

**Board of Zoning Adjustment**

Pre- App Staff Report

January 8, 2025

**Case No: 24-CUPPA-0291**

**Project Name:** Ballardsville Road Boarding House

**Location:** 11009 Ballardsville Rd

**Applicant:** Jacobo Rascon

**Representative:** Mindel Scott

**Jurisdiction:** Louisville Metro

**Council District:** 16 – Scott Reed

**Case Manager:** Mark Pinto, Planner II

**REQUEST(S)**

- **Conditional Use Permit** for a Commercial Boarding House (LDC 4.2.11).

**CASE SUMMARY**

The applicant has requested a conditional use permit (CUP) for a boarding house to allow a maximum of eight (8) occupants in the R-4, single-family residential zoning district and Neighborhood form district. Located along Ballardsville Road near Brownsboro Road and south of the I-71 Expressway in northeastern Jefferson County, the property is developed with an existing single-family home, detached garage, and a 593 sq. ft accessory structure. The boarding home is proposed to be within the 2,900 sq ft. home with rooms for each boarder.

The standards of the CUP require that each resident be provided with their own sleeping room and that each room meets the minimum dimensional and occupancy limitations as established by LMCO, Chapter 156. At the time of this staff report, there appears to be no other approved conditional use permits for group homes within 1000 ft. of the subject property.

**RELATED CASES**

ENF-ZON-20-001489: Unlawful Boarding Home Use in Residential Zoning District. Zoning enforcement case opened on 10/04/2024.

### **STAFF FINDING**

Staff will need additional information to determine if the request meets all the other standards of the conditional use permit (CUP) for a boarding house, except where relief may be necessary to be requested.

A neighborhood meeting must be held prior to the submittal of a formal application for a conditional use permit. If the neighborhood meeting has been held, the formal application may be submitted as early as convenient and must be submitted within 90 days.

### **TECHNICAL REVIEW**

- Boarding House – A dwelling unit in which a room(s) is rented to a Boarder(s) who is not a member of the Family for compensation. A Boarding House is not a Family Care Home, Homeless Shelter, Rehabilitation Home, Residential Care Facility, Transitional Housing, or any

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other use more specifically defined in this Land Development Code. There are two classifications of Boarding Houses:

- o A. Residential Lodging House – A single-family dwelling where one or more occupants are primarily permanent in nature, and rent is paid for guestrooms. A Residential Lodging House is a Boarding House that is owner-occupied and has five (5) or fewer guestrooms.

- o **B. Commercial Boarding House** – A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family dwelling. A Commercial Boarding House is a Boarding House that is either a) not owner-occupied or b) owner-occupied and contains more than five (5) guestrooms.

- At the time of formal application, compliance with the requirements of the CUP must be demonstrated, including:

- o Numbers of boarders

- o Management plan
  - o House/conduct rules
  - o Floor plan with minimum occupancy limits established (70 sf. min. for single occupant room) The floor plan shall be drawn to scale indicating the size of the bedrooms with ingress and egress marked (doors and windows), in addition to number of beds per room.
  - o Site plan – parking, access (entrance/exit into home), outdoor space
- The minimum initial stay for a boarder shall be 30 days.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMITS**

1. Is the proposal consistent with applicable policies of the Comprehensive Plan.
2. Is the proposal compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance?
3. Are necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use?
4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

Boarding Houses may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, R-8A, TNZD (Neighborhood Center), and TNZD (Neighborhood Transition-Center) districts upon the granting of a Conditional Use Permit and compliance with the following requirements. This section does not apply to any Residential Lodging House that may be permitted with special standards pursuant to Section 4.3.24 of this Land Development Code.

A. A Boarding House 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) Boarders. A Boarding House in a multi-family residential zoning district (R-5A, R-5B, R-6, R-7, or R-8A) or TNZD (Neighborhood Center/Neighborhood Transition-Center only) shall have a maximum of eight (8) Boarders.

In a Boarding House that is owner-occupied, the owner and members of his or her Family shall not be considered Boarders.

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B. A Boarding House additionally classified as a Boarding Home by Kentucky Revised Statutes and/or Kentucky Administrative Regulations shall comply with the standards for the operation of a Boarding Home, including but not limited to those provided in 902 KAR 20:350 and KRS Chapter 216B.

C. Each Boarder shall have his or her own bedroom. Any such bedroom shall meet the current dimensional requirements and occupancy limitations set forth in LMCO Section 156.103.

D. A Boarding House is for non-transient occupancy. The minimum intended stay for any Boarder shall be at least 30 consecutive days.

E. A Boarding House may have a Boarder who manages the property and/or supervises the other Boarders on behalf of the property owner and/or operator. There shall not be any non-resident employee that works within the dwelling, with exception for employees that report to the property temporarily to address management or emergency issues.

F. A Boarding House is a residential use. Nonresidential uses and services, including those that may be accessory, shall not be carried out within the dwelling unless otherwise permitted and approved as a separate use.

G. There shall not be any outdoor signage which identified the Boarding House use.

H. A Boarding House shall be in a location with reasonable access to public transportation.

I. 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.

J. When reviewing a conditional use permit application for a Commercial Boarding House, the BOZA shall, to the best of its abilities, find that the establishment of the use will not result in harm to health, safety, or general welfare of the surrounding neighborhood. The property on which a Commercial Boarding House 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.

K. A Boarding House shall meet the health, sanitation, structural, property maintenance, fire, and life safety requirements of any currently applicable federal, state, and local laws.

L. For a complete application submittal for a Boarding House 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. Site plan and floor plans of any building subject to the use (showing the location and dimensions of all bedrooms);
3. 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;
4. The maximum number of Boarders; and
5. Rules of conduct and management plan.

In the event a conditional use permit for a Boarding House 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.

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M. The operator(s) of a Boarding House shall maintain a registry of Boarders, which shall document the terms of stay of each Boarder. This registry shall be made available for inspection by a Zoning or Code Enforcement Officer in order to determine the total number of Boarders residing in the Boarding House at a given time and whether or not a term of stay is transient or not. However, under these provisions, the operator is not required to collect and/or maintain records that may be used for discriminatory purposes under the Fair Housing Acts, including but not limited to records relating to the race, religion, gender, national origin, family status and/or disability of any resident.

N. A Boarding House shall not operate until it has been issued a license pursuant to LMCO Chapter 115 and, if required, a registration or license from the Commonwealth of Kentucky pursuant to KRS Chapter 216B.

O. Unlawful operation of a Boarding House without the required conditional use permit and/or license may constitute grounds for denial of an after-the-fact conditional use permit application for the Boarding House by the BOZA.

P. If a Boarding House 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 code. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.

Q. An active license of the Boarding House, as required by LMCO Chapter 115, shall be maintained. No boarding 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 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 Boarding House use, a new conditional use permit must be granted if required.

STAFF: The applicant has demonstrated or will be required to provide compliance with each of the lettered standards above, except where relief is requested. Based upon the application, it appears relief will be needed from standard A to increase the maximum number of boarders in a single-family zoning district from four (4) to eight (8).

#### **REQUIRED ACTIONS**

- **APPROVE** or **DENY** the **Conditional Use Permit** for Boarding House (LDC 4.2.11).

<b>NOTIFICATION</b> Date	Purpose of Notice	Recipients
TBD	Hearing before BOZA	1st and 2nd tier adjoining property owners and residents  Registered Neighborhood Groups in Council District 16.
TBD	Hearing before BOZA	Sign Posting