

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

**January 24, 2022**

A meeting of the Louisville Metro Board of Zoning Adjustment was held on January 24, 2022 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

**Members Present:**

Lula Howard, Chair  
Sharon Bond, Secretary  
Brandt Ford  
Yani Vozos  
Kimberly Leanhart

**Members Absent:**

Richard Buttorff, Vice Chair

**Staff Members Present:**

Emily Liu, Planning & Design Director  
Joe Reverman, Planning & Design Assistant Director  
Joe Haberman, Planning & Design Manager  
Brian Davis, Planning & Design Manager  
Heather Pollock, Planner I  
Zach Schwager, Planner I  
Priscilla Bowman, Associate Planner  
Tara Sorrels, Associate Planner  
Clara Schweiger, Associate Planner  
Dave Marchal, Deputy Director, Develop Louisville  
Joel Dock, Planning Coordinator  
Andrea Luago, Planning Supervisor  
Laura Ferguson, 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 January 10, 2022 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**JANUARY 10, 2022 BOARD OF ZONING ADJUSTMENT MEETING MINUTES**

**00:05:07** On a motion by Member Leanhart, seconded by Member Vozos, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the January 10, 2022 Board of Zoning Adjustment online meeting.

**The vote was as follows:**

**Yes: Members Vozos, Leanhart, and Chair Howard**

**Abstain: Members Ford, and Bond**

**Absent: Vice Chair Buttorff**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**CASE NUMBER 21-APPEAL-0008**

Request:	Appeal of Administrative Official
Project Name:	Shelbyville Rd Billboard Appeal
Location:	7905 Shelbyville Rd
Owner/Appellant:	Robert K. Montgomery / Outfront Media, LLC
Representative:	Christopher Booker
Jurisdiction:	City of Lyndon
Council District:	18 – Marilyn Parker
Case Manager:	Joseph Haberman, AICP, Planning & Design Manager

**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:**

**00:06:33** Joe Haberman stated unrelated to the appeal, it just came to his attention that a sign was posted for a variance that is not on today's agenda, it was on a preliminary agenda. Mr. Haberman stated that 21-VARIANCE-0170, 307 Dogwood Lane, is not on today's agenda and that those in attendance for that case should not expect it to be heard.

Mr. Haberman stated regarding this appeal, it has been determined that the Notice of Violation had some errors on it, and they decided to rescind that Notice of Violation, which made this appeal hearing moot, so they will not be hearing it today and no action is required by the Board (see recording for detailed presentation).

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**PUBLIC HEARING**

**CASE NUMBER 21-VARIANCE-0160**

Request:	Variance to allow a fence to exceed the maximum height in the street side yard setback
Project Name:	Deyoung Fence Variance
Location:	6009 Bardstown Road
Owner/Applicant:	Beth Deyoung
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
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 5<sup>th</sup> 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:**

**00:09:04** Heather Pollock presented the case and showed a Powerpoint presentation. Ms. Pollock responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Beth DeYoung, 6007 and 6009 Bardstown Road, Louisville, KY 40291

**Summary of testimony of those in favor:**

**00:14:00** Beth DeYoung spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**00:19:30** Joe Haberman stated the previous owner was issued a Notice of Violation and a Citation with a \$100 fine and it is his understanding that Ms. DeYoung purchased the property after that. Mr. Haberman stated fines don't carry forward to the new owner unless there's liens, but the violation carried forward to the new owner, and it's his understanding that this variance, if granted, will resolve the violation (see recording for detailed presentation).

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**PUBLIC HEARING**

**CASE NUMBER 21-VARIANCE-0160**

**The following spoke in opposition of the request:**

No one spoke.

**00:22:00      Board Members' deliberation**

**00:22:27**      On a motion by Member Vozos, 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 requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all building codes, including fire codes. The existing fence is set back 2 ft. from the property line and down on the other side of a ditch from the roadway, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity; while there are no similar fences in the area, this property is adjacent to a busy major arterial roadway and commercial uses, 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 the fence is standard height for a privacy fence; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0160 does hereby **APPROVE** Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 48 inches in height in the street side yard setback (**Street Side Fence Height Requirement 48 in., Request 72 in., Variance 24 in.**).

**The vote was as follows:**

**Yes: Members Ford, Bond, Leanhart, Vozos, and Chair Howard**  
**Absent: Vice Chair Buttorff**

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**PUBLIC HEARING**

**CASE NUMBER 21-VARIANCE-0166**

Request:	Variance to allow a structure to encroach into the required side yard setbacks
Project Name:	Ash Street Variance
Location:	844 Ash Street
Owner:	Lauren Ingram & Aaron Nusz
Applicant:	Craig Barnes
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
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 5<sup>th</sup> 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:**

**00:24:54** 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:**

Craig Barnes, 145 Carter Avenue, Louisville, KY 40229  
Aaron Nusz, 844 Ash Street, Louisville, KY

**Summary of testimony of those in favor:**

**00:29:27** Craig Barnes spoke in favor of the request and responded to questions from the Board Members. Mr. Barnes stated both adjoining properties are rentals, and he has asked the residents to have the homeowners contact him and he has not received any communication or concerns from them. Mr. Barnes stated the residents have not expressed any concerns during his conversations with them (see recording for detailed presentation).

