

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

July 29, 2011

- I. **ATTENDANCE** - The Chair will call the meeting to order at 1:00 p.m. in the Council Chambers, 200 East Main Street, July 29, 2011.
- II. **APPROVAL OF MINUTES** - The Chair will announce that the minutes of the October 29, 2010; February 25, 2011; April 29, 2011; May 20, 2011; and the June 24, 2011 meetings will be considered at this time.
- III. **PUBLIC HEARING ON ZONING APPEALS**

- A. **Sounding The Agenda** - In order to expedite completion of agenda items, the Chair will sound the agenda in regard to any postponements, withdrawals, and items requiring no discussion.
 1. **Postponement or Withdrawal of any Scheduled Business Item** - The Chair will announce that any person having an appeal or other business before the Board may request postponement or withdrawal of such at this time.
 2. **No Discussion Items** - The Chair will ask if there are any other agenda items where no discussion is needed...that is, (a) The staff has recommended approval of the appeal and related plan(s), (b) The appellant concurs with the staff's recommendations. Appellant waives oral presentation, but may submit written evidence for the record, (c) No one present objects to the Board acting on the matter at this time without further discussion. For any such item, the Board will proceed to take action.
- B. **Transcript or Witnesses** - The Chair will announce that any applicant or objector to any appeal before the Board is entitled to have a transcript of the meeting prepared at his expense and to have witnesses sworn.
- C. **Variance Appeals** - As required by KRS 100.243, in the consideration of variance appeals before the granting or denying of any variance the Board must find:

That the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Board shall consider whether:

- (a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
- (b) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
- (c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulations from which relief is sought.

1. **V-2011-27: JOHNNY TEMPLE** - appeals for a variance to increase the allowable square footage and height for three directional signs, as well as allow a greater amount of text for the signs in a Professional Office (P-1) zone, on property located at 101 Yorkshire Boulevard (Council District 7).

The Staff Recommends: Postponement, for the following reasons:

- a. Two aspects of this application, relating to size and content limitations of the requested directional signs, cannot be addressed by the Board as a variance. Any relief to those restrictions of the Zoning Ordinance should be addressed as an administrative appeal, which will require that the

current application be amended.

- b. Additional information is needed regarding the feasibility of transferring unused sign square footage to the oversized signs that are proposed. Assembling that information will require that the appellant consult with the Division of Building Inspection to quantify sign square footage that will not be used at this location and is potentially available for transfer to an alternative sign type and location.
 - c. The requested height of the directional signs, which can be addressed by the Board as a variance, is directly related to the size issue, so the two issues should be considered by the Board at the same time. Also, additional time will provide an opportunity for the appellant to assemble more detailed justification for the requested sign heights, which will be an important consideration since two of the three directional signs at issue are to be taller than the existing directional signs that have been serving this property.
2. **V-2011-48: LEX PROPERTIES** - appeals for a variance to reduce the required yard along Shenandoah Drive from 30' to 16'3", for construction of an attached garage in a Single Family Residential (R-1C) zone, on property located at 1015 Della Drive (Council District 11).

The Staff Recommends: Approval of a variance along Shenandoah Drive from 30' to 18', for the following reasons:

- a. Granting such a variance should not adversely affect the public health, safety or welfare, nor significantly alter the character of the general vicinity, as the garage addition will generally align with an existing residence constructed many years ago. Also, sufficient space will be available in the driveway for temporary parking of vehicles without blocking the public sidewalk.
- b. The platted building line of 15' along Shenandoah Drive, and the alignment of the existing residence just behind that building line, are special circumstances that contribute to justifying a reduction of the normally required 30' side street side yard at this location.
- c. Strict application of the Zoning Ordinance would force the appellant to construct a new garage in the middle of the back yard open space that benefits the residence, which is not only undesirable, but also out of character with the neighborhood.
- d. The appellant is making a reasonable effort to improve this property in a manner that is consistent with how the subdivision was platted many years ago.

This recommendation of approval is made subject to the following conditions:

- 1. The garage shall be constructed in accordance with a revised site plan indicating a minimum setback of 18' to be provided along Shenandoah Drive.
 - 2. All necessary permits shall be obtained from the Division of Building Inspection prior to construction.
 - 3. The driveway serving the garage shall have a maximum width of 20'.
 - 4. A minimum of four small to medium-sized trees shall be planted along Shenandoah Drive, two to the north of the garage and two to the south of the garage, in accordance with a landscaping plan submitted to, and approved by, the Division of Building Inspection.
3. **V-2011-49: DORIS DAUGHERTY** - appeals for a variance to reduce the required front yard from 30 feet to 11 feet in order to retain a carport in a Single Family Residential (R-1D) zone, on property located at 408 Kilpatrick Court (Council District 2).

