

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

July 10, 2023

A meeting of the Louisville Metro Board of Zoning Adjustment was held on Monday, July 10, 2023, at 9:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky, and also via Webex.

Members Present:

Sharon Bond, Chair
Kim Leanhart, Secretary
Brandt Ford
Jan Horton
Yani Vozos

Members Absent:

Richard Buttorff, Vice Chair
Lula Howard

Staff Members Present:

Chris French, Planning & Design Supervisor
Joe Haberman, Planning & Design Manager
Joel Dock, Planning & Design Supervisor
Laura Ferguson, Legal Counsel
Mary Willis, Management Assistant
Jeremy Chesler, Planner I
Heather Pollock, Planner I
Mark Pinto, Associate Planner
Amy Brooks, Planner I
Molly Clark, Planner II

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT
MEETING MINUTES**

July 10, 2023

June 26, 2023, Board of Zoning Adjustment Meeting Minutes

00:04:48 On a motion by Member Horton, seconded by Member Ford, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the June 26, 2023, Board of Zoning Adjustment meeting.

The vote was as follows:

YES: Members Horton and Chair Bond

ABSTAIN: Members Ford and Leanhart

ABSENT: Members Howard, Member Vozos and Vice Chair Buttorff

**BOARD OF ZONING ADJUSTMENT
MEETING MINUTES**

July 10, 2023

Business Session

Case No. 23-VARIANCE-0084

Request: Variance for a second story addition to encroach into the 3 foot side yard setback
Project Name: Rudd Avenue Second Story Addition Variance
Location: 3206 Rudd Avenue
Owner: Superior Henderson, LLC
Applicant: Superior Henderson, LLC
Jurisdiction: Louisville Metro
Council District: 5 - Donna Purvis
Case Manager: Molly Clark, Planner II

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

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

Agency testimony:

00:09:22 Molly Clark presented the case and showed a Power Point presentation. Clark responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

None

Summary of testimony of those in support:

None

The following spoke in opposition to the request:

None

**BOARD OF ZONING ADJUSTMENT
MEETING MINUTES**

July 10, 2023

Business Session

Case No. 23-VARIANCE-0084

00:10:56 Board Members' discussion

Variance from Land Development Code section 5.2.2 to allow a second story to encroach into the required 3 ft setback.

00:10:58 On a motion by Member Leanhart, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS: The requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested.

WHEREAS: The existing home and surrounding homes are built to similar setbacks from side property lines.

WHEREAS: The addition will not cause a hazard or nuisance to the public since it is required to meet all applicable requirements of the building code. The applicant will be fire rating the walls.

WHEREAS: The proposed setback would not be an unreasonable circumvention of the zoning regulations because the proposed setback is consistent with the existing structure and to surrounding structures in the neighborhood.

WHEREAS: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is the same size and shape in comparison to the surrounding properties.

WHEREAS: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the applicant is constructing the addition over the existing 1 story building footprint and bringing the addition away from the side yard may cause issues in the construction of the structure due to the location of existing load bearing walls.

WHEREAS: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has not begun construction.

**BOARD OF ZONING ADJUSTMENT
MEETING MINUTES**

July 10, 2023

Business Session

Case No. 23-VARIANCE-0084

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from Land Development Code section 5.2.2 to allow a second story to encroach into the required 3 ft setback. (**Requirements 3ft, Request 0ft, Variance 3ft**).

The vote was as follows:

YES: Members Horton, Leanhart, Ford, and Chair Bond

ABSENT: Member Howard, Member Vozos, and Vice Chair Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0066

Request: Variances to allow a structure to encroach into the side yard setback, a fence to exceed the maximum height in a street side yard setback, and private yard area to be less than 20% of the area of the lot.

Project Name: Payne Street Variances
Location: 1112 Payne Street Owner: Lisa Mann
Applicant: Cassidy Cook, High Bridge Development
Jurisdiction: Louisville Metro
Council District: 9-Andrew Owen
Case Manager: Amy Brooks, Planner I

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

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

Agency testimony:

00:12:41 Amy Brooks presented the case, showed a Power Point presentation. Brooks responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Cassidy Cook, 101 N 7th St., Louisville, KY 40202

Summary of testimony of those in support:

00:17:53 Cassidy Cook spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

00:21:55 Board Members' discussion

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0066

Variance from the Land Development Code section 5.4.1.E.5 to allow an accessory structure to encroach into the side yard setback.

00:24:51 On a motion by Member Leanhart, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

(Variance #1) WHEREAS: The requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with the Land Development Code, except where relief is requested.

WHEREAS: The requested variance will not alter the essential character of the general vicinity because the proposed addition is to be in an area where minimal setbacks from the side property lines are common. Examples of accessory structures that seemingly encroach into the side yard setback include 1114 Payne Street, 1128 Payne Street, and 1130 Avenue. Please see site photos under attachments in the staff report for aerial imagery of these specific properties.

