

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

September 26, 2014

- I. **ATTENDANCE** - The Chair will call the meeting to order at 1:30 p.m. in the Council Chambers, 200 East Main Street, September 26, 2014.
- II. **APPROVAL OF MINUTES** - The Chair will announce that the minutes of the June 27, 2014 and July 25, 2014 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.

*Note – Staff received notification via mail, advising the withdraw of **C-2014-35: KEENELAND ASSOCIATION** - appeals for a conditional use permit to expand operations, including the building of a new structure and accessory parking, in the Agricultural Rural (A-R) zone, at 3801-4081 Versailles Road (Council District 12).

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.

There were none

D. **Conditional Use Appeals**

1. **C-2012-70: SIMS ENTERTAINMENT GROUP, LLC** - a revocation hearing of a conditional use permit granted by the Board for a bar/nightclub with live entertainment and dancing in a Neighborhood Business (B-1) zone, at 815 Euclid Avenue (Council District 3).

In October of 2012, the Board approved a conditional use permit to operate a night club with live entertainment and dancing. One of the conditions for approval was a 6-month review of the use (after issuance of a Certificate of Occupancy), in order to determine if surrounding property owners had experienced any adverse impacts from the use, as well as to determine compliance with the imposed conditions. The conditions to be reviewed are as follows:

- a. That no more than 275 patrons be allowed on the subject property at a time, as permitted by the fire code.
- b. That the hours of operation be from 8:30 pm until 2:30 am, Wednesday through Saturday.
- c. That any private parties (no more than 275 persons) be held from 8:30 pm until 2:30 am, Monday and Tuesday.
- d. That no business activity, private or public, be conducted on Sunday.
- e. That some type of food items and a menu be provided on the premises.
- f. That off-site parking is provided for the employees by lease agreement approved by the UCG Law Department; and that the Planning Staff is apprised of the location.
- g. That the nightclub with live entertainment and dancing be established in accordance with the submitted application and site plan.
- h. A Zoning Compliance Permit and a new Certificate of Occupancy shall be obtained from the Divisions of Planning and Building Inspection, respectively, prior to occupancy as a nightclub with live entertainment and dancing.
- i. Outdoor live entertainment and/or outdoor speakers shall be prohibited, and the doors to the nightclub shall remain closed during the times when live entertainment is offered.
- j. This use shall be sound-proofed to the maximum extent feasible by using existing technologies, with noise and other emissions not creating a nuisance to the surrounding neighborhood.
- k. The use shall be reviewed by the Board 6 months after approval.

In January of 2014, the Board approved the 6-month review to continue operation with expanded hours for a night club with live entertainment and dancing. The Board determined that an additional 6-month was needed, in order to determine if surrounding property owners had experienced any adverse impacts from the use, as well as to determine compliance with the imposed conditions. Two additional conditions were imposed as follows:

- l. That no under 21 is allowed on the premises.
- m. That the Board review this case again in 6 months (January 2015).

The Board also set the hours of operation back to 1:00 a.m. Wednesday through Saturday and changed conditions B and C to reflect revised hours of operation from 8:30 p.m. until 1:00 a.m.

Staff will report at the hearing.

- 2. **C-2014-63: DAVORKA KLARIC** - appeals for a conditional use permit for a home occupation (clothing alteration) in a Single Family Residential (R-1D) zone, at 833 Laurel Hill Road (Council District 11).

The Staff Recommends: **Approval**, for the following reasons:

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. This proposed home occupation for clothing alteration and tailoring will easily meet the limitations and requirements set forth in Article 1-11, which are designed to limit the impact of such a use.
- b. Adequate parking is available for this use in the driveway of the residence, and, on-street parking is available, should the need arise. No disturbances to surrounding property owners are anticipated with this conditional use.
- c. All necessary public facilities and services are available and adequate for the proposed home occupation.

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

- 1. This conditional use shall be operated in accordance with the submitted application and site plan.
- 2. All necessary permits, including issuance of a Zoning Compliance Permit and Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection prior to continuation of the home occupation use.
- 3. The activity shall at all times comply with the provisions of Article 1-11 of the Zoning Ordinance pertaining to home occupations.
- 4. This conditional use shall become null and void should the appellant no longer reside at this location.

- 3. **C-2014-64: PROVIDENCE COMMUNITY CHURCH, LLC** - appeals for a conditional use permit to establish a church in a Highway Service Business (B-3) zone, at 2628 Wilhite Court, Suites 115-215 (Council District 4).

The Staff Recommends: **Approval**, for the following reasons:

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. Adjoining or nearby land uses are mostly of a commercial nature and are not likely to be disturbed by typical church activities. The church's highest parking needs are during the off-hours of the nearby professional offices and should not overlap; therefore, adequate off-street parking is available for the proposed use.
- 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 church shall be established in accordance with the submitted application and site plan.
2. All necessary permits, including a Zoning Compliance Permit and a Certificate of Occupancy, shall be obtained prior to the commencement of this use.
3. Should a future expansion of the church at this location be desired, approval by the Board of Adjustment will be required.

4. **C-2014-65: JEANIE L. O'DANIEL** - appeals for a conditional use permit to erect a tent over an outdoor patio, as part of the winery, in the Agricultural Rural (A-R) zone, at 6825 Old Richmond Road (Council District 12).

The Staff Recommends: **Approval**, for the following reasons:

- a. Granting the appellant's conditional use request should not adversely affect the subject or surrounding properties. The proposed temporary structure will be erected over an existing outdoor patio, is relatively small, and will not be visible from the scenic byway of Old Richmond Road.
- b. No utilities or other special requirements are needed for this temporary structure; and; overall, the site can easily accommodate the relatively small tent that is proposed.

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

1. That the temporary structure be installed over the patio area according to the submitted application and site plan, for a maximum of 180 days in any calendar year.

E. **Administrative Reviews**

There were 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 October 31, 2014.
- VII. **ADJOURNMENT** - If there is no further business, the Chair will declare the meeting adjourned.