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**CASE NUMBER 21-VARIANCE-0166**

**00:31:19** Joe Haberman responded to a question from Member Vozos regarding accessing neighboring properties. Laura Ferguson, Legal Counsel, added that approving a variance does not give the applicant the right to trespass on his neighbor's property. Ms. Ferguson stated that staff has been flagging this as part of the staff report and encouraging people to get letters up front, so they don't do through the process and at the point of getting ready to build now it's a problem getting access to your neighbor's property. Ms. Ferguson stated communication is encouraged early on because if it's going to be a problem it's better to know sooner (see recording for detailed presentation).

**00:35:36** Aaron Nusz 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.

**00:37:39 Board Members' deliberation**

**00:39:40** On a motion by Member Bond, seconded by Member Vozos, 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 variances 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; however, staff is concerned that the variances could adversely affect the adjacent property owners because construction and maintenance of the structure may require encroachment onto the adjacent properties, and

**WHEREAS**, the Board further finds that the requested variances will not alter the essential character of the general vicinity as there are multiple other properties in the area with similar designs. The addition will also be setback the same distance from the property line as the existing structure, and

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

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**CASE NUMBER 21-VARIANCE-0166**

**WHEREAS**, the Board further finds that the requested variances will not allow an unreasonable circumvention of the zoning regulations as the subject property is only 25 ft. in width and the addition will not encroach any further than the existing structure; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0166 does hereby **APPROVE** Variances from Land Development Code section 5.1.10.F to allow a structure to encroach into the required side yard setbacks, with **RELIEF** from Standard A (**Western Side Yard Requirement 2.5. ft., Request 0.5 ft., Variance 2 ft.; Eastern Side Yard Requirement 2.5 ft., Request 0 ft., Variance 2.5 ft.**).

**The vote was as follows:**

**Yes: Members Ford, Bond, Leanhart, Vozos, and Chair Howard**

**Absent: Vice Chair Buttorff**



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**CASE NUMBER 21-VARIANCE-0168**

Request:	Variance to allow a private yard area to be less than the required 30% of the area of the lot and for a structure to encroach into the required side yard setback
Project Name:	Alta Avenue Variance
Location:	2107 Alta Avenue
Owner:	AMT Holdings 2107, LLC
Applicant:	Charlie Williams – Charlie Williams Design
Jurisdiction:	Louisville Metro
Council District:	8 – Cassie Chambers Armstrong
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 5<sup>th</sup> 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:**

**00:42:57** 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:**

Charlie Williams, 1626 Windsor Place, Louisville, KY 40204

**Summary of testimony of those in favor:**

**00:48:11** Charlie Williams 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.

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**PUBLIC HEARING**

**CASE NUMBER 21-VARIANCE-0168**

**00:54:26      Board Members' deliberation**

**00:55:13**      On a motion by Member Ford, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

**Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of the lot:**

**WHEREAS**, the 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 requested variance will not alter the essential character of the general vicinity as the development pattern is varied regarding setbacks and lot sizes, 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 the current private yard area does not meet the requirement and the structure is located at the rear of the lot; and,

**Variance from Table 5.2.2 for a structure to encroach into the required side 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, because the proposed addition must be constructed to comply with all building codes, including fire codes, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the development pattern is varied regarding setbacks and lot sizes, and

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**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 the development pattern is varied regarding setbacks; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0168 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 the lot and a variance from Table 5.2.2 for a structure to encroach into the required side yard setback **(Private Yard Area Requirement 2,903 sq. ft., Request 0 sq. ft., Variance 2,903 sq. ft.; East Side Yard Requirement 3 ft., Request 1 ft., Variance 2 ft.)**.

**The vote was as follows:**

**Yes: Members Ford, Bond, Leanhart, Vozos, and Chair Howard**

**Absent: Vice Chair Buttorff**

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**CASE NUMBER 21-VARIANCE-0171**

Request:	Variance to allow an addition to the principal structure to encroach into the side yard setback
Project Name:	State Street Variance
Location:	156 State Street
Owner/Applicant:	Andrew Shelburne & Emily Hughes
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
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 5<sup>th</sup> 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:**

**00:58:14** Heather Pollock presented the case and showed a Powerpoint presentation. Ms. Pollock stated the applicant has submitted letters of support from neighbors to the left and the right, and across the alley to the rear (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Andrew Shelburne and Emily Hughes, 156 State Street, Louisville, KY 40206

**Summary of testimony of those in favor:**

**01:02:38** Chair Howard swore in Mr. Shelburne and Ms. Hughes at the same time. Andrew Shelburne spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**The following spoke neither for nor against the request:**

Mike O'Leary, 1963 Payne Street, Louisville, KY 40206

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**CASE NUMBER 21-VARIANCE-0171**

**Summary of testimony of those neither for nor against:**

**01:07:26** Mike O'Leary stated he wanted to be on record that this building of the deck and the extension were all done without permit. Mr. O'Leary stated the Certificate of Appropriateness was issued after the fact. Mr. O'Leary stated he is neutral, and he hopes the variance is approved, but he wanted to go on record that these folks did all of this major renovation without permit (see recording for detailed presentation).