WHEREAS: The requested variance will not cause a hazard or nuisance to the public as the reduction of the required side setback does not impede the safe movement of vehicles or pedestrians or result in environmental degradation.

WHEREAS: The requested variance will not allow an unreasonable circumvention of the zoning regulations because the location of the shed is comparable to other accessory structures along the block that are built into the side setback.

WHEREAS: The requested variance does not arise from special circumstances which do generally apply to the land in the general vicinity or the same zone as the lot is similar in size and shape to the surrounding properties.

WHEREAS: The strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the shed could be moved out of the required side setback.

WHEREAS: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The shed has already been placed in the required side setback but not by the current owner or applicant.

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0066

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from the Land Development Code section 5.4.1.E.5 to allow an accessory structure to encroach into the side yard setback (**Requirement 2ft., Request 0ft., Variance 2ft.**)

The vote was as follows:

YES: Members Horton, Leanhart, Vozos, Ford, and Chair Bond

ABSENT: Member Howard and Vice Chair Buttorff

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

00:25:47 On a motion by Member Leanhart, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

(Variance #2) WHEREAS: Staff is concerned that the fence height will adversely affect the public health, safety or welfare, because the increased height could impede vision clearance for the vehicles entering and exiting the proposed garage at the rear of the property. This would adversely impact the safe movement of traffic along Bishop Street.

WHEREAS: The requested variance will not alter the essential character of the general vicinity because there are several fences in the street side yard in the neighborhood that seemingly exceed 42 inches, including the adjoining property at 613 Bishop Street. Other examples include street side yard fences along Bishop located north of the subject site.

WHEREAS: The requested variance will cause a hazard or nuisance to the public as it potentially impacts the safety vehicles travelling along Bishop Street.

WHEREAS: The requested variance will not allow an unreasonable circumvention of the zoning regulations because most of the fence is within the prescribed height limits. There is only a slight portion of the fence that exceeds the allowed maximum height in the street side yard.

WHEREAS: The requested variance does not arise from special circumstances which do generally apply to the land in the general vicinity or the same zone as the lot is similar in size and shape to the surrounding properties.

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0066

WHEREAS: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the fence has already been constructed and received a building permit from Louisville Metro.

WHEREAS: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. However, the current property and applicant were not the responsible party.

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed the maximum height in the street side yard setback (**Requirement 42in., Request 96in., Variance 54in.**)

The vote was as follows:

YES: Members Horton, Leanhart, Vozos, Ford, and Chair Bond

ABSENT: Member Howard and Vice Chair Buttorff

Variance from the Land Development Code section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of the lot.

00:26:37 On a motion by Member Leanhart, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

(Variance #3) WHEREAS: The requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes, including fire codes, and the Land Development Code, except where relief is requested.

WHEREAS: The proposed private yard area reduction will not alter the essential character of the general vicinity as several parcels in the area seemingly have reduced private yard areas to accommodate for the more compacted urban lots that are commonplace in this area of Irish Hill.

WHEREAS: The requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes.

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0066

WHEREAS: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed garage will comply will all other regulations, except where relief is requested, and there are other properties within the block that have seemingly reduced open space between the principal and accessory use areas.

WHEREAS: The requested variance does not arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the lot is similar in size and shape to the surrounding properties.

WHEREAS: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land because there is limited open space between the primary structure area and accessory use area. Hence, any accessory structure would likely trigger a request for a reduced private yard area.

WHEREAS: The circumstances are not the result of actions taken subsequent to the adoption of the zoning regulation from which relief is sought. The garage has not been constructed and a variance has been applied for.

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from the Land Development Code section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of the lot (**Requirement 700 sq. ft, Request 300 sq. ft, Variance 400 sq. ft**)

The vote was as follows:

YES: Members Horton, Leanhart, Vozos, Ford, and Chair Bond

ABSENT: Member Howard and Vice Chair Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0034

Request: A variance to allow an addition to encroach into the side yard setback.
Project Name: Garland Avenue Variance
Location: 2532 Garland Avenue
Owner/Applicant: Jezrel Gordon
Jurisdiction: Louisville Metro
Council District: 4- Jecorey Arthur
Case Manager: Amy Brooks, Planner I

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

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

Agency testimony:

00:28:04 Amy Brooks presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Jezrel Gordon, 1114 Johnson Ln, Taylorsville, KY 40021

Summary of testimony of those in favor:

00:30:41 Jezerl Gordon spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

00:35:57 Board Deliberation

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

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0034

00:36:11 On a motion by Member Leanhart, seconded by Member Horton, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS: The requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested. However, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the adjacent property along the western property line.

WHEREAS: The structure will not alter the essential character of the general vicinity as it will be built with material that is in character with the surrounding residential neighborhood. This an area where minimal setbacks from the side property lines are common. These neighborhood examples include several of the adjoining. The aerial photography of these examples has been included in this report's site photos.

WHEREAS: The requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes.

