

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

July 8, 2019

A Special meeting of the Louisville Metro Board of Zoning Adjustment was held on July 8, 2019 at 9:00 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Dwight Young, Chair
Rosalind Fishman, Vice Chair
Kimberly Leanhart, Secretary
Lester Turner, Jr.
Richard Buttorff

Members Absent:

Lindsey Jagoe
Lula Howard

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Beth Jones, Planner II
Zach Schwager, Planner I
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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PUBLIC HEARING

CASE NUMBER 18CUP1051

Request:	Conditional Use Permit for short term rental of dwelling units located in a TNZD zone
Project Name:	S. Floyd Short Term Rental
Location:	1353 S. Floyd Street
Owner:	Fleur de Lis Enterprises LLC
Applicant/Host:	Love Yascone
Jurisdiction:	Louisville Metro
Council District:	6 - David James
Case Manager:	Beth Jones, AICP, Planner II

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

00:02:35 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones provided an email and photographs which were received after the deadline to the Board Members. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Love Yascone, 1335 S. Brook St., Louisville, KY 40208
Glenda Yascone, 1335 S. Brook St., Louisville, KY 40208
Faith Yascone, 1335 S. Brook St., Louisville, KY 40208
Richard Wagner, 1153 S. 2nd Street, Louisville, KY 40203

Summary of testimony of those in favor:

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00:08:57 Love Yascone spoke in favor of the request. Ms. Yascone provided an explanation for seeking relief of the 600 foot rule, and responded to questions from the Board Members (see recording for detailed presentation).

00:17:51 Joe Haberman, Planning & Design Manager, responded to questions from the Board Members (see recording for detailed presentation).

00:18:21 Ms. Yascone responded to questions from the Board Members (see recording for detailed presentation).

00:19:49 Glenda Yascone spoke in favor of the request (see recording for detailed presentation).

00:24:08 Faith Yascone spoke in favor of the request (see recording for detailed presentation).

00:27:17 Richard Wagner spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

00:28:42 Ms. Jones responded to questions from the Board Members (see recording for detailed presentation).

00:30:08 Joe Haberman responded to questions from the Board Members regarding number of bedrooms (see recording for detailed presentation).

00:32:32 Faith Yascone spoke in regard to the number of bedrooms and responded to comments from Legal Counsel (see recording for detailed presentation).

00:33:56 Board Members' deliberation

00:37:37 On a motion by Vice Chair Fishman, seconded by Member Turner, the following resolution, based upon the presentation and discussion, was adopted:

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

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

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The first floor one-bedroom unit can accommodate up to four guests. The combined first/second floor unit can accommodate up to eight 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, there are two properties with approved conditional use permits for short term rental of a dwelling unit not the primary residence of the host within 600 ft. of the subject property (see Attachment 3).**

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- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The building currently contains four single-bedroom apartments, two on the first floor and two on the second floor. The applicant will construct an interior doorway which will allow internal circulation between the one of the existing first-floor units and the two existing second-floor units. A Condition of Approval restricts the applicant from renting this three-bedroom unit until such time as the required construction is completed and documentation has been approved by staff.**
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **LDC regulations credit the S. Floyd Street property frontage with two on-street parking spaces and the Woodbine Street frontage with one space. A church on the corner opposite the residence has on-street parking for approximately 16 additional vehicles. There is no off-street parking available.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may

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revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1051 does hereby **APPROVE** Conditional Use Permit to allow short term rental of dwelling units not the primary residence of the host (LDC 4.2.63), with **RELIEF** from Standard 4D because the other short term rentals are at the edge of the 600 foot boundary which is far enough away so as not to cause an issue at this location, the short term rental is close to the expressway, and the short term rental would be an improvement to the community, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Before short term rentals are permitted on the site, the existing building must be converted from a four-dwelling structure to a two-dwelling structure. After all necessary construction and alterations are completed and prior to commencement of any short term rental within the building, Planning &

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Design Services staff shall inspect the building to determine if the conversion was appropriately carried out. The converted dwelling units shall meet all applicable provisions of the Land Development Code and Kentucky Residential Code.

