

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

August 28, 2015

I. **ATTENDANCE** - The Chair will call the meeting to order at 1:30 p.m. in the Council Chambers, 200 East Main Street, August 28, 2015.

II. **APPROVAL OF MINUTES** - The Chair will announce that there are no minutes of previous meetings to 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-2015-52: LEX PROPERTIES, LLC** - appeals for variances to: 1) reduce the required front setback from 20 feet to 2 feet in order to provide parking in the front yard; 2) increase the maximum allowable width of a driveway from 10 feet to 16.5 feet; 3) eliminate the maximum 50% requirement for paving in the front yard; 4) eliminate the landscaping requirement for additional parking; 5) reduce the required driveway setback on either side of the property from 2 feet to 0 feet; and 6) reduce the required side yard (building) setback from 3 feet to 0 feet to allow a landing and stairs to remain as constructed in a Single Family Residential (R-1E) zone, within the defined Infill and Redevelopment Area, at 171 Montmullin Street (Council District 3).

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

a. There is not sufficient justification for the proposed variances to allow a parking area in the front yard of the subject property. Conversely, granting the requested variance will allow this property to be the only one in the neighborhood with 100% of the front yard devoted to pavement and parking, which would compromise the character of this vicinity.

b. The side yard variance would allow an obstruction to remain in the side yard, which could potentially hinder access to the rear of this property in the case of an emergency. The side door on this structure is not required by the Kentucky Building Code for this dwelling.

c. Although front yard parking is allowed with restrictions outside of the Infill & Redevelopment Area, it is specifically prohibited within the defined I/R Area. Additionally, the purpose of the restriction on structures in the side yard is to have an unobstructed passageway from the front to the rear of all residential lots, especially for emergency responders. Approval of these variances could be considered an unreasonable and unnecessary circumvention of the Zoning Ordinance.

- d. Based on the applicant obtaining a building permit without the front yard parking area, without the side door, or the staircase, but chose to build these items and then request relief from the regulation, it is clear that these variance requests have arisen due to actions resulting in a violation of the Zoning Ordinance, contrary to of KRS 100.243(2) and Article 7-6(b)(1)(b) of the Zoning Ordinance, which requires denial of the request.
2. **V-2015-53: JULI and ROBERT ESKRIDGE** - appeal for a variance to increase the allowable floor area within the defined Infill and Redevelopment Area from 2,600 square feet to 3,089 square feet in order to construct a residential addition and a detached garage in a Single Family Residential (R-1E) zone, at 723 Melrose Avenue (Council District 3).

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

- a. The requested variance does not arise from a special circumstance that does not generally apply to land in this same R-1E zone. There are no unique physical characteristics, such as topography or neighborhood character, that would serve as a justification to approve the additional floor area requested.
- b. Granting the requested variance will cause this property to be out of character with others in the neighborhood, as this property is already the largest residence in the 700 block of Melrose Avenue (approximately 1,000 square more than the average home size).
- c. Strict application of the Zoning Ordinance will not deprive the applicants of a reasonable use of their property, as a smaller home addition and a smaller detached garage than what is requested are allowed by right, with only the issuance of a building permit.

D. Conditional Use Appeals

1. **C-2015-45: HOPE CENTER RECOVERY PROGRAM FOR WOMEN** - appeals for a conditional use permit to expand the existing rehabilitation home in a Planned Neighborhood Residential (R-3) zone, at 1524 Versailles Road (Council District 11).

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

- a. Granting the request for an amended conditional use permit should not adversely affect the subject or surrounding properties, as the proposed expansion will fit within the undeveloped areas of the property without the need for variances. Reviewed independently, the proposed facility will be able to meet all the requirements of the Zoning Ordinance, as well as when reviewed in conjunction with the two independent (but related) neighboring uses of the Hope Apartments and the Chrysalis House community center.
- b. All necessary public facilities are available and adequate for the proposed use, including the provision of waste management collection and fire protection services.

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

1. The expansion shall be done in accordance with the submitted application and site plan, allowing minor adjustments during the normal permitting process, if required by the Department of Fire or the Divisions of Engineering and Traffic Engineering.
2. All necessary permits, including a Zoning Compliance Permit, Building Permit and Certificate of Occupancy shall be obtained from the Divisions of Planning and Building Inspection prior to construction of the additions.
2. **C-2015-51: ST. JOHN'S LUTHERAN CHURCH, INC.** - appeals for a conditional use permit to construct and occupy a church expansion, with associated changes in the parking and play area; and to increase the number of children in the existing child care facility from 30 to 70 in Single Family Residential (R-1B and R-1C) zones, at 516 Pasadena Drive and 2713 Southview Drive (Council District 10).

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 church has the available room to expand its facilities on this 4-acre parcel, while new landscaping and changes to the dumpster location will mitigate the impact that this expansion will have on the surrounding properties.
- b. All necessary public facilities are available and adequate for the proposed use. Stormwater, in particular, will be designed in conjunction with the Engineering Stormwater Manual, which will require additional retention due to the known downstream stormwater problems in the neighborhood.

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

1. The expansion shall be done in accordance with the submitted application and site plan, allowing slight modifications as may be required by the Divisions of Waste Management, Engineering, and Traffic Engineering during the normal permitting process.
2. All necessary permits, including a Zoning Compliance Permit and Building Permit, shall be obtained from the Divisions of Planning and Building Inspection prior to construction; and occupancy permit will be required prior

- to occupancy of the building addition(s).
3. A minimum of a six-foot tall hedge and trees every forty feet shall be installed along the eastern property boundary (except where adjacent to 2713 Southview Drive) in order to buffer the adjoining residential properties on Southview Drive.
 4. All outdoor lighting shall be directed away from neighboring residential properties.
 5. The dumpster pad shall be located along the western property boundary (near the adjacent church's parking lot), a minimum of 120 feet from the nearest residential property.
 6. The property at 2713 Southview Drive shall be consolidated with the adjoining church property, by way of an appropriate plat filed with the Division of Planning and recorded prior to beginning the church use.

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.

- A. **A-2009-16: EFREN ALAMI** - appeals for an administrative review to allow a liquor store and drive- through sales window in conjunction with a nonconforming grocery store in a Planned Neighborhood Residential (R-3) zone, on property located at 500-502 East Seventh Street (Council District 1).

The Law Department and staff will report at the meeting.

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 September 25, 2015.

VII. **ADJOURNMENT** - If there is no further business, the Chair will declare the meeting adjourned.