The Staff Recommends: Disapproval, for the following reasons:

- a. The already constructed carport is a highly visible projection into the required front yard, and is out of character with the manner in which this well established neighborhood has been developed. It was built without a building permit, and according to the Division of Building Inspection, it does not comply with building code requirements.
 - b. Special circumstances pertaining to this particular lot have not been identified that might justify a greater than 50% reduction in the required front yard.
 - c. Other alternatives are available that would allow construction of a carport without the need for a front yard variance.
 - d. The need for a variance was created to a large extent by the appellant's contractor proceeding with construction without going through the customary permitting process.
4. **V-2011-50: KENNY and REGINA HOLBROOK** - appeal for a variance to reduce the required yard along Jacks Creek Pike from 300 feet to 221 feet, in order to construct a detached garage in the Agricultural Rural (A-R) zone, on property located at 4300 Ravens Crest Lane (Council District 12).

The Staff Recommends: Approval, for the following reasons:

- a. Granting the requested variance should not adversely affect the public health, safety or welfare, nor alter the character of the general vicinity. The detached garage will be situated in the immediate vicinity of other structures on the lot, and will be over 220' away from Jacks Creek Pike.
- b. The rectangular shape of this corner lot, and the drainage and topographic relief toward the rear of the lot, are special circumstances that contribute to justifying the need for the requested variance.
- c. Strict application of the 300' setback requirement would force the appellants to place the detached garage at an undesirable location either in front of the existing residence or far more distant from an existing access drive.
- d. The appellants are new owners of the property and are making a reasonable effort to locate a property improvement at a desirable location, with no intent to circumvent a requirement of the Zoning Ordinance.

This recommendation of approval is made subject to the following conditions:

1. The detached garage shall be constructed in accordance with the submitted application and site plan.
2. No equipment used in a commercial business may be stored in the building necessitating this variance.
3. All necessary permits shall be obtained from the Division of Building Inspection prior to construction.

D. Conditional Use Appeals

1. **C-2011-43: PUNCHESTOWN STABLE, LLC** - appeals for a conditional use permit to allow seasonal horse shows at an equine riding and training facility in the Agricultural Rural (A-R) zone, on properties located at 1210 Bel Mar Lane and 7510 Tates Creek Road (Council District 12).

The Staff Recommends: Approval, for the following reasons:

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties, as horse shows will only take place on two weekends per year. The potential for noise and traffic disturbances will be very limited in scope, and will be minimized through use of two alternative access routes to the horse show facility.
- b. All necessary public facilities and services are available and adequate for the proposed use, with restroom facilities and sewage treatment to be provided as directed by the Fayette County Health Department, and garbage pick-up to be handled privately.

This recommendation of approval is made subject to the following conditions:

1. Horse shows shall be conducted in accordance with the submitted application and site plan, limited to two weekends per year and conducted only in the outdoor riding arena.
2. An occupancy permit shall be obtained from the Division of Building Inspection within two months following action by the Board.
3. Horse shows shall be conducted without the use of outdoor lighting, loud speakers, retail sales, or food service.
4. Restroom facilities and sewage treatment shall be handled in accordance with the requirements of the Fayette County Health Department.

2. **C-2011-44: FIRST ALLIANCE CHURCH** - appeals for a conditional use permit to expand the church parking lot with a grass reinforcement material in an Agricultural Urban (A-U) zone, on property located at 2201 Old Higbee Mill Road (Council District 9).

The Staff Recommends: Approval, for the following reasons:

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties, provided that the area is monitored closely and corrective measures are implemented should the grass reinforcement material not work as well as anticipated. The site chosen for overflow parking is well back from Old Higbee Mill Road, and will be landscaped as required by Article 18 of the Zoning Ordinance.
- b. All necessary public facilities and services are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The 58-space overflow parking area shall be established in accordance with the submitted application and site plan.
 2. All necessary permits shall be obtained from the Division of Building Inspection prior to installation of the grass reinforcement material.
 3. The design of the overflow parking area, including the manner in which it is connected to the existing paved parking lot, shall be subject to review and approval by the Division of Traffic Engineering.
 4. Landscaping for a vehicular use area shall be provided per Article 18 of the Zoning Ordinance.
 5. If erosion or other problems are documented by the Division of Building Inspection and/or the Division of Engineering at this site, corrective measures shall be undertaken by the appellant. This may require that the mesh be removed and the site restored to a grassed condition, or that the area be paved with conventional materials. Should the appellant choose to pursue a paving option, additional authorization from the Board shall not be required, provided that design and landscaping requirements are satisfied per Articles 16 and 18 of the Zoning Ordinance. Any paving shall be permitted by the Division of Building Inspection, with storm water management measures implemented in accordance with the adopted Engineering Manuals.
 6. This conditional use shall be subject to a review by the Board, one year after installation of these 58 parking spaces.
3. **C-2011-45: JOHN STRICKLING** - appeals for a conditional use permit to establish an indoor recreational facility ("airsoft" training/games) in a Light Industrial (I-1) zone, on property located at 2156 Young Drive (Council District 5).

The Staff Recommends: Approval, for the following reasons:

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. Airsoft training and recreational activities will be limited to the interior of the building, which will be soundproofed as determined to be necessary and feasible by the Division of Building Inspection. Adequate off-street parking will be provided, and adverse impacts from traffic are not anticipated.
- b. All necessary public facilities and services are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. Airsoft training and recreational activities shall be provided in accordance with the submitted application and site plan, limited to Tuesday through Sunday from 10:00 AM to 10:00 PM.
 2. The facility shall be operated at all times in full compliance with applicable Federal, State and Local regulations.
 3. All necessary permits shall be obtained from the Division of Building Inspection prior to opening the facility.
 4. Striping of the paved areas and marking of traffic circulation shall be done in accordance with the requirements of the Division of Traffic Engineering, which shall include the addition of some striped parking spaces in the paved area at the northwest corner of the property if feasible.
 5. A minimum of one off-street parking space for every two participants shall be provided, plus one space for each employee.
 6. The building shall be soundproofed as determined to be necessary and feasible by the Division of Building Inspection.
4. **C-2011-46: PETSMART** - appeals for a conditional use permit to expand the adoption center portion of an existing pet store in a Planned Shopping Center (B-6P) zone, on property located at 1945 Pavilion Way (Council District 6).

The Staff Recommends: Approval, for the following reasons:

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. The additional area to be used for pet adoptions will be entirely within an existing building that has been used as a pet store for many years. Outside pens will not be provided, and area residents will have convenient access to small animal adoption services that might not otherwise be available through local shelters and charities.
- b. All necessary public facilities and services are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The adoption center shall be established in accordance with the submitted application and site

- plan.
- 2. All necessary permits, including those needed for occupancy and renovations, shall be obtained from the Division of Building Inspection.
- 3. The building shall be soundproofed to the satisfaction of the Division of Building Inspection.
- 4. Outside pens or kennels shall not be provided.
- 5. **C-2011-47: PLEASANT RIDGE BAPTIST CHURCH** - appeals for a conditional use permit to expand the church parking lot in a Single Family Residential (R-1B) zone, on property located at 616 Wilderness Road (Council District 6).

The Staff Recommends: Approval, for the following reasons:

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. The parking lot extension will be to the rear of the subject lot, where there is a wide tree buffer, and the adjoining lot to the east is owned by the church. Since the church sanctuary seating is not increasing, it is anticipated that the additional parking spaces provided will help to minimize parking on Wilderness Road, which should be beneficial for the neighborhood.
- b. All necessary public facilities and services are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

- 1. The parking lot shall be constructed in accordance with an amended site plan indicating no additional access drives to Wilderness Road will be constructed.
- 2. All necessary permits shall be obtained from the Division of Building Inspection prior to construction.
- 3. The final design of the parking lot shall be subject to review and approval by the Division of Traffic Engineering.
- 4. The parking lot shall be paved, with spaces delineated, and landscaped/screened in accordance with Articles 16 and 18 of the Zoning Ordinance.
- 5. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.

E. **Administrative Review**

None

- IV. **BOARD ITEMS** - The Chair will announce that any items a Board member wishes to present will be heard at this time.
- V. **STAFF ITEMS** - The Chair will announce that any items a Staff member wishes to present will be heard at this time.
- VI. **NEXT MEETING DATE** - The Chair will announce that the next meeting date will be August 26, 2011.
- VII. **ADJOURNMENT** - If there is no further business, the Chair will declare the meeting adjourned.