2. Each dwelling unit is limited to a single short term contract at a time. While the building and both of its dwelling units may be rented in its entirety under a single contract to a single party, the occupancy limits per dwelling unit remain in effect.

The vote was as follows:

Yes: Members Buttorff, Turner, Leanhart, Vice Chair Fishman, and Chair Young

Absent: Members Jagoe, and Howard

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CASE NUMBER 19CUP1009

Request:	Conditional Use Permit for a short term rental unit that is not the primary residence of the host
Project Name:	Short Term Rental
Location:	1006 Mulberry Street
Owner/Applicant:	Benjamin Levine
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Steve Hendrix, Planning and Design Coordinator

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

00:41:54 Steve Hendrix presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Benjamin Levine, 2230 Bonnycastle Avenue, Louisville, KY 40205

Summary of testimony of those in favor:

00:44:50 Benjamin Levine spoke in favor of the request and explained his justification for requesting relief from the 600 foot rule. Mr. Levine responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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00:48:04 Board Members' deliberation

00:51:03 A motion was made by Vice Chair Fishman, seconded by Member Turner, that Case Number 19CUP1009, Conditional Use Permit to allow short term rental of a single family dwelling that is not the primary residence of the host in an R-5 Zoning District and Traditional Neighborhood Form District, be **APPROVED** with **RELIEF** from Standard 4D because there is only one other short term rental within the 600 foot radius and there is neighborhood support.

The vote was as follows:

Yes: Member Turner, and Vice Chair Fishman

No: Members Buttorff, Leanhart, and Chair Young

Absent: Members Jagoe, and Howard

00:53:15 On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution, based upon the failure to meet Standard 4D, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the request does not meet all of the listed requirements and the Conditional Use Permit cannot be approved; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1009, does hereby **DENY** Conditional Use Permit to allow short term rental of a single family dwelling unit that is not the primary residence of the host in an R-5 Zoning District and Traditional Neighborhood Form District.

The vote was as follows:

Yes: Members Buttorff, Leanhart, and Chair Young

No: Member Turner, and Vice Chair Fishman

Absent: Members Jagoe, and Howard

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CASE NUMBER 19CUP1002

Request:	Conditional Use Permit for a short term rental unit that is not the primary residence of the host
Project Name:	Short Term Rental
Location:	1914 Decatur Drive
Owner/Applicant:	Jeffrey Hart
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Steve Hendrix, Planning and Design Coordinator

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

00:55:10 Steve Hendrix presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jeff Hart, 11803 Perry Crossing Parkway, Sellersburg, IN 47172

Summary of testimony of those in favor:

00:58:10 Jeff Hart spoke in favor of the request. Mr. Hart stated there are no other short term rentals within a 600 foot radius; therefore, he is not requesting relief. Mr. Hart responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

David Burch, 1916 Decatur Dr., Louisville, KY 40218

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Summary of testimony of those neither for nor against:

01:03:53 David Burch spoke neither for nor against the request. Mr. Burch asked for an explanation of the 600 foot rule. The Board Members, Staff, and Legal Counsel responded to general questions from Mr. Burch regarding short term rentals.

The following spoke in opposition of the request:

Monica Edmonds, 1919 Decatur Dr., Louisville, KY 40218

Linda Ising, 3501 Decatur Court, Louisville, KY 40218

Albert Macklin, 1915 Swainsboro Dr., Louisville, KY 40218

Summary of testimony of those in opposition:

01:11:06 Monica Edmonds spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:26:23 Linda Ising spoke in opposition of the request (see recording for detailed presentation).