WHEREAS: The requested variance will not allow an unreasonable circumvention of the zoning regulations. The addition is located within the footprint of the existing principal structure which was constructed prior to current LDC regulations.

WHEREAS: The requested variance does not arise from special circumstances which do generally apply to the land in the general vicinity or the same zone as the lot is similar in size and shape to the surrounding properties.

WHEREAS: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the existing house is located on property line.

WHEREAS: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has started construction.

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from the Land Development Code Table 5.2.2 to allow a

**BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023**

PUBLIC HEARING

Case No. 23-VARIANCE-0034

primary structure to encroach into the side yard setback (**Requirement 3ft., Request 0ft., Variance 3ft.**)

The vote was as follows:

YES: Members Horton, Leanhart, Vozos, Ford, and Chair Bond

ABSENT: Member Howard and Vice Chair Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 22-VARIANCE-0090

Request: Variance for a fence to exceed the maximum height of 4' in the street side yards and be 6' in height
Project Name: 7708 Whitfield Drive
Location: 7708 Whitfield Drive
Owner: Lianet Reinoso
Representative: Lianet Reinoso
Jurisdiction: Louisville Metro
Council District: 26 - Brent Ackerson
Case Manager: Joel Dock, AICP, Planning Supervisor

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

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

Agency testimony:

00:38:35 Joel Dock presented the case and showed a Power Point presentation. Dock responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Lianet Reiuoso Pardo, 7708 Whitfield Dr., Louisville, KY 40218

Summary of testimony of those in favor:

00:41:37 Lianet Reiuoso Pardo spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

00:42:59 Board Member Deliberation

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 22-VARIANCE-0090

Variance from Land Development Code, Section 4.4.3 to allow a fence to exceed the maximum height of 4' in the street side yards and be 6' in height.

00:43:09 On a motion by Member Horton, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS: The requested variance will not adversely affect the public health, safety or welfare as the height and location of the proposed fence does not impact the safe movement of pedestrians or vehicles.

WHEREAS: The proposed variance will not alter the essential character of the general vicinity as privacy fences on corner lots are common in suburban areas to provide safety, security, and privacy in areas where vehicles are the predominate form of transportation and no other barrier is provided. Additionally, this lot maintains 3 road frontages and corner lots typically only possess 2. Sight lines will also be maintained for the safe movement of vehicles and the fence will share the property line with the Jackson Property along Wenwood Drive where dense vegetation and tree canopy is present that currently screens the Jackson property.

WHEREAS: The requested variance will not cause a hazard or nuisance to the public as the height and location of the proposed fence does not impede the safe movement of pedestrians or vehicles.

WHEREAS: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the request does not affect the public health, safety, or welfare, alter the essential character of the area, or create a hazard or nuisance to the public.

WHEREAS: The requested variance does arise from special circumstances which do not generally apply to the land in the generally vicinity or the same zone as this lot maintains 3 road frontages and corner lots typically only possess 2.

WHEREAS: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as it would reduce the usable space of the yard area by an additional 15' at each side and all other standards of review have been met.

WHEREAS: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the fence has not been built.

**BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023**

PUBLIC HEARING

Case No. 22-VARIANCE-0090

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from Land Development Code, Section 4.4.3 to allow a fence to exceed the maximum height of 4' in the street side yards and be 6' in height.

The vote was as follows:

YES: Members Horton, Vozos, Ford, and Chair Bond

NO: Member Leanhart

ABSENT: Member Howard and Vice Chair Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0073

Request: Variance for fence to exceed the maximum height allowed
Project Name: La Grange Road Fence Variance
Location: 8407 La Grange Road
Owner: Bart Nuss
Applicant: Bart Nuss
Jurisdiction: City of Lyndon
Council District: Paula McCraney - Council District 7
Case Manager: Jeremy Chesler, Planner I

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

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

Agency testimony:

00:45:38 Jeremy Chesler presented the case and showed a Power Point presentation. Chesler responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Bart Nuss, 8407 LaGrange Rd., Louisville, KY 40222

Summary of testimony of those in favor of the request:

00:49:06 Bart Nuss 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:

00:51:41 Board Members' deliberation.

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0073

Variance from the City of Lyndon's Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed a height of 48 inches in the front yard setback.

00:51:59 On a motion by Member Ford, seconded by Member Horton, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS: The requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and the City of Lyndon's Land Development Code, except where relief is requested. The fence will not adversely affect the ability or safety of any road users along the La Grange Road corridor.

WHEREAS: The structure will not alter the essential character of the general vicinity as there is a significant amount of vegetative screening along the fence line that visually breaks up the extensive length of the fence.

WHEREAS: The requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes. Additionally, there are other fences along La Grange Road that are seemingly not in compliance with the maximum fence height in the zoning and form districts, such as 1204 Blue Vale Way.

WHEREAS: The requested variance will not allow an unreasonable circumvention of the zoning regulations because the fence could potentially be modified to be in compliance with the height requirements for fences in the zoning and form districts.