**The following spoke in opposition of the request:**

No one spoke.

**REBUTTAL:**

**01:09:32** Mr. Shelburne stated they have had the building inspector come out and he made a few minor adjustments and the plumbing inspection has come back and was approved. Mr. Shelburne stated they apologize for not taking the correct channels. Mr. Shelburne responded to a question from Mr. O'Leary and questions from the Board Members (see recording for detailed presentation).

**01:12:59 Board Members' deliberation**

**01:13:57** On a motion by Member Vozos, seconded by Member Ford, 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 structure must be constructed to comply with all building codes, including fire codes; however, staff is concerned that the variance could adversely affect the adjacent property owner because maintenance of the structure may require encroachment onto the property, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the addition will encroach the same distance as the existing structure. Additionally, the addition has already received a Certificate of Appropriateness, and

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**CASE NUMBER 21-VARIANCE-0171**

**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 the addition will not encroach any further than the existing structure; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0163 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a principal structure to encroach into the side yard setback, with **RELIEF** from Standard A (**Side Yard Requirement 3 ft., Request 0 ft., Variance 3 ft.**).

**The vote was as follows:**

**Yes: Members Ford, Bond, Vozos, and Chair Howard**

**No: Member Leanhart**

**Absent: Vice Chair Buttorff**

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**CASE NUMBER 21-CUP-0156**

Request:	Conditional use permit to allow a rehabilitation home in a single-family zoning district and a waiver to not provide the landscape buffer areas
Project Name:	The Revolution in Counseling – McKiernan Hall
Location:	1043 S. Jackson Street
Owner/Applicant:	Sober Living Communities, LLC – David Tarullo
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 5<sup>th</sup> 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.**

**01:16:11** Chair Howard asked if this case and the following case could be heard together. Laura Ferguson, Legal Counsel, stated there is a building in between the two of them. Joe Haberman, Planning & Design Manager, stated that while they are operated currently together that may not always be that way, so in theory a different operator could come in on one or the other property, so it might be best to hear them separately. Chair Howard stated she asked because there was one justification for both cases (see recording for detailed presentation).

**Agency testimony:**

**01:18:23** Zach Schwager presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

**The following spoke in favor of the request:**

Jon Baker, 400 West Market Street, Suite 2000, Louisville, KY  
Chris Brown, 3001 Taylor Springs Drive, Louisville, KY 40220  
David Tarullo, 1043 S. Jackson Street, Louisville, KY 40203  
Tim Schladand, 5003 Marina Cove, Prospect, KY 40059

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**PUBLIC HEARING**

**CASE NUMBER 21-CUP-0156**

**Summary of testimony of those in favor:**

**01:25:56** Chair Howard swore in Mr. Baker, Mr. Brown, and Mr. Tarullo at the same time. Jon Baker stated due to the similarities in the facilities, the proximity to one another and because they are operated by the same operator, they have them grouped together on one presentation. Mr. Baker asked if the next case could be called too, so that this presentation is in the record for both cases, or after this case concludes we can call the second case and say, "see the first case". Joe Haberman stated he would defer to Laura, but he does not know where we've done this for non-contiguous properties. Laura Ferguson stated as long as we take separate action at the end and are careful when speakers are called to explain whether it's for one case or both cases, that would help keep it cleaner, but she thinks we could take the two together. Joe Haberman stated if we're going in this direction, he would ask Zach if he would have anything to add about the other property that he wouldn't have already presented. Zach Schwager stated he would go ahead and pull up his presentation for the next case. Chair Howard noted the case numbers for the waivers for both of these cases (see recording for detailed presentation).

**Agency testimony (for Case Number 21-CUP-0157):**

**01:29:55** Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see recording for detailed presentation).

**Summary of testimony of those in favor (21-CUP-0156 AND 21-CUP-0157):**

**01:36:05** Jon Baker spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

**01:45:31** Chris Brown spoke in favor of the request and reviewed the site plan (see recording for detailed presentation).

**01:49:25** David Tarullo spoke in favor of the request. Mr. Tarullo discussed his background and explained the services that would be provided (see recording for detailed presentation).

