

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

October 26, 2020

A Special meeting of the Louisville Metro Board of Zoning Adjustment was held on October 26, 2020 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

Lula Howard, Chair
Kimberly Leanhart, Vice Chair
Richard Buttorff, Secretary
Michael Seale
Sharon Bond
Lindsey Jagoe

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Assistant Director
Brian Davis, Planning & Design Manager
Chris French, Planning & Design Supervisor
Julia Williams, Planning & Design Supervisor
Zach Schwager, Planner I
Jon Crumby, Planning & Design Coordinator
Steve Hendrix, Planning & Design Coordinator
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

On the recommendation of the Louisville Metro Department of Public Health & Wellness regarding congregate events and social distancing, and as permitted by Commonwealth of Kentucky Senate Bill 150, the October 26, 2020 Board of Zoning Adjustment Special meeting was held online.

The following cases were heard:

BOARD OF ZONING ADJUSTMENT MINUTES
October 26, 2020

OCTOBER 19, 2020 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:07:19 On a motion by Vice Chair Leanhart, seconded by Member Bond, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the October 19, 2020 Board of Zoning Adjustment online meeting with revisions as noted.

The vote was as follows:

Yes: Members Buttorff, Seale, Bond, Jagoe, Vice Chair Leanhart, and Chair Howard

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 20-MVARIANCE-0003

Request:	Waterway Buffer Variance
Project Name:	Logistics Air Park
Location:	5540 Minor Lane
Owner:	Jim Calvery, LaGrange LLC
Applicant:	Jim Calvery, LaGrange LLC
Representative:	Mark Madison, Milestone Design Group
Jurisdiction:	Louisville Metro
Council District:	13 – Mark Fox
Case Manager:	Lacey Gabbard, AICP, Planner I

NOTE: Prior to the presentation of this case, Chair Howard stated the applicant for item #9 on today's agenda has requested to continue that case. Chair Howard requested a motion to continue that case. Please see page 24 of these minutes.

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:

00:11:15 Julia Williams presented the case on behalf of the Case Manager and showed a Powerpoint presentation. Ms. Williams responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jim Calvery, 6060 Dutchmans Lane, Louisville, KY 40205

Summary of testimony of those in favor:

00:18:00 Jim Calvery spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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PUBLIC HEARING

CASE NUMBER 20-MVARIANCE-0003

The following spoke in opposition of the request:

No one spoke.

00:23:51 Board Members' deliberation

00:24:38 On a motion by Vice Chair Leanhart, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted;

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the adjacent property to the north of the subject site is also part of the Logistics Airpark development, and there is already an existing approved variance for a building to encroach into the waterway buffer on the subject site. The waterway provides retention/detention and the encroachment does not impact this use, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the area is characterized by large warehouse buildings and parking areas, and there is an existing approved variance for a building to encroach into the waterway buffer. The requested parking lot encroachment into the waterway buffer is comparable to the previously approved encroachment of the building, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the subject site is surrounded by other Logistics Airpark properties, and there is an existing variance on the subject site for a building to encroach into the waterway buffer. The proposed pavement does not appear to pose a hazard or nuisance. The waterway provides retention/detention and the encroachment does not impact this use, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since there is already an existing approved encroachment into the wetland buffer, and the proposed encroachment is similar. The waterway provides retention/detention and the encroachment does not impact this use; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-MVARIANCE-0003 does hereby **APPROVE** Variance from Land Development Code

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PUBLIC HEARING

CASE NUMBER 20-MVARIANCE-0003

Section 4.8 to allow parking to encroach into the 100 foot waterway buffer by a maximum of 42 feet.

The vote was as follows:

Yes: Members Buttorff, Seale, Bond, Jagoe, Vice Chair Leanhart, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0065

Request:	Variance to allow an existing fence to exceed the maximum height requirement in the required Bank Street front yard
Project Name:	Bank Street Variance
Location:	3526 & 3528 Bank Street
Owner(s):	Robert Payne
Applicant:	Robert E. Payne
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	Jon E. Crumbie, 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:

00:27:25 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Robert Payne, 4006 Northwestern Parkway, Louisville, KY 40212

Summary of testimony of those in favor:

00:35:36 Robert Payne spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:46:55 Mr. Payne and Mr. Crumbie responded to questions from the Board Members (see recording for detailed presentation).

00:48:13 Mr. Payne responded to questions from Legal Counsel and the Board Members (see recording for detailed presentation).