WHEREAS: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

WHEREAS: The strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the height of the proposed fence could be reduced to conform with the existing regulations or the sections of fence within the required front yard setback could be removed.

WHEREAS: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has already constructed the fence. The property has an open zoning enforcement case which has led the applicant to apply for the variance.

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0073

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from the City of Lyndon's Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed a height of 48 inches in the front yard setback **(Requirement 48in. Request 72in. Variance 24in.)** SUBJECT to the following Conditions of Approval:

1. The fence shall transition from 48 inches to 72 inches in height over a 6-to-10-foot span, which transition shall begin at the 48" high stone post near LaGrange Road.

The vote was as follows:

YES: Members Horton, Leanhart, Vozos, Ford, and Chair Bond

ABSENT: Member Howard and Vice Chair Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0082

Request: Variance for structure to encroach into street side yard setback as determined by infill regulations
Project Name: Edgehill Road Accessory Structure Variance
Location: 2202 Edgehill Road
Owner: Sara Watson and Matthew Rasnake
Applicant: Anne Del Prince
Jurisdiction: Louisville Metro
Council District: Ben Reno-Weber - Council District 8
Case Manager: Jeremy Chesler, Planner I

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

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

Agency testimony:

00:54:42 Jeremy Chesler presented the case and showed a Power Point presentation. Chesler responded to questions from the Board Members (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Anne Delprince, 640 Country Club Rd., Louisville, KY 40206

Ed Gribs, 1837 Lauderdale Rd., Louisville, KY 40205

Summary of testimony of those in favor of the request:

00:59:16 Anne Delprince spoke in favor of the request. Delprince elaborated on the footage of the property.

01:01:05 Ed Gribs spoke in favor of the request. Gribs confirmed he was at the meeting for support in case someone spoke in opposition.

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0082

The following spoke in opposition to the request:

No one spoke.

01:01:52 Board Members' deliberation.

Variance from the Land Development Code section 5.1.12.B.2.e.i.1 to allow a structure to encroach into the required street side yard setback and to exceed the required street side yard setback as established by infill regulations.

01:02:19 On a motion by Member Leanhart, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS: The requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested. The proposed addition will not impact vision clearance for vehicular traffic or pedestrians on Edgehill Road.

WHEREAS: The requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested. The proposed addition will not impact vision clearance for vehicular traffic or pedestrians on Edgehill Road.

WHEREAS: The requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes. Vegetation currently serves as screening for the variance area and will be preserved to provide limited alteration to the view of the subject property from the street (See site photos included in staff report).

WHEREAS: The requested variance will not allow an unreasonable circumvention of the zoning regulations as there are other homes within the surrounding blocks that do not meet the current required infill standards for street side yard setbacks. The unique shape of the lot makes building an accessory structure on the property very difficult.

WHEREAS: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the shape of the lot

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0082

containing an acute interior corner is a significant factor that has led to the special circumstances requiring a variance request. A similar shape lot exists nearby at 2200 Lauderdale Road (see attached photos) and also contains an accessory structure which fails to adhere to the required street side yard setback as determined by infill regulations.

WHEREAS: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the unique shape of the property makes conforming to infill standards particularly difficult. Based on the current regulations the principal structure would also not meet the infill standards and would require shifting of the original building limit line of 25' to satisfy this requirement.

WHEREAS: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has not yet started construction and has applied for a variance.

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **Variance** from the Land Development Code section 5.1.12.B.2.e.i.1 to allow a structure to encroach into the required street side yard setback and to exceed the required street side yard setback as established by infill regulations (Requirement 21ft. Request 16ft. Variance 5ft.) **SUBJECT** to the following Conditions of Approval:

1. If approved, a minor plat plan to adjust the original building limit line established on plat #2-314 (Zachary Taylor Subdivision), will be required prior to issuance of a building permit.
2. An encroachment permit will be required for all work done in the right-of-way.

The vote was as follows:

YES: Members Horton, Leanhart, Vozos, Ford, and Chair Bond

ABSENT: Member Howard and Vice Chair Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-NONCONFORM-0008

Request:	Nonconforming Rights for a 4-plex
Project Name:	Nonconforming Multi-Family
Location:	2052 Midland Avenue
Owner:	3195 Hunsinger, LLC.
Applicant:	Timothy Bowman
Jurisdiction:	Louisville Metro
Council District:	Ben Reno-Weber - Council District 8
Case Manager:	Jeremy Chesler, 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:

01:04:13 Jeremy Chesler presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Tim Bowman, 702 Davenport Dr., Louisville, Ky 40245

Summary of testimony of those in favor:

01:09:22 Tim Bowman 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.

01:13:31 Board Members' deliberation.

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-NONCONFORM-0008

01:13:45 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the request to determine whether a property has nonconforming rights for a 4-plex.