01:32:19 Albert Macklin spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

01:36:14 Jeff Hart spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

01:45:54 Board Members' deliberation

01:49:46 On a motion by Member Buttorff, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The applicant states that the house has four bedrooms which would allow for a total of ten 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, there are no properties with an approved Conditional Use Permit allowing short term rental that is not the primary residence of the host, within 600' of the subject property.**

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- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The structure is a single family dwelling.**
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **Parking is available in the two car garage, in the area behind the garage and the driveway. The applicant is requesting guests not park along Decatur Drive.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1002 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a single family dwelling unit that is not the primary residence of the host in an R-5 Zoning District and Traditional Neighborhood Form District.

The vote was as follows:

Yes: Members Buttorff, Turner, Leanhart, Vice Chair Fishman, and Chair Young

Absent: Members Jagoe, and Howard

01:50:27 Meeting was recessed.

01:50:49 Meeting was reconvened.

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CASE NUMBER 19CUP1025

Request:	Conditional Use Permit for a short-term rental of a dwelling unit that is not the primary residence of the owner/ host
Project Name:	Baker Short Term Rental
Location:	1012 Hull Street
Owner:	Mary Anne Baker
Applicant:	Margaret Anne Baker
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

01:51:08 Joe Haberman presented the case on behalf of the Case Manager and presented a letter in opposition which was received after the deadline to the Board Members. Mr. Haberman showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Margaret Anne Baker, 1901 Spring Drive, Louisville, KY 40205
Jonathan Klunk, 3826 Bardstown Rd., Louisville, KY 40218

Summary of testimony of those in favor:

01:55:35 Margaret Anne Baker spoke in favor of the request and stated her explanation for seeking relief from the 600 foot rule (see recording for detailed presentation).

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01:57:59 Jonathan Klunk spoke in favor of the request (see recording for detailed presentation).

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

02:02:46 Board Members' deliberation

02:07:16 On a motion by Member Buttorff, seconded by Member Leanhart, the following resolution, based upon the failure to meet Standard 4D, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the request does not meet all of the listed requirements and the Conditional Use Permit cannot be approved; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1025 does hereby **DENY** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner/host in an R-6 Zoning District and Traditional Neighborhood Form District.

The vote was as follows:

Yes: Members Buttorff, Leanhart, and Chair Young

No: Member Turner, and Vice Chair Fishman

Absent: Members Jagoe, and Howard

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PUBLIC HEARING
CASE NUMBER 19CUP1018

Request:	Conditional use permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Franklin Street Short Term Rental
Location:	813 Franklin Street
Owner/Applicant:	Colin Clark – Double C Realty, LLC
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Zach Schwager, Planner I

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

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

Agency Testimony:

02:09:15 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Colin Clark, 3714 Hanover Road, Louisville, KY 40207
Michael Stevens, 1610 Forest Hill Dr., Louisville, KY 40206

Summary of testimony of those in favor:

02:11:37 Colin Clark spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:21:29 Michael Stevens spoke in favor of the request (see recording for detailed presentation).

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CASE NUMBER 19CUP1018

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

02:25:24 Board Members' deliberation

02:32:07 On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution, based upon the failure to meet Standard 4D , was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the request does not meet all of the listed requirements and the Conditional Use Permit cannot be approved; now, therefore be it

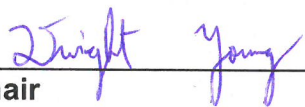
RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1018 does hereby **DENY** Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host (LDC 4.2.63).

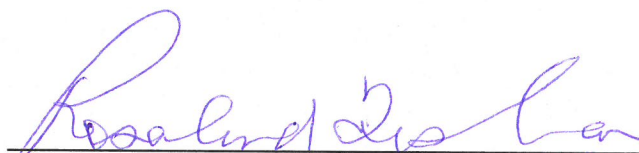
The vote was as follows:

Yes: Members Buttorff, Leanhart, and Chair Young
No: Member Turner, and Vice Chair Fishman
Absent: Members Jagoe, and Howard

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The meeting adjourned at approximately 11:48 a.m.


Chair


Secretary