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0065

The following spoke in opposition of the request:

No one spoke.

00:54:47 Board Members' deliberation

01:05:06 On a motion by Vice Chair Leanhart, seconded by Member Buttorff, the following resolution, based upon the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the fence would not fit in the area and is not part of the urban neighborhood, and the applicant has not provided sufficient evidence to justify the request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0065 does hereby **DENY** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the front yard in a Traditional Workplace Form District to exceed 42 inches in height.

The vote was as follows:

Yes: Members Buttorff, Seale, Bond, Jagoe, Vice Chair Leanhart, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0109

Request:	Variance for an addition to an existing structure that would allow a private yard area to be less than the required 30% of the area of a lot
Project Name:	Princeton Drive Variance
Location:	1865 Princeton Drive
Owners/Applicants:	Carolyn Cromer & Dean Adams
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

01:09:10 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Carolyn Cromer, 1865 Princeton Drive, Louisville, KY 40205

Summary of testimony of those in favor:

01:13:31 Carolyn Cromer spoke in favor of the request and responded to questions from the Board Members. Ms. Cromer stated they tried to get signatures from adjoining neighbors and they did get two signatures, but two of her neighbors moved in August, and it just didn't feel right to ask them to sign something a week or two before they were moving, so that is why they ended up having to go to Public Hearing (see recording for detailed presentation).

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CASE NUMBER 20-VARIANCE-0109

The following spoke in opposition of the request:

No one spoke.

01:18:37 Board Members' deliberation

01:19:02 On a motion by Member Seale, seconded by Vice Chair 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 requested variance will not adversely affect the public health, safety or welfare, because the proposed addition must be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the proposed deck will not alter the essential character of the general vicinity as it is going to be built on the same footprint as the existing addition and it is on the rear of the structure, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as there is additional open space at the rear of the lot in the accessory structure area that cannot be included in the calculation. If this area could be counted toward the private yard then a variance would not be required; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0109 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot (**Private Yard Area Requirement 2,266 sq. ft., Request 1,105 sq. ft., Variance 1,161 sq. ft.**).

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CASE NUMBER 20-VARIANCE-0109

The vote was as follows:

Yes: Members Buttorff, Seale, Bond, Jagoe, Vice Chair Leanhart, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0115

Request:	Variance to allow a fence in the street side yard setback to exceed 42 inches in height
Project Name:	S. 1st Street Variance
Location:	1301 S. 1st Street
Owner/Applicant:	James Lynd
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

01:21:47 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:

James Lynd, 1301 S. 1st Street, Louisville, KY 40208

Summary of testimony of those in favor:

01:26:39 James Lynd spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:30:27 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0115

01:32:17 On a motion by Member Bond, seconded by Member Seale, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the proposed fence provides enough transparency for motorists and pedestrians. Transportation Planning has not concluded their review yet and their comments will be provided on or before the hearing, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as it was approved by Historic Landmarks and Preservation Commission staff, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the fence is transparent enough to not obstruct sight lines or create a hazard for motorists or pedestrians at the intersection. Transportation Planning has not concluded their review yet and their comments will be provided on or before the hearing, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the fence is slightly over the requirement; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0115 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard setback in a Traditional Neighborhood Form District to exceed 42 inches in height (**Street Side Yard Requirement 42 inches, Request 60 inches, Variance 18 inches**).

The vote was as follows:

Yes: Members Buttorff, Seale, Bond, Jagoe, Vice Chair Leanhart, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 19-CUP-0177

Request: Conditional Use Permit to allow a private proprietary club,
and Variance to allow a proposed structure to exceed the
maximum setback

Project Name: The Venue

Location: 10300 Lower River Road

Owner(s): Valley Hope Center, LLC

Applicant: Valley Hope Center, LLC

Jurisdiction: Louisville Metro

Council District: 14 – Cindi Fowler

Case Manager: Jon E. Crumby, Planning & Design Coordinator

NOTE: Chair Howard stated this case as well as the following two cases are requests for the same property, so they will be heard together (these are Items #6, #7, and #8 on today's agenda).