The vote was as follows:

YES: Members Horton, Leanhart, Vozos, Ford, and Chair Bond

ABSENT: Member Howard and Vice Chair Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-NONCONFORM-0009

Request:	Nonconforming Rights for a duplex
Project Name:	Nonconforming Duplex
Location:	907 Rubel Avenue
Owner:	Kelly McDermott
Applicant:	Kelly McDermott
Jurisdiction:	Louisville Metro
Council District:	Ben Reno-Weber - Council District 8
Case Manager:	Jeremy Chesler, 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:

01:15:34 Jeremy Chesler presented the case and showed a Power Point presentation. Chesler responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Kelly McDermott, 907 Rubel Ave, Louisville, KY 40204

Phillip Rodrigues, 9701 Keys Ferry Rd., Fairdale, KY 40118

Summary of testimony of those in favor:

01:22:38 Kelly McDermott spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:25:13 Phillip Rodrigues spoke in favor of the request. Rodrigues elaborated on who owned the property before and what renovations were done to the property.

The following spoke in opposition to the request:

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-NONCONFORM-0009

None

01:28:12 Board Members' deliberation.

01:19:56 On a motion by Member Vozos, seconded by Member Leanhart, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the request to determine whether the subject property has nonconforming rights for a duplex

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-NONCONFORM-0013

Request:	Change in nonconforming rights from a tavern/saloon/bar to an office space in the front section of the first floor.
Project Name:	Change in nonconformance.
Location:	436 E Caldwell St
Owner:	Kendra O'Bannon
Applicant:	Kendra O'Bannon
Jurisdiction:	Louisville Metro
Council District:	Jecorey Arthur- Council District 4
Presenter	Amy Brooks, Planner II
Case Manager:	Mark Pinto, Associate Planner

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:

01:30:39 Amy Brooks presented the case on behalf of Mark Pinto. Brooks presented a Power Point presentation and responded to questions from the Board members (see staff report and recording for detailed presentation and discussion.)

The following spoke in support of the request:

None

The following spoke in opposition to the request:

None

01:34:28 Board Members' deliberation.

01:34:07 On a motion by Member Leanhart, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-NONCONFORM-0013

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the request to change in nonconforming use from a tavern to an office space.

The vote was as follows:

YES: Members Horton, Leanhart, Vozos, Ford, and Chair Bond

ABSENT: Member Howard and Vice Chair Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0083

Request: Conditional Use Permit for off street parking in the R5 zoning district, a Category 3 plan for a 2 story warehouse with variances and waivers

Project Name: Jefferson Court Warehouse

Location: 745 Jefferson Court, 3025-3031 Nelson Court

Owner: Eric Bachelor - Bachelor Holdings, LLC

Applicant: Dinsmore & Shohl, LLP

Representative: Dinsmore & Shohl, LLP

Jurisdiction: Louisville Metro

Council District: 21 - Betsy Ruhe

Case Manager: Molly Clark, Planner II

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

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

Agency testimony:

01:36:39 Molly Clark presented the case and showed a Power Point presentation. Clark responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Cliff Ashburner, Dinsmore & Shohl, LLP, 101 S 5th St. Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

01:42:32 Cliff Ashburner spoke in favor of the request and presented a PowerPoint presentation. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0083

01:55:08 Board members' deliberation.

Conditional Use Permit from section 4.2.39 to allow off-street parking in the R5 zoning district (23-CUP-0083)

01:55:39 On a motion by Member Leanhart, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS: Parking is located closer than 200 feet to the proposed warehouse. The applicant is also providing pedestrian connection from the parking area to the entrance of the proposed warehouse.

WHEREAS: There are no other surrounding residential properties. This site is surrounded by other industrial uses and commercial uses.

WHEREAS: The proposed parking area will be outside of the minimum setbacks with landscape buffers being planted.

WHEREAS: The applicant is aware of this requirement.

WHEREAS: The proposed plan has received preliminary approval from Transportation Planning.

WHEREAS: The applicant has received preliminary approval from Transportation Planning.

WHEREAS: Applicant is aware of this requirement. Heavy trucks maneuvering will be located in the M2 portion of the site.

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit from section 4.2.39 to allow off-street parking in the R5 zoning district (23-CUP-0083) SUBJECT to the following 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.

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0083

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 off street parking until further review and approval by the Board.

The vote was as follows:

YES: Members Horton, Leanhart, Vozos, Ford, and Chair Bond

ABSENT: Member Howard and Vice Chair Buttorff

(Variance #1) Variance from Chapter 5.2.5.C.4.a to allow a proposed structure to exceed the maximum front yard setback of 25 feet with a proposed front yard setback of 97 feet. (23-Variance-0038)

(Variance #2) Variance from Chapter 5.2.5.B to exceed the maximum height of 45 feet with a 98-foot 2 story warehouse (23-Variance-0038)

01:57:17 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

(Variance #1) WHEREAS: The requested variance will not adversely affect the public health, safety or welfare since the building will be buffered where it is adjacent to commercial along the existing alley.

WHEREAS: The requested variance will not alter the essential character of the general vicinity since the proposal is consistent with other industrial uses in the area.