**02:00:34** Jon Baker stated they held their neighborhood meeting on the 31<sup>st</sup> of August, and despite sending out over 107 notifications they did not have anyone attend the meeting. Mr. Baker stated David and the previous owners have been able to



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operate without issue. Mr. Baker and Mr. Tarullo responded to questions from the Board Members (see recording for detailed presentation).

**02:10:45** Zach Schwager stated the reason it's here today is to bring both properties into compliance. Mr. Schwager stated they don't currently have a Conditional Use Permit, so they are here today to bring them into compliance (see recording for detailed presentation).

**02:11:31** Mr. Tarullo responded to questions from Member Vozos regarding the number of participants and their policy on guests (see recording for detailed presentation).

**02:16:23** Tim Schladand spoke in favor of the requests (see recording for detailed presentation).

**02:19:45** Joe Haberman stated in the past staff may not have put a number on occupancy, but the new ordinance requires that that kind of detail be approved by the Board, and any changes to that in the future come back before the Board. Mr. Haberman stated that's why that number is there. Mr. Haberman stated staff would support what the property maintenance requirements allow. Mr. Haberman responded to questions from the Board Members. Mr. Schwager clarified his presentation regarding occupancy (see recording for detailed presentation).

**02:23:27** Mr. Tarullo responded to a question from Board Member Bond clarifying that their occupancy request is eleven (see recording for detailed presentation).

**02:23:52** Joe Haberman stated staff would not object to that, so long as the property maintenance code allows it, and as far as the breakdown, as far as residents versus employees, he doesn't think we need that because the code is clear that this type of facility needs 24 hour supervision. Chair Howard stated that would be for both facilities. Mr. Haberman responded to questions from the Board Members (see recording for detailed presentation).

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

**02:25:42 Board Members' deliberation**

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**CASE NUMBER 21-CUP-0156**

**02:29:08** On a motion by Member Vozos, seconded by Member Leanhart, 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 rehabilitation home in the R-8A Residential Multi-Family Zoning District (LDC 4.2.31):**

**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:

Rehabilitation Homes may be allowed in any zoning district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All bedrooms and sleeping areas shall meet the current occupancy limitations required in LMCO and any applicable building, fire, or life safety code. **Staff observed four bedrooms during the site visit. The size of the bedrooms limits the capacity to nine participants and one live-in manager.**
- B. Nonresidential uses and services, excluding those that are accessory to the Rehabilitation Home use, shall not be carried out unless otherwise permitted and approved as a separate use. **The applicant is aware of this requirement.**
- C. When reviewing a conditional use permit application for a Rehabilitation Home, the BOZA shall, to the best of its abilities, find that the establishment of the use will not result in harm to the health, safety, or general welfare of the surrounding neighborhood. The property on which a Rehabilitation Home is situated shall not be located closer than 1,000 feet (measured in a straight line from nearest property line to nearest property line) to any property on which another Commercial Boarding House, Rehabilitation Home, or Transitional Housing use that has been approved by a conditional use permit is situated. **As of the date of this report there are two properties within 1,000 ft. of the subject property with an approved conditional**

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**use permit allowing another Commercial Boarding House, Rehabilitation Home, or Transitional Housing use. The applicant will therefore need relief from this requirement. The applicant's justification for relief can be found on page 3 in the Letter of Explanation attached to the agenda item.**

- D. A Rehabilitation Home shall meet the health, sanitation, structural, property maintenance, fire, and life safety requirements of any currently applicable federal, state, and local laws. **The applicant is aware of this requirement.**
- E. A Rehabilitation Home shall provide appropriate 24-hour supervision of its residents and adequate support services for its residents. **The rehabilitation home will provide 24-hour supervision of its residents and adequate support services.**
- F. Additional Residential Zoning District Standards:
1. A Rehabilitation Home in a single-family residential zoning district (R-R, R-E, R-1, R-2, R-3, R-4, R-5, or U-N) shall have a maximum of four (4) residents. The maximum number of residents of a Rehabilitation Home in a multi-residential zoning district (R-5A, R-5B, R-6, R-7, or R-8A) shall be determined by the BOZA. **The subject property is zoned R-8A Residential Multi-Family, therefore, the BOZA must determine the maximum number of residents. The applicant has requested up to 10 men to be able to participate in the program at a time.**
  2. Any building in which the Rehabilitation Home use is situated shall be residential in design and appearance. **The rehabilitation home is residential in design and appearance.**
  3. New construction within an area having an established front building setback shall be constructed at the average setback line or the minimum front yard of the form district, whichever is less. Structures adjacent to established residential uses shall increase side yards by 10 feet for each story over two (2). **No new construction is proposed.**
  4. The required parking for the use is set forth in Chapter 9 of this Land Development Code. The BOZA may require additional parking if warranted. **Transportation Planning has reviewed and approved the plan. The subject property does not have any off-street parking but has one on-street space and the participants must use a transportation company and pay a transportation fee. The applicant has also applied for a parking waiver that can be approved at staff level.**

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5. Signage for the use is permitted in accordance with Chapter 8 of this Land Development Code. The BOZA may further restrict signage if warranted. **No signage is proposed.**

G. Additional Nonresidential Zoning District Standards:

1. The maximum number of residents of a Rehabilitation Home in a nonresidential zoning district shall be determined by the BOZA.
2. The parking requirements for the use are set forth in Chapter 9 of this Land Development Code. The BOZA may require additional or restrict parking if warranted.
3. Signage for the use is permitted in accordance with Chapter 8 of this Land Development Code. The BOZA may further restrict signage if warranted.

