

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

December 12, 2014

- I. **ATTENDANCE** - The Chair will call the meeting to order at 1:30 p.m. in the Council Chambers, 200 East Main Street, December 12 2014.
- II. **APPROVAL OF MINUTES** - The Chair will announce that the minutes of the November 21, 2014 meeting 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-2014-76: NSENGA TSHIUNZA** - appeals for a variance to reduce the required side yard from 3 feet to 0 feet in order to install a fence in a Planned Neighborhood Residential (R-3) zone, at 766 Maple Avenue (Council District 1).

Note: During the detail review of case number V-2014-76: Nsenga Tshiunza, it was found that this application did not need a variance, a Zoning Compliance Permit has been issued, and the case was withdrawn by the applicant on December 5th via email.

D. **Conditional Use Appeals**

- 1. **C-2014-72: BLUE GRASS CHRISTIAN CAMP** – appeals for a conditional use permit to extend existing zip line/ropes from Clark County to Fayette County in an Agricultural Rural (A-R) zone, at 7463 Athens-Boonesboro Road (Council District 12).

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

- a. Granting the requested conditional use for a minor expansion of the existing campground by adding an accessory zip line and ropes course should not adversely affect the subject or surrounding properties, as this campground has occupied this property for approximately 65 years. The new facility will be placed in an area that is predominantly surrounded by trees and the nearest residential use will be well protected from the proposed expansion by distance, topography and heavy vegetation.
- b. All necessary public facilities and services are available and adequate for the camp and will not need to be expanded to accommodate the requested use.

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

1. The property shall be developed in accordance with the approved site plan and application.
 2. All applicable permits, including a Zoning Compliance Permit and Certificate of Occupancy, shall be obtained by the applicant from the Divisions of Planning and Building Inspection, prior to construction of the zip line or ropes course.
 3. The appellant shall provide documentation of a) an inspection of the expanded zip line trail following its construction, and b) the training provided to its staff (on an on-going and annual basis) to the Zoning Enforcement section of the LFUCG Division of Planning.
 4. The recreational facilities, including zip lines, shall be only for the use of sponsored church camp activities and will not be offered to the general public as a recreational amusement.
2. **C-2014-74: ASSIA TOUNOVA-STOENCHEV** – appeals for a conditional use permit to establish a family child care facility for up to 12 children in a Planned Neighborhood Residential (R-3) zone, at 921 Fiddler Way (Council District 8).

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

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. The outdoor play area to be provided will exceed the minimum size required by the Zoning Ordinance, and two off-street parking spaces will be available in a driveway dedicated for use by the child care. Increased activity at this location is not expected to be disruptive, since care will be confined to the basement of the home that opens to the rear yard where there is a useable spatial buffer.
- b. All necessary public facilities and services are available and adequate for the proposed increase to the existing family child care use.

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

1. Child care for up to 12 children may be provided in accordance with the submitted application and site plan, with care to be provided only during weekdays between the hours of 7:00 AM and 6:00 PM.
2. A Zoning Compliance Permit and Certificate of Occupancy shall be obtained from the Divisions of Planning and Building Inspection, respectively, prior to expanding the family child care use at this location.
3. A fenced outdoor play area of at least 600 square feet shall be provided in accordance with the requirements of the Division of Building Inspection, after issuance of a fence permit, with the understanding that all or a portion of the designated play area may have to be relocated away from the area under the porch/deck, depending upon the applicable Kentucky Building Code requirements.
4. During the hours that child care is to be provided, the driveway between the garage and the public street shall be reserved for use by parents bringing children to and from this residence.
5. This conditional use shall become null and void, should the applicant no longer reside at this location

3. **C-2014-75: REMNANT COMMUNITY CHURCH** - appeals for a conditional use permit to establish a church in a Wholesale and Warehouse Business (B-4) zone, at 1125 Commercial Drive (Council District 5).

The Staff Recommends: Postponement, for the following reasons:

1. Additional time is needed for the applicant to address concerns related to the availability of off-street parking for the requested conditional use.
2. Verification is needed about the anticipated number of seats that will be in the main sanctuary, the proposed use of the entire floor area of the building, and details concerning the applicant's off-site parking agreements.
3. The applicant should meet with Traffic Engineering to address concerns about the design of the parking spaces proposed on the subject property.
4. The applicant should either amend the site plan to provide the required landscaping or seek a variance to the landscaping requirements.

E. **Administrative Reviews**

Note: *No administrative reviews have been requested this month.*

- 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.
- A. The staff would like to announce that a conditional use was filed for **C-2014-73: Club Facilities dba The Signature Club** on 11/10/14; however, was withdrawn by the applicant on 11/25/14, via email, prior to the legal advertisement for this meeting.
- B. The staff would like to wish the Board members and their families a safe and happy holidays.
- VI. **NEXT MEETING DATE** - The Chair will announce that the next meeting date will be January 30, 2015.
- VII. **ADJOURNMENT** - If there is no further business, the Chair will declare the meeting adjourned.