WHEREAS: The requested variance will not cause a hazard or nuisance to the public since the building will be buffered where it is adjacent to commercial.

WHEREAS: The requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed warehouse will be consistent with the other industrial uses in the area.

WHEREAS: There are some constraints with the R5 zoning being closer to the street than the M2 portions of the site. The applicant would have to rezone the R-5 portion in order to make parking in the rear possible.

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0083

WHEREAS: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land. To build the warehouse and put the parking in the rear, the applicant would need to apply for a rezoning for the R5 portion of the site.

WHEREAS: The circumstances are not the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought. The applicant has not begun construction.

(Variance #2) WHEREAS: The requested variance will not adversely affect public health safety or welfare since the building will be located away from the closest low intensity commercial uses.

WHEREAS: The requested variance will not alter the essential character of the general vicinity since the 2-story warehouse will be located next to other industrial uses and is consistent with the immediate area. It is also near the airport

WHEREAS: The requested variance will not cause a hazard or nuisance to the public since the proposed 2 story warehouse will be located next to other industrial warehouses with truck loading areas

WHEREAS: The requested variance will not allow an unreasonable circumvention of the zoning regulations since the 2-story warehouse will be consistent with the adjacent industrial uses.

WHEREAS: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since this area was once a single-family subdivision but now is surrounded by industrial development. The proposed warehouse will be consistent with the other adjacent industrial uses.

WHEREAS: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the applicant needs space on the subject site for off-street parking and truck loading areas. The two stories height of the structure allows for better use of the land while still providing landscaping and other site design requirements.

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **Variance #1** from Chapter 5.2.5.C.4.a to allow a proposed structure to exceed the maximum front yard setback of 25 feet with a proposed front yard setback of 97 feet. (23-Variance-0038) **Variance #2** from Chapter 5.2.5.B to exceed the maximum height of 45 feet with a 98-foot 2 story warehouse (23-Variance-0038)

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0083

The vote was as follows:

YES: Members Horton, Leanhart, Vozos, Ford, and Chair Bond

ABSENT: Member Howard and Vice Chair Buttorff

Waiver from 10.2.4 and 10.2.3 to eliminate the property perimeter landscape buffer between R-5 and M-2 zoning district (23-Waiver-0047)

Waiver from 10.2.10 to eliminate the 10ft VUA/LBA along Jefferson Court (23-Waiver-0047)

Waiver from 5.5.1.A.3.a to allow parking to be located in front of the building (23-Waiver-0048)

01:58:32 On a motion by Member Leanhart, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS: The waiver will not adversely affect adjacent property owners, as it will be consistent with other adjacent industrial uses.

WHEREAS: The waiver will not violate Plan 2040 since the applicant is still providing landscaping on other portions of the site.

WHEREAS: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant considering the applicant would have to rezone the R5 portion of the site in order to comply instead of using the off-street parking CUP in the R-5 area.

WHEREAS: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land. The landscape buffer would interfere with the proposed parking area and there aren't any residential properties adjacent to the site.

(Waiver #2) WHEREAS: The waiver will not adversely affect adjacent property owners since the subject site is primarily surrounded by other industrial developments. The applicant is still providing landscaping in other areas of the site.

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0083

WHEREAS: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. The applicant's proposal is consistent with other industrial developments in the area.

WHEREAS: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant has limited area where they can place the off-street parking areas with the associated conditional use permit. The applicant is also providing a sidewalk with a pedestrian connection in the VUA/LBA area along Jefferson Court which encroaches into the landscape buffer area.

WHEREAS: The strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land because it would prevent the applicant from constructing an adequate pedestrian connection from the street to the entrance of the building.

(Waiver #3) WHEREAS: The waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public rights-of-way to the building entrance.

WHEREAS: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 12 calls for the proposal ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street.

WHEREAS: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant would have to go through a rezoning in order to fix the zoning and move the building forward rather than use the CUP option to use the R-5 portion for parking.

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0083

WHEREAS: The applicant has incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the proposed warehouse can only be built on the M2 portion of the site. The applicant has limited areas on where they can place employee, customer and guest parking.

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **(Waiver #1)** from 10.2.4 and 10.2.3 to eliminate the property perimeter landscape buffer between R-5 and M-2 zoning district (23-Waiver-0047), **(Waiver #2)** from 10.2.10 to eliminate the 10ft VUA/LBA along Jefferson Court (23- Waiver-0047), and **(Waiver #3)** from 5.5.1.A.3.a to allow parking to be located in front of the building (23- Waiver-0048).

The vote was as follows:

YES: Members Horton, Leanhart, Vozos, Ford, and Chair Bond

ABSENT: Member Howard and Vice Chair Buttorff

Category 3 Plan (22-CAT3-0018)

01:59:37 On a motion by Member Leanhart, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Category 3 Plan (22-CAT-0018).

