

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

January 29, 2016

- I. **ATTENDANCE** - The Chair will call the meeting to order at 1:30 p.m. in the Council Chambers, 200 East Main Street, Lexington, Kentucky.
- II. **APPROVAL OF MINUTES** - The Chair will announce that the minutes of the December 11, 2015 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** -

None were filed for consideration by the Board this month.
 - D. **Conditional Use Appeals**
 1. **C-2015-75: MAIN & VINE PARTNERS, LLC.** – appeals for a conditional use permit to construct and operate a 2-by drive-through facility for a bank in the Downtown Business (B-2) zone, at 366, 370, 376, & 400 East Main Street (Council District 3).

The Staff Recommends: **Approval**, for the following reasons:
 - a. A drive-through facility for a proposed bank at this location should not adversely affect the subject or surrounding properties. Adequate vehicular stacking space and access from Water Street will be provided. The facilities have been designed to minimize any potential safety hazards, subject to final design adjustments as required by the Division of Traffic Engineering.
 - b. By placing the drive-through at the rear of the building, it will help to minimize the visual impact that similar facilities would have on the surrounding downtown environment.
 - c. All necessary public services and facilities are available and adequate for the proposed use, with sidewalk improvements to be undertaken around the full perimeter of the subject property.
This recommendation of approval is made subject to the following conditions:
 1. The drive-through facility shall be established in accordance with the submitted application and site plan, allowing minor modifications, if required, by the Divisions of Engineering; Traffic Engineering; or Building Inspection to satisfy their requirements.
 2. All necessary permits, including a Zoning Compliance Permit and Building Permit(s), shall be obtained from the Divisions of Planning and Building Inspection prior to construction.
 3. The parking lot and associated traffic aisles, including aisles for the drive-through facility, shall be paved, with spaces delineated, and landscaped/screened in accordance with the requirements of Articles 16 and 18 of the Zoning Ordinance.
 4. The appellant shall enter into a lease or other similar form of binding agreement with the Parking Authority (LexPark) for the portion of the development (the dumpster location) that extends into the Water Street right-of-way. The terms and conditions of that agreement shall be subject to approval by that agency.
 5. An encroachment agreement and/or right-of-way closure shall be obtained for the applicable portions of Water Street for the dumpster enclosure currently proposed.

Note: The Board of Adjustment postponed consideration of the following appeal at their December 11th meeting.

2. **C-2015-71: ROMAN CATHOLIC DIOCESE OF LEXINGTON** – appeals for a conditional use permit to construct an access for the church property, which will provide access to another adjacent property in Agricultural Urban and Single Family Residential (A-U & R-1D) zones, at 4001 Victoria Way & 165-169 Toronto Road (Council District 4).

The Staff Recommends: Approval, for the following reasons:

- a. Granting the requested conditional use for the church's access to Toronto Road should not adversely affect the subject or surrounding properties. The staff alternative layout