**Item G. does not apply. The property is not located in a nonresidential zoning district.**

- H. For a complete application submittal for any Rehabilitation Home conditional use permit, in addition to the documentation required of all conditional use permit applications, the following additional information shall be provided:

1. Type of resident population to be served, if any; **Men participating in long-term substance addiction treatment services.**
2. The maximum number of residents/beds and maximum number of employees; **Maximum number of beds will be 10 and the maximum number of employees on site at any given time shall be one.**
3. Floor plans of any building subject to the use (showing the location and dimensions of all bedrooms and sleeping areas); **Floor plans have been provided by the applicant.**
4. A written statement, plans, and/or permits indicating how any building subject to the application meets or will be adapted to meet all applicable building codes for the use if approved; **The applicant is aware of this requirement.**
5. Rules of conduct and management plan. In the event a conditional use permit for a rehabilitation home is approved, any change to the foregoing information must be approved by the BOZA as a modification pursuant to Section 11.5A.1 of this Land Development Code. **The applicant has submitted the rules of conduct and management plan.**

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**PUBLIC HEARING**

**CASE NUMBER 21-CUP-0156**

I. If a Rehabilitation Home with an approved conditional use permit is subject to two (2) or more substantiated civil and/or criminal complaints within a 12 month period, the Planning Director may request that the BOZA revoke the conditional use permit in accordance with Section 11.5A.6 of this Land Development Code. 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 is aware of this requirement.**

J. An active license of the Rehabilitation Home, as required by LMCO Chapter 115, shall be maintained. No such housing may take place unless the license is active and in the name of the current operator and property owner. If the license is not renewed and lapses for six (6) months, or in the event of a change in ownership and/or operator, a new license is not issued within six (6) months from the date of the change, the conditional use permit shall become null and void. In order to recommence any Rehabilitation Home use, a new conditional use permit must be granted if required. **The applicant is aware of this requirement;** now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0156 does hereby **APPROVE** Conditional Use Permit to allow a rehabilitation home in the R-8A Residential Multi-Family Zoning District (LDC 4.2.31) with **RELIEF** from Standard C because this facility has been in existence for many years with no harm or negative affects to the surrounding neighborhood, 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 rehabilitation home use until further review and approval by the Board.
3. Prior to lawful commencement of the rehabilitation home use the applicant shall obtain all permits and necessary approvals required by the Office of Construction Review and other governmental agencies.

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4. Maximum full-time occupancy shall be limited to 11 persons, or the maximum allowed by the property maintenance code (the persons include ten residents and one live-in manager).

**The vote was as follows:**

**Yes: Members Ford, Bond, Leanhart, Vozos, and Chair Howard**

**Absent: Vice Chair Buttorff**

**02:34:11** On a motion by Member Vozos, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

**Landscape Waiver to not provide the perimeter landscape buffer areas:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, as there is no new development of the site, and

**WHEREAS**, the Board further finds that the waiver will not violate Plan 2040 since the site is residential in design and appearance and is only 24 feet wide and 0.14 acres, 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, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land. The landscape buffer would take up the entire site; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0156 (21-WAIVER-0158) does hereby **APPROVE** Landscape Waiver to not provide the perimeter landscape buffer areas.

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**CASE NUMBER 21-CUP-0156**

**The vote was as follows:**

**Yes: Members Ford, Bond, Leanhart, Vozos, and Chair Howard**

**Absent: Vice Chair Buttorff**

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**PUBLIC HEARING**

**CASE NUMBER 21-CUP-0157**

Request:	Conditional use permit to allow a rehabilitation home in a single-family zoning district and a waiver to not provide the landscape buffer areas
Project Name:	The Revolution in Counseling – Ignatius Hall
Location:	1039 S. Jackson Street
Owner/Applicant:	Sober Living Communities, LLC – David Tarullo
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 5<sup>th</sup> 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: This case was heard in conjunction with Case Number 21-CUP-0156. Please see pages 15 through 23 of these minutes for testimony.**

**02:37:33** On a motion by Member Vozos, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, the owner's justification statements, and the testimony heard today, was adopted:

**Conditional Use Permit to allow a rehabilitation home in the R-8A Residential Multi-Family Zoning District (LDC 4.2.31):**

**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



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**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:

Rehabilitation Homes may be allowed in any zoning district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All bedrooms and sleeping areas shall meet the current occupancy limitations required in LMCO and any applicable building, fire, or life safety code. **Staff observed four bedrooms during the site visit. The size of the bedrooms limits the capacity to nine participants and one live-in manager.**
- B. Nonresidential uses and services, excluding those that are accessory to the Rehabilitation Home use, shall not be carried out unless otherwise permitted and approved as a separate use. **The applicant is aware of this requirement.**
- C. When reviewing a conditional use permit application for a Rehabilitation Home, the BOZA shall, to the best of its abilities, find that the establishment of the use will not result in harm to the health, safety, or general welfare of the surrounding neighborhood. The property on which a Rehabilitation Home is situated shall not be located closer than 1,000 feet (measured in a straight line from nearest property line to nearest property line) to any property on which another Commercial Boarding House, Rehabilitation Home, or Transitional Housing use that has been approved by a conditional use permit is situated. **As of the date of this report there are two properties within 1,000 ft. of the subject property with an approved conditional use permit allowing another Commercial Boarding House, Rehabilitation Home, or Transitional Housing use. The applicant will therefore need relief from this requirement. The applicant's justification for relief can be found on page 3 in the Letter of Explanation attached to the agenda item.**
- D. A Rehabilitation Home shall meet the health, sanitation, structural, property maintenance, fire, and life safety requirements of any currently applicable federal, state, and local laws. **The applicant is aware of this requirement.**
- E. A Rehabilitation Home shall provide appropriate 24-hour supervision of its residents and adequate support services for its residents. **The rehabilitation home will provide 24-hour supervision of its residents and adequate support services.**
- F. Additional Residential Zoning District Standards:

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1. A Rehabilitation Home in a single-family residential zoning district (R-R, R-E, R-1, R-2, R-3, R-4, R-5, or U-N) shall have a maximum of four (4) residents. The maximum number of residents of a Rehabilitation Home in a multi-residential zoning district (R-5A, R-5B, R-6, R-7, or R-8A) shall be determined by the BOZA. **The subject property is zoned R-8A Residential Multi-Family, therefore, the BOZA must determine the maximum number of residents. The applicant has requested up to 10 men to be able to participate in the program at a time.**
  2. Any building in which the Rehabilitation Home use is situated shall be residential in design and appearance. **The rehabilitation home is residential in design and appearance.**
  3. New construction within an area having an established front building setback shall be constructed at the average setback line or the minimum front yard of the form district, whichever is less. Structures adjacent to established residential uses shall increase side yards by 10 feet for each story over two (2). **No new construction is proposed.**
  4. The required parking for the use is set forth in Chapter 9 of this Land Development Code. The BOZA may require additional parking if warranted. **Transportation Planning has reviewed and approved the plan. The subject property does not have any off-street parking but has one on-street space and the participants must use a transportation company and pay a transportation fee. The applicant has also applied for a parking waiver that can be approved at staff level.**
  5. Signage for the use is permitted in accordance with Chapter 8 of this Land Development Code. The BOZA may further restrict signage if warranted. **No signage is proposed.**
- G. Additional Nonresidential Zoning District Standards:
1. The maximum number of residents of a Rehabilitation Home in a nonresidential zoning district shall be determined by the BOZA.
  2. The parking requirements for the use are set forth in Chapter 9 of this Land Development Code. The BOZA may require additional or restrict parking if warranted.
  3. Signage for the use is permitted in accordance with Chapter 8 of this Land Development Code. The BOZA may further restrict signage if warranted.

**Item G. does not apply. The property is not located in a nonresidential zoning district.**

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H. For a complete application submittal for any Rehabilitation Home conditional use permit, in addition to the documentation required of all conditional use permit applications, the following additional information shall be provided:

1. Type of resident population to be served, if any; **Men participating in long-term substance addiction treatment services.**
2. The maximum number of residents/beds and maximum number of employees; **Maximum number of beds will be 10 and the maximum number of employees on site at any given time shall be one.**
3. Floor plans of any building subject to the use (showing the location and dimensions of all bedrooms and sleeping areas); **Floor plans have been provided by the applicant.**
4. A written statement, plans, and/or permits indicating how any building subject to the application meets or will be adapted to meet all applicable building codes for the use if approved. **The applicant is aware of this requirement.**
5. Rules of conduct and management plan. In the event a conditional use permit for a rehabilitation home is approved, any change to the foregoing information must be approved by the BOZA as a modification pursuant to Section 11.5A.1 of this Land Development Code. **The applicant has submitted the rules of conduct and management plan.**
  - I. If a Rehabilitation Home with an approved conditional use permit is subject to two (2) or more substantiated civil and/or criminal complaints within a 12 month period, the Planning Director may request that the BOZA revoke the conditional use permit in accordance with Section 11.5A.6 of this Land Development Code. 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 is aware of this requirement.**
- J. An active license of the Rehabilitation Home, as required by LMCO Chapter 115, shall be maintained. No such housing may take place unless the license is active and in the name of the current operator and property owner. If the license is not renewed and lapses for six (6) months, or in the event of a change in ownership and/or operator, a new license is not issued within six (6) months from the date of the change, the conditional use permit shall become null and void. In order to recommence any Rehabilitation Home use, a new conditional use permit must be granted if required. **The applicant is aware of this requirement,** and

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**WHEREAS**, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0157 does hereby **APPROVE** Conditional Use Permit to allow a rehabilitation home in the R-8A Residential Multi-Family Zoning District (LDC 4.2.31), with **RELIEF** from Standard C based on the applicant's justification statement, 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 rehabilitation home use until further review and approval by the Board.
3. Prior to lawful commencement of the rehabilitation home use the applicant shall obtain all permits and necessary approvals required by the Office of Construction Review and other governmental agencies.
4. Maximum full-time occupancy shall be limited to 11 persons, or the maximum allowed by the property maintenance code (the persons include ten residents and one live-in manager).

**The vote was as follows:**

**Yes: Members Ford, Bond, Leanhart, Vozos, and Chair Howard**

**Absent: Vice Chair Buttorff**

**02:40:20** On a motion by Member Vozos, seconded by Member Ford, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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**CASE NUMBER 21-CUP-0157**

**Landscape Waiver to not provide the perimeter landscape buffer areas:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, as there is no new development of the site, and

**WHEREAS**, the Board further finds that the waiver will not violate Plan 2040 since the site is residential in design and appearance and is only 24 feet wide and 0.14 acres, 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, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land. The landscape buffer would take up the entire site; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0157 (21-WAIVER-0152) does hereby **APPROVE** Landscape Waiver to not provide the perimeter landscape buffer areas.

**The vote was as follows:**

**Yes: Members Ford, Bond, Leanhart, Vozos, and Chair Howard**

**Absent: Vice Chair Buttorff**

**02:42:56 Meeting was recessed.**

**02:43:56 Meeting was reconvened.**

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**CASE NUMBER 21-CUP-0196**

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:	Garden Cottage
Location:	171 Pennsylvania Avenue
Owner/Applicant:	Claudia Foulkes
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
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 5<sup>th</sup> 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:**

**02:44:34** 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:**

Claudia Foulkes, 171 Pennsylvania Ave., Louisville, KY 40206  
John Albright, 201 Pennsylvania Ave., Louisville, KY 40206

**Summary of testimony of those in favor:**

**02:50:16** Claudia Foulkes spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**02:56:06** John Albright spoke in favor of the request (see recording for detailed presentation).

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**02:57:39** Claudia Foulkes stated that Mr. Albright lives on the side of her house, as you can see in the aerial views, there's another building out there. Ms. Foulkes stated hers is the tiny little one and his is the bigger one. Ms. Foulkes stated he's the closest being affected by that being rented space and if it's not bothering him, she feels like she's not going to bother anybody. Ms. Foulkes responded to questions from the Board Members (see recording for detailed presentation).

**The following spoke in opposition of the request:**

No one spoke.

**02:59:32 Board Members' deliberation**

**02:59:42** On a motion by Member 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 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. No exterior construction or alterations to the building or the site are required, and

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

**WHEREAS**, the Board further finds that:

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

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- 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. **According to the applicant, there will be one bedroom; LDC regulations permit up to four 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 is one property with an approved conditional use permit for a non-host occupied short term rental within 600 ft. of the subject property. The applicant will need relief from this requirement. Staff discussed the possibility of proposed condition of approval #2 as one way to mitigate the 600 ft. rule issue and the applicant agreed.**
- 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 dwelling unit is a single-family residence.**



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- F. Food and alcoholic beverages shall not be served by the host to any guest. **The applicant has been informed of this requirement.**
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **LDC standards credit the site with one on-street parking space and there is parking for three cars in the driveway. In addition, there appears to be available parking in the area.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. **The applicant has been informed of this requirement.**
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. **The applicant has been informed of this requirement.**
- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. **The proposed ADU is a conversion of an existing structure, therefore, additional time is needed for the conversion to be completed. This conversion will take longer than 30 days so relief will need to be granted. Staff has proposed a condition of approval that would allow up to six (6) months for the short term rental to be registered.**
- 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

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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 21-CUP-0196 does hereby **APPROVE** Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host (LDC 4.2.63), with **RELIEF** from Standard 4D, and **SUBJECT** to the following Conditions of Approval. Conditions of Approval:

1. The conditional use permit approval for this short term rental shall be allowed up to one bedroom. A modification of the conditional use permit shall be required to allow additional bedrooms.
2. The host of record for the short term rental shall maintain his or her primary residence in one of the two dwelling units on the subject property. In the event that the host establishes primary residence on another property he or she must immediately cease conducting short term rentals of both units on the subject property. A new Conditional Use Permit shall be required to allow for short term rental of any unit on the property that is not the primary residence of the host.
3. 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 six (6) months of the issuance of the conditional use permit, the permit shall become null and void.