The vote was as follows:

YES: Members Horton, Leanhart, Vozos, Ford, and Chair Bond

ABSENT: Member Howard and Vice Chair Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0059

Request: Conditional Use Permit for Short Term Rental of a Dwelling Unit That is Not the Primary Residence of the Host (Continued from the 6/26/2023 Meeting)

Project Name: River Road Short Term Rental

Location: 4515 River Road

Owner: Gaffney Historic River, LLC

Applicant: Galen Weiss & Ellen Archer

Representative: Cliff Ashburner, Dinsmore & Shohl, LLP

Jurisdiction: Louisville Metro

Council District: 16 - Scott Reed

Case Manager: Heather Pollock, Planner I

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

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

Agency testimony:

02:56:50 Heather Pollock, presented the case and showed a Power Point presentation. Pollock responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Cliff Ashburner, Dinsmore & Shohl, LLP, 101 S 5th St. Suite 2500, Louisville, KY 40202

Ellen Archer, Luxury Rentals, 1348 S Third St., Louisville, KY 40208

Summary of testimony of those in favor:

02:04:05 Cliff Ashburner spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0059

02:10:25 Ellen Archer 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:

None

02:16:24 Board Members' deliberation

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

02:16:32 On a motion by Member Vozos, seconded by Member Horton, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS: The proposal does not conflict with Comprehensive Plan policies.

WHEREAS: When appropriately managed, the proposed use is compatible with surrounding development and land uses.

WHEREAS: The subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site.

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days, or more is not considered a short-term rental. ***The applicant has been informed of this requirement.***
- B. The dwelling unit shall be limited to a single short term rental contract at a time. ***The applicant has been informed of this requirement.***

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0059

- C. At no time shall more persons reside in the short-term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals.

The subject property is smaller than two acres. The applicant states that the residence has 5 bedrooms that will allow a maximum number of 12 guests.

- D. The property on which the short-term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. ***As of the date of this report, within 600' of the subject property, there are no properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.***

- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short-term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short-term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short-term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short-term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. ***The applicant has been informed of this requirement. PVA lists the structure as a single-family dwelling unit.***

- 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.***

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0059

- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. ***The applicant has stated there are 4 off street parking space available.***
- I. The short-term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. ***The applicant has been informed of this requirement.***
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. ***The applicant has been informed of this requirement.***
- K. Prior to commencement of any short-term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short-term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. ***The applicant has been informed of this requirement***
- L. An active registration for the short-term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short-term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. ***The applicant has been informed of this requirement.***

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit to allow short term rental of a dwelling unit that is

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0059

not the primary residence of the host in the R-4 single family zoning district and Neighborhood form district **SUBJECT** to the following Conditions of Approval:

1. The conditional use permit for this short-term rental approval shall allow up to 5 bedrooms (with a maximum of 12 guests at any one time). Prior to use, bedrooms must meet all occupancy requirements set forth in Louisville Metro Code of Ordinances. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

YES: Members Horton, Leanhart, Vozos, Ford, and Chair Bond

ABSENT: Member Howard and Vice Chair Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0140

Request:	Conditional Use Permit for a Transitional Home in the UN zoning district
Project Name:	Bank Street Transitional Housing
Location:	1915 Bank Street
Owner:	Russell Gregory
Applicant:	Russell Gregory
Representative:	Russell Gregory
Jurisdiction:	Louisville Metro
Council District:	5 - Donna Purvis
Case Manager:	Molly Clark, Planner II

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

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

Agency testimony:

02:18:04 Molly Clark presented the case and showed a PowerPoint presentation. Clark responded to questions from the Board members (see staff report and recording for detailed presentation)

The following spoke in favor of the request:

Brittany Bidwell, 5200 Mounty Holyoke Dr., Louisville, KY 40216

Russell Gregory, 5422 Pendleton Rd., Louisville, KY 40272

Summary of testimony of those in favor:

02:21:27 Brittany Bidwell spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0140

02:30:42 Russell Gregory spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

02:37:19 Board Members' deliberation

02:41:03 Public Hearing was reopened to allow Mrs. Bidwell and Mr. Gregory an opportunity to respond to questions from the Board Members (see recording for detailed presentation).

02:52:09 Board Members' deliberation

02:53:30 Public Hearing was reopened to allow Mrs. Bidwell an opportunity to respond to questions from the Board Members (see recording for detailed presentation)

02:58:19 Board Members' deliberation

Conditional Use Permit to allow a transitional home in the UN zoning district Land Development Code (LDC) 4.2.55

02:59:37 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS: The proposal meets all applicable policies of the Comprehensive Plan.

WHEREAS: When appropriately managed, the proposed use is compatible with surrounding development and land uses.

WHEREAS: The subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal.

WHEREAS: There are three bedrooms in one unit and 3 bedrooms in the other unit according to the applicant. Photos of the bedrooms are attached to the agenda item. Staff has inspected the bedrooms and they meet the occupancy limitation requirements.

