

MINUTES FOR THE BOARD OF ADJUSTMENT MEETING

November 21, 2014

- I. **ATTENDANCE** – The Chair called the meeting to order at 1:32 p.m. in the Council Chambers, 200 East Main Street, November 21, 2014. Members present were Chairman, Barry Stumbo; Kathryn Moore; James Griggs; Janice Meyer and Joan Whitman. Absent were: Larry Forester and Thomas Glover. Others present were: Casey Kaucher, Division of Traffic Engineering; Chuck Saylor, Division of Engineering; Jim Marx, Zoning Enforcement; and Tracy Jones Department of Law. Staff members in attendance were: Bill Sallee, Jimmy Emmons, and Tammye McMullen.

- II. **APPROVAL OF MINUTES** - The Chair announced that the minutes of the October 31, 2014 meeting would be considered at this time.

Action – A motion was made by Ms. Meyer, seconded by Mr. Griggs, and carried unanimously (Forester and Glover absent) to approve the minutes of the October 31, 2014 meeting.

III. **PUBLIC HEARING ON ZONING APPEALS**

Swearing of Witnesses – Prior to sounding the agenda, the Chair asked all those persons present who would be speaking or offering testimony to stand, raise their right hand and be sworn. The oath was administered at this time.

- A. **Sounding the Agenda** - In order to expedite completion of agenda items, the Chair sounded the agenda in regard to any postponements, withdrawals, and items requiring no discussion.

1. **Postponement or Withdrawal of any Scheduled Business Item** - The Chair announced 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 asked if there were 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 announced 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**
(Sounded Items)

1. **C-2014-71: MALIBU JACK'S, LLC** – appeals for a conditional use permit to add square footage to an indoor recreational facility in a Wholesale and Warehouse Business (B-4) zone, at 3025 Blake James Drive (Council District 7).

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

- a. Granting the requested amendment to add buildable area as part of this conditional use should not adversely affect the subject or surrounding properties. Adequate off-street parking will be provided,

even after this addition, and the facility will have convenient access to Todds Road and Man o' War Boulevard. The surrounding land uses (commercial, industrial and professional office) are unlikely to be adversely affected by activities at an indoor recreational facility.

- 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 facility shall be operated and conducted in accordance with the submitted application and site plan, or as amended by the Planning Commission.
2. All necessary permits shall be obtained from the Division of Building Inspection prior to any construction or remodeling of the building. In addition, prior to a certificate of occupancy being obtained from the Division of Building Inspection, a zoning compliance permit shall be obtained from the Division of Planning.
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 the requirements of Articles 16 and 18 of the Zoning Ordinance and the approved Final Development Plan.
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.

Representation – Mr. Terry Hatton, appellant, was present. He indicated that he had reviewed the recommended conditions and agreed to abide by them.

Citizen Comments – There were no citizens present to comment on this request.

Action – A motion was made by Ms. Moore, seconded by Ms. Whitman and carried unanimously (Forester and Glover absent) to **approve C-2014-71: MALIBU JACK'S, LLC** – an appeal for a conditional use permit to add square footage to an indoor recreational facility in a Wholesale and Warehouse Business (B-4) zone, at 3025 Blake James Drive, for the reasons recommended by the staff and subject to the five conditions recommended by the staff.

F. **Administrative Review**

There were none

- IV. **STAFF ITEMS** - The Chair announced that any items a Staff member wished to present would be heard at this time.

Mr. Sallee said that there was a need to reaffirm the membership of the Landscape Review Committee - Mr. Richard Weber agreed to be reappointed. His term on the Committee expires at the end of this month.

Action – A motion was made by Ms. Meyer, seconded by Mr. Griggs and carried unanimously (Forester and Glover absent) to **reappoint** Mr. Richard Weber serve on to the Landscape Review Committee.

- V. **BOARD ITEMS** - The Chair announced that any items a Board member wished to present would be heard at this time.

The Chair announced that the staff has offered a work session for the Board after the meeting is adjourned, and asked if any Board member had any issues that they would like to discuss. Ms. Whitman replied that she had an issue she would like to discuss with the Board members.

- VI. **NEXT MEETING DATE** - The Chair announced that the next Board's meeting date would be December 12, 2014, two weeks early because of the Christmas holidays.

- VII. **ADJOURNMENT** - Since there was no further business, the Chair declared the meeting adjourned at 1:40 p.m.

Barry Stumbo, Chair

James Griggs, Secretary