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:

01:35:09 Jon Crumby presented the cases and showed a Powerpoint presentation. Mr. Crumby responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Mark Madison, 108 Daventry Lane, Louisville, KY 40223
Councilwoman Cindi Fowler, 14206 Pauleys Gap Road, Louisville, KY 40272

Summary of testimony of those in favor:

01:41:36 Mark Madison spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 19-CUP-0177

01:49:41 Councilwoman Cindi Fowler spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:51:35 Board Members' deliberation

01:53:30 On a motion by Vice Chair Leanhart, seconded by Member Seale, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Conditional Use Permit to allow a private proprietary club:

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

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

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal, and

WHEREAS, the Board further finds that:

Private Proprietary Clubs may be located in the 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-1, OR-2, OR-3, OTF, C-R or PTD Districts where such use is compatible in size and scale with surrounding land uses and where the lot contains at least 2 acres upon the granting of a Conditional Use Permit. Tennis centers, racquetball clubs or similar operations requiring large structures to house the facilities shall have a development plan approved by the Planning Commission prior to filing an application for a Conditional Use Permit.

A. All new buildings, structures and facilities shall be at least 30 feet from any property line. **The existing residential single family structure on site is 20.5 feet from the north property line.**

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- B. Outdoor swimming pools shall be enclosed with a fence at least six feet high. **A swimming pool is not proposed for this request.**
- C. All recreation areas or play fields and parking lots shall be separated from adjacent properties by a solid fence or dense evergreen shrubbery plantings at least five feet high. **Recreation areas and play fields are not proposed for this request.**
- D. One sign only may be permitted showing the name and address of the club. An attached sign shall not exceed 30 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building. A free-standing sign shall not exceed 20 square feet in area per side, shall not have more than two sides, and shall not exceed a height of six feet. Either an attached sign or a free-standing sign may be permitted, but not both. No sign shall project into any required yard. The sign may be illuminated but nonflashing. **The applicant has been informed of this requirement;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0177 does hereby **APPROVE** Conditional Use Permit to allow a private proprietary club, with **RELIEF** from Standard 4A because this is an existing structure, and **SUBJECT** to the following Conditions of Approval.

Conditions of Approval:

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

The vote was as follows:

Yes: Members Buttorff, Seale, Bond, Jagoe, Vice Chair Leanhart, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 19-CUP-0177

02:00:22 On a motion by Vice Chair Leanhart, seconded by Member Seale, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from Land Development Code Table 5.3.2 to allow proposed structure to exceed the maximum 80 feet front yard setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the structure will be located away from residential uses, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the structure will be part of an existing development, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the structure will be situated away from residential uses, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the structure will be behind the existing structures on site; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0177 (20-VARIANCE-0025) does hereby **APPROVE** Variance from Land Development Code Table 5.3.2 to allow proposed structure to exceed the maximum 80 feet front yard setback (**Front Yard Setback Requirement 80 feet, Request 510 feet, Variance 430 feet**).

The vote was as follows:

Yes: Members Buttorff, Seale, Bond, Jagoe, Vice Chair Leanhart, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 20-CUP-0052

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit not the primary residence of the host
Project Name:	The Venue
Location:	10300 Lower River Road
Owner(s):	Valley Hope Center, LLC
Applicant:	Valley Hope Center, LLC
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

NOTE: Items #6, #7, and #8 on today's agenda were presented together. Please see testimony beginning on Page 13 of these minutes.

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.

02:03:55 On a motion by Vice Chair Leanhart, seconded by Member Seale, 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

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:

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CASE NUMBER 20-CUP-0052

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. **The applicant has been informed of this requirement.**
- B. The dwelling unit shall be limited to a single short term rental contract at a time. **The applicant has been informed of this requirement.**
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The subject property is 8.5 acres. The applicant states that the residence has three bedrooms that will allow a maximum number of twelve guests.**
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there are no properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11

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

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a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. **The applicant has been informed of this requirement**, now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0052 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host, **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 three bedrooms. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

Yes: Members Buttorff, Seale, Bond, Jagoe, Vice Chair Leanhart, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 20-CUP-0135

Request:	Conditional Use Permit to allow a private institutional use
Project Name:	The Venue
Location:	10300 Lower River Road
Owner(s):	Valley Hope Center, LLC
Applicant:	Valley Hope Center, LLC
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

NOTE: Items #6, #7, and #8 on today's agenda were presented together. Please see testimony beginning on Page 13 of these minutes.

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.