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0140

- A. All bedrooms and sleeping areas shall meet the current occupancy limitations required in LMCO and any applicable building, fire, or life safety code.
- B. Transitional Housing shall be a temporary housing arrangement for its residents, with stays generally being less than two (2) years. Such housing is intended to serve residents as they transition into permanent housing.
- C. Transitional Housing shall have supervision of its residents, as well as structure and support services for its residents. Nonresidential uses and services that are not accessory to the Transitional Housing use shall not be carried out unless otherwise permitted and approved as a separate use. Transitional housing that serves as recovery housing should follow best practice industry standards and operational rules such as the National Alliance for Recovery Residences (NARR) standards.
- D. When reviewing a conditional use permit application for Transitional Housing, 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 Transitional Housing 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.
- E. Transitional Housing shall meet the health, sanitation, structural, property maintenance, fire, and life safety requirements of any currently applicable federal, state, and local laws.
- F. No building shall be closer than 30 feet to a property line unless required to by a form district maximum setback or build-to-line.
- G. 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.
- H. Signage for the use is permitted in accordance with Chapter 8 of this Land Development Code. The BOZA may further restrict signage if warranted.
- I. Additional Single-Family Residential Zoning District Standards (R-R, R-E, R-1, R-2, R-3, R-4, R-5, or U-N):

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0140

1. Any building shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with other residential architecture in the immediate neighborhood, so that there is no evidence from the street that the use is other than residential.
 2. Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.
 3. Off-street parking not located within a drive-way shall be located to the side or rear of the building(s).
- J. For a complete application submittal for any Transitional Housing 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.
 2. The proposed maximum number of residents/beds and maximum number of employees.
 3. Floor plans of any building subject to the use (showing the location and dimensions of all bedrooms and sleeping areas);
 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; and
 5. Rules of conduct and management plan.
- In the event a conditional use permit for a Transitional Housing 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.
- K. If Transitional Housing 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.
- L. An active license of the Transitional Housing, as required by LMCO Chapter 115, shall be maintained. No transitional 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 of ownership and/or

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0140

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 Transitional Housing use, a new conditional use permit must be granted if required.

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the request Conditional Use Permit to allow a transitional home in the UN zoning district Land Development Code (LDC) 4.2.55 with relief from item F, based on the fact that the existing structure is within 30' of every property line, and relief from item D because of the need for this type of service in this particular area, and the fact that this service has been provided for the past two years without any complaints being filed based upon how the facility has been operated **SUBJECT** to the following 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 transitional home until further review and approval by the Board.
3. Prior to lawful commencement of the transitional 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 13 persons, or the maximum allowed by the property maintenance code (the persons include 9 residents, 1 live in-house manager and 3 staff members).

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0045

Request: Conditional Use Permit for Short Term Rental of a Dwelling Unit That is Not the Primary Residence of the Host (Continued from the 6/26/2023 Meeting)

Project Name: Emery Ave Short Term Rental

Location: 5125 Emery Avenue

Owner/Applicant: Johnathan Lun

Jurisdiction: Louisville Metro

Council District: 21- Betsy Ruhe

Case Manager: Chris French, AICP, Planning Supervisor

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

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

Agency testimony:

03:02:34 Chris French presented the case and showed a Power Point presentation. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Rebecca A. Jones, 11006 Shady Hollow Dr., Louisville, KY 40241

Johnathan Lun, 5125 Emery Ave, Louisville, KY 40214

Summary of testimony of those in favor:

03:04:40 Rebecca Jones spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:10:09 Johnathan Lun spoke in favor of the request and responded to questions from the board members.

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

PUBLIC HEARING

Case No. 23-CUP-0045

The following spoke in opposition to the request:

Ann Ramser, 307 E. Kenwood Dr. Louisville, KY 40214

Summary of testimony of those in opposition:

03:14:31 Ann Ramser spoke in opposition to the request. Ramser mentioned that the house numbers for the property were not visible so it was difficult to find the location and is concerned it will be an issue for people to renting the property. Ramser elaborated on the malfunctions of the home (see recording for detailed presentation).

Rebuttal:

03:25:40 Johnathan Lun spoke in rebuttal. Lun stated that a light sensor is located at the property and once you get close enough motion will activate the light. Lun also stated there is a light switch at the bottom of the stairs that illuminate the stairway. Lun responded to questions from the Board Members (see recording for detailed presentation).

03:36:35 Board Members' deliberation

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

03:38:54 On a motion by Member Leanhart, seconded by Member Horton, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS: the person managing the property seems to have issues taking care of the property and being present, so it is unclear that the property can be appropriately managed to be compatible with surrounding development and land uses.

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the Conditional Use Permit to allow short term rental of dwelling unit that is not the primary

**BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023**

PUBLIC HEARING

Case No. 23-CUP-0045

residence of the host in the R-5 single-family residential zone and Traditional Neighborhood form district.

The vote was as follows:

YES: Members Horton, Leanhart, Vozos, Ford, and Chair Bond

ABSENT: Member Howard and Vice Chair Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
July 10, 2023

The meeting adjourned at approximately 12:56 p.m.

Chair

Secretary