**The vote was as follows:**

**Yes: Members Ford, Bond, Leanhart, Vozos, and Chair Howard**

**Absent: Vice Chair Buttorff**

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**PUBLIC HEARING**

**CASE NUMBER 21-CUP-0197**

Request:	Conditional Use Permit to allow an accessory dwelling unit to be used as a short term rental
Project Name:	Garden Cottage
Location:	171 Pennsylvania Avenue
Owner/Applicant:	Claudia Foulkes
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
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 5<sup>th</sup> 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:**

**03:02:38** 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:**

Claudia Foulkes, 171 Pennsylvania Ave., Louisville, KY 40206

**Summary of testimony of those in favor:**

**03:05:15** Claudia Foulkes spoke in favor of the request and responded to questions from the Board Members. Ms. Foulkes stated in some of the documentation she saw that she was given an extension for the registration. Mr. Schwager clarified that was for the short term rental case, and that condition does not apply to the Accessory Dwelling Unit (see recording for detailed presentation).

**03:11:46** Joe Haberman responded to a question from Member Bond (see recording for detailed presentation).

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**CASE NUMBER 21-CUP-0197**

**03:14:08      Board Members' deliberation**

**03:14:53**      On a motion by Member Leanhart, seconded by Member Ford, 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 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. No exterior construction or alterations to the building or the site are required, and

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

**WHEREAS**, the Board further finds that:

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

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

**4.3.27 Accessory dwelling units may be permitted in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts that permit residential use in accordance with the following standards:**

- A. One ADU, either attached or detached is permitted per single family dwelling per lot. **This item is met.**
- B. Maximum ADU Size: 800 square feet or 30 percent of the gross floor area of the principal structure, whichever is greater. **This item is met.**

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C. Location Requirements:

1. For an attached ADU, the yard or setback requirements of the principal structure shall be met. The attached ADU shall be located either to the side or behind the principal structure.
2. For a detached ADU, the yard or setback requirements of an accessory structure shall be met. The detached ADU shall be located either to the side or behind the principal structure.

**This item is met.**

D. ADU Access:

1. For an attached ADU, an exterior staircase used to access a second story or higher ADU shall not be located on the front façade of the structure.
2. For a detached ADU, the exterior pedestrian entrance to the ADU shall be located facing the principal structure or side yard.

**This item is met.**

E. Maximum Height:

1. For an attached ADU, the maximum height shall not exceed the height of the principal structure.
2. For a detached ADU, the maximum height shall not exceed the maximum height permitted for an accessory structure in accordance with Chapter 5 of the LDC. The maximum height shall not exceed the height of the principal structure.

**This item is met.**

F. ADUs approved under this provision shall not be used as a short term rental. **The applicant has applied for a short term rental Conditional Use Permit, therefore, a Conditional Use Permit is required for the ADU.**

G. Any property that has been subject to a zoning, property maintenance, or building code violation(s) in the 12 months prior to application shall be reviewed and approved by the directors of Planning & Design Services and Codes &

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Regulations, or their designees. Any violations shall be resolved prior to approval.  
**The applicant has been informed of this requirement.**

- H. Off-street parking shall meet the requirements of Chapter 9 of the LDC. **This item is met.**
- I. ADUs that include new construction that results in habitable floor area (for example, additions to principal structures or new accessory structures) shall not be allowed on any areas of lots that contain environmental constraints (LDC Section 4.6.2.A). **This item does not apply.**
- J. The owner of the property shall reside within either the principal or the accessory dwelling unit. **This item is met.**
- K. To avoid any confusion, since there is no language to the contrary, this section does not override any deed restriction or homeowners' association declarations restricting accessory dwelling units. **This item does not apply;** now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0197 does hereby **APPROVE** Conditional Use Permit to allow an accessory dwelling unit (ADU) to be used as a short term rental (LDC 4.2.3 and 4.3.27), **SUBJECT** to the following Conditions of Approval.

Condition of Approval:

1. All development shall be in accordance with the approved district development plan, including all notes thereon, and with all applicable sections of the Land Development Code (LDC). No further development shall occur on the site without prior review of and approval by the Board of Zoning Adjustment (BOZA).
2. The Conditional Use Permit shall be exercised as proscribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, the site shall not be used for an ADU without further review and approval by BOZA.
3. The applicant is required to contact Louisville Metro Emergency Services to have a unique address assigned to the accessory apartment.

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**The vote was as follows:**

**Yes: Members Ford, Bond, Leanhart, Vozos, and Chair Howard**

**Absent: Vice Chair Buttorff**

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**03:16:41** Prior to adjournment, the Board Members and staff discussed upcoming trainings.

The meeting adjourned at approximately 4:35 p.m.

DocuSigned by:

*Lula Howard*

**Chair**

DocuSigned by:

*Sharon Bond*

**Secretary**