02:06:48 On a motion by Vice Chair Leanhart, seconded by Member Buttorff, 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 meets all applicable policies of the Comprehensive Plan, and

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

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal, and

WHEREAS, the Board further finds that:

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PUBLIC HEARING

CASE NUMBER 20-CUP-0135

Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, **R-4**, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line. **The off-street parking along the north property line is adjacent to C-1 zoning.**
- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. **The proposal has been approved by Public Works/ Transportation Planning. Transportation Planning did not request a traffic study.**
- C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use. **Existing off-street parking is located in front of the existing sanctuary.**
- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0135 does hereby **APPROVE** Conditional Use Permit to allow a private institutional use, with **RELIEF** from Standard 4C because the existing off-street parking is located in front of the existing sanctuary, and **SUBJECT** to the following Conditions of Approval.

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Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100 .237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a private institutional use until further review and approval by the Board.

The vote was as follows:

Yes: Members Buttorff, Seale, Bond, Jagoe, Vice Chair Leanhart, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 20-CUP-0110

Request:	Conditional Use Permit to allow a short term rental of a dwelling that is not the primary residence of the host
Project Name:	722 E. Kentucky St. CUP
Location:	722 East Kentucky Street
Owner:	Nadine Appelt
Attorney:	Michael Marks, Wetterer & Clare Attorneys at Law
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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.

NOTE: At the beginning of today's Public Hearing, Chair Howard stated the applicant has asked to continue this case. Chair Howard requested a motion from the Board to continue this case.

00:09:15 On a motion by Member Bond, seconded by Vice Chair Leanhart, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 20-CUP-0110 to the November 16, 2020 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Buttorff, Seale, Bond, Jagoe, Vice Chair Leanhart, and Chair Howard

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CASE NUMBER 20-CUP-0114

Request:	Conditional Use Permit to allow a short term rental of a dwelling that is not the primary residence of the host
Project Name:	Short Term Rental
Location:	1642 Lucia Avenue
Owner:	Southland Land Trust, by Wayne Gallavin
Attorney:	Chris Morris
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Steve Hendrix, Planning and Design Coordinator

02:10:35 The meeting was recessed.

02:17:00 The meeting was reconvened.

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:

02:17:40 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:

Christopher Morris, 231 Breckenridge Lane, Suite 201, Louisville, KY 40207
Eric Feller, 5702 Rhodes Way, Louisville, KY 40222
Wayne Gallavin, 1156 Bardstown Road, Louisville, KY 40204

Summary of testimony of those in favor:

02:22:39 Christopher Morris spoke in favor of the request (see recording for detailed presentation).

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02:30:56 Eric Feller spoke in favor of the request (see recording for detailed presentation).

02:34:40 Wayne Gallavin spoke in favor of the request and stated he was available to answer any questions (see recording for detailed presentation).

02:35:43 Chair Howard stated for the record that the Board has received several comments in support of this request (see recording for detailed presentation).

The following spoke neither for nor against the request:

Councilman Brandon Coan, 601 W. Jefferson Street, Louisville, KY 40202

Summary of testimony of those neither for nor against:

02:36:41 Councilman Brandon Coan spoke neither for nor against the request. Councilman Coan stated he speaks in favor of the 600 foot rule. Councilman Coan stated there is meant to be some flexibility in the 600 foot rule, but he does not see any good reason in his estimation why the rule should not be applied here. Councilman Coan responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

REBUTTAL:

02:41:31 Christopher Morris spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

02:47:29 Chris French stated another person had called in but lost their connection and now they are back online. Mr. French asked if Chair Howard wanted to accept testimony from the caller. Chair Howard allowed this additional testimony (see recording for detailed presentation).

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Additional testimony:

02:48:34 Herman Prazkier (1355 Bardstown Rd., #217, Louisville, KY 40204) spoke in favor of this request (see recording for detailed presentation).

02:57:05 Board Members' deliberation

02:58:52 On a motion by Member Buttorff, seconded by Vice Chair 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 request does not meet all of the listed requirements and the Conditional Use Permit cannot be approved. The Board further finds there is not compelling evidence to provide relief from Standard 4D; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0114 does hereby **DENY** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host.

The vote was as follows:

Yes: Members Buttorff, Seale, Bond, Jagoe, Vice Chair Leanhart, and Chair Howard

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CASE NUMBER 20-CUP-0118

Request:	Conditional Use Permit to allow a short term rental of a dwelling that is not the primary residence of the host
Project Name:	Short Term Rental
Location:	2201 Strathmoor Boulevard
Owner/Applicant:	Karla Kinderman
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
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:

03:04:32 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:

Karla Kinderman, 1920 Stone Leaf Drive, Tyler, TX 75703
John Kinderman, 2208 Lowell Ave., Louisville, KY 40205

Summary of testimony of those in favor:

03:09:31 Karla Kinderman spoke in favor of the request (see recording for detailed presentation).

03:13:26 John Kinderman spoke in favor of the request (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

03:15:40 Board Members' deliberation

03:18:13 On a motion by Vice Chair Leanhart, seconded by Member Seale, 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

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:

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

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excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The dwelling has four bedrooms which will allow for ten guests. However, the owner is limiting the number of guests to six, except during Derby or special occasions.**

- 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. **There are no other short term rentals within 600 feet.**
- 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. **The applicant has been informed of this requirement.**
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **The property has more than ample room for parking on the 84 foot long driveway off Lowell Avenue that includes a parking pad. The garage is not being offered.**

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0118 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host, **SUBJECT** to the following Condition of Approval.

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Condition of Approval:

1. The Conditional Use Permit for this short term rental approval shall allow up to four bedrooms. A modification of the Conditional Use Permit shall be required to allow additional bedrooms.

The vote was as follows:

Yes: Members Buttorff, Seale, Bond, Jagoe, Vice Chair Leanhart, and Chair Howard

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CASE NUMBER 20-CUP-0122

Request:	Conditional Use Permit to allow an accessory apartment in a R-5 zoning district
Project Name:	Accessory Apartment
Location:	312 South Bayly Avenue
Owner/Applicant:	The Janis W. Uhl Living Trust, by Janis Uhl
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
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:

03:21:24 Steve Hendrix presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke favor of the request:

Janis Uhl, 312 S. Bayly Ave., Louisville, KY 40206
Kirk Kandle, 332 S. Bayly Ave., Louisville, KY 40206
Ashley Kandle, 332 S. Bayly Ave., Louisville, KY 40206

Summary of testimony of those in favor:

03:23:42 Janis Uhl spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:27:36 Kirk Kandle spoke in favor of the request (see recording for detailed presentation).

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03:29:45 Ashley Kandle spoke in favor of the request (see recording for detailed presentation).

03:30:08 Chris French stated he had received a statement in support on the Chat function from Michelle Warner but she did not want to speak (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

03:31:09 Board Members' deliberation

03:32:00 On a motion by Vice Chair Leanhart, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

WHEREAS, the Board further finds that the proposal is compatible with surrounding development, 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:

Accessory Apartments may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5 and U-N districts up on the granting of a conditional use permit and compliance with the listed requirements. There are four listed requirements and all have been met.

- A. The principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises. **The property owners will reside in the principal dwelling.**

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- B. The accessory apartment shall be no greater than 650 sq. ft or 30% of the floor area of the principal residence, whichever is greater. **The proposed accessory apartment is 605 square feet.**
- C. If the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation, unless the Board approves a differing height. In all other form districts, if the freestanding structure is located within 25 feet of a property line, the height of the structure shall not exceed the average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is appropriate. **The proposal meets the guidelines of the Traditional Neighborhood Form District .**
- D. Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows:
1. Neighborhood Form District - at least three off-street spaces provided on the lot, no more than two spaces outdoors;
 2. **Traditional Neighborhood** - at least one off-street space provided on the lot; and
 3. Other form districts - at least two off-street spaces provided on the lot; the Board may require additional parking spaces as appropriate. **The site is within a Traditional Neighborhood and has parking on street and the garage;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0122 does hereby **APPROVE** Conditional Use Permit to allow an accessory apartment in an R-5 Zoning District, **SUBJECT** to the following Conditions of Approval.

Conditions of Approval:

1. The proposal 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 proposal shall not be used for an accessory apartment without further review and approval by the Board.

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The vote was as follows:

Yes: Members Buttorff, Seale, Bond, Jagoe, Vice Chair Leanhart, and Chair Howard

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03:33:47 Prior to adjournment, Chris French reminded the Board Members the next Board of Zoning Adjustment meeting will be next Monday. Staff and Board Members discussed the listening sessions for the Land Development Code, Group Housing, and Missing Middle Housing (see recording for detailed presentation).

The meeting adjourned at approximately 4:40 p.m.

DocuSigned by:

Lula Howard

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Chair

DocuSigned by:

Rick Buttonff

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Secretary