of 6 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:

YES: Members Ford, Horton, Leanhart, and Howard.

NO: Vice Chair Buttorff and Chair Bond.

ABSENT: Member Vozos.

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0040

Request: CONTINUED TO May 15, 2023 BOZA meeting – A
Conditional Use Permit to allow a rehabilitation home in the
R- 5 Single-Family Zoning District
Project Name: Bolling Avenue Rehabilitation Home
Location: 2318 Bolling Avenue
Owner/Applicant: Omni Community Enrichment and Development
Representative: Damin Williams
Jurisdiction: Louisville Metro
Council District: 6 - Phillip Baker
Case Manager: Molly Clark, Planner II

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

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

Agency testimony:

06:30:51 Chris French, Planning & Design Supervisor, said the case is being requested for continuance because an application that needed to be submitted was not submitted in time for this meeting.

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

06:31:32 On a motion by Member Ford, seconded by Member Leanhart, the following resolution was adopted:

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0040

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to the **May 15, 2023** Board of Zoning Adjustment meeting.

The vote was as follows:

YES: Members Ford, Horton, Leanhart, Howard, Vice Chair Buttorff, and Chair Bond.

ABSENT: Member Vozos.

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0042

Request:	Conditional Use Permit for a Bed and Breakfast Inn in the TNZD zoning district
Project Name:	3rd Street Bed and Breakfast Inn
Location:	1114 S 3rd Street
Owner/Applicant:	1114 S 3rd, LLC.
Representative:	Malcomb Pardo
Jurisdiction:	Louisville Metro
Council District:	6 - Phillip Baker
Case Manager:	Molly Clark, Planner II

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

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

Agency testimony:

06:32:39 Amy Brooks presented the case on behalf of Molly Clark, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation). She noted that, in the applicant's presentation, there were seven bedrooms and six bathrooms listed. However, in the staff report, there are six bedrooms and five bathrooms listed.

The following spoke in favor of the request:

Malcomb Pardo, 5607 Council Grove Court, Houston, TX 77088

Summary of testimony of those in favor:

06:38:01 Malcomb Pardo, the applicant, presented the case and showed a Power Point presentation (see recording for detailed presentation.) She noted that there are seven bedrooms and six bathrooms, but one of the bedrooms and bathrooms is the owner's suite and will not be available for rental. She said this will be operating seasonally (mostly spring through fall.)

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0042

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

06:46:27 Board Members' deliberation

Conditional Use Permit to allow a Bed and Breakfast Inn in the TNZD zoning district (LDC 4.2.9)

06:47:45 On a motion by Member Howard, seconded by Vice Chair Buttorff, the following resolution, based on Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that Bed and Breakfast Inns may be allowed in the R-R, R-1, R-2, R-3, R-4, R-5, U-N, TNZD (in effect within Louisville Metro only), R-5A, R-5B, R-6, M-1, PRO, PTD, PRD, W-1, W-2, and W-3 (Note: Revision proposed by Louisville Bed and Breakfast Association) Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. No more than nine (9) guest rooms shall be permitted, and a maximum of two adults shall be allowed per guest room. However, the Board of Zoning Adjustment may impose a lower limit on the number of guest rooms after considering the size of the building, the size of the property, the economics of the proposal, and the effect on surrounding properties. ***Applicant is meeting this requirement.***

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0042

- B. Guests are limited to a length of stay no more than 14 consecutive days. The resident innkeeper or owner shall keep a current guest register including names, permanent addresses, dates of occupancy, and motor vehicle license number of all guests. ***Applicant has been informed of this requirement.***
- C. Bed and Breakfasts may provide food service or space for indoor meetings provided all applicable food service and capacity regulations are complied with. No food preparation is allowed in any guest bedroom. ***Applicant has been informed of this requirement.***
- D. Bed and Breakfast Inns in residential zoning districts shall be required to comply with the requirements of Section 4.3.7 and obtain a temporary activities permit for any outdoor activities and/or events that are attended by anyone that is not a current registered overnight guest of the Bed and Breakfast Inn. This provision shall not be altered or waived by the Board. ***Applicant has been informed of this requirement.***
- E. Any signage which identifies the use shall be in accordance with the underlying zoning and form district standards. ***There is no proposed signage.***
- F. The location of parking shall comply with the same parking standards as a single family detached dwelling unit, except any additional parking beyond what can be accommodated in a driveway no wider than to sufficiently park two (2) cars must be out of the required setback and yards as specified in the underlying Form District requirements. Parking for guests shall not be served by a separate driveway from that serving the principal residential structure. ***The Board does hereby grant relief from Item F because the driveway is existing.***
- G. Conditional use permits for Bed and Breakfast Inns in residential zoning districts issued prior to the effective date of this ordinance (March 9, 2011) may continue to operate as authorized under the approved conditional use permit. Upon request by an applicant, such conditional use permits may be modified in any manner the Board determines, in its discretion to be appropriate. ***Applicant has been informed of this requirement.***

now, therefore be it

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

PUBLIC HEARING

Case No. 23-CUP-0042

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit to allow a Bed and Breakfast Inn in the TNZD zoning district (LDC 4.2.9), AND does hereby grant relief from Item F because the driveway is existing; and **SUBJECT** to the following Condition of Approval:

Conditions of Approval

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

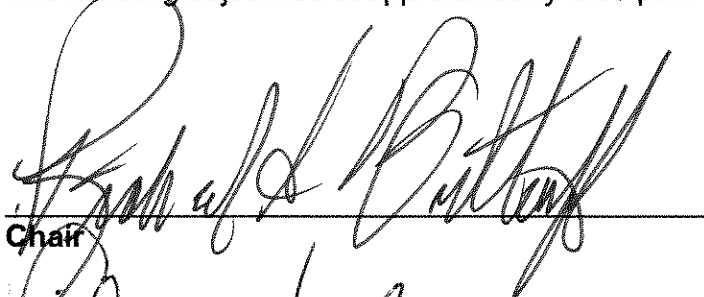
The vote was as follows:

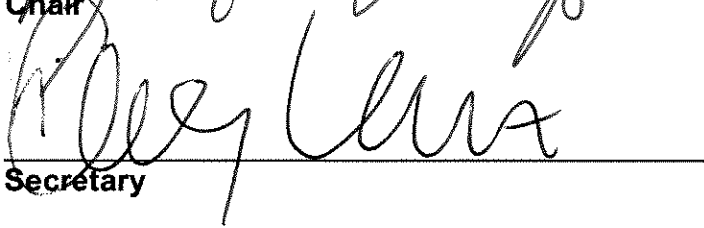
YES: Members Ford, Horton, Leanhart, Howard, Vice Chair Buttorff, and Chair Bond.

ABSENT: Member Vozos.

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2023

The meeting adjourned at approximately 8:05 p.m.


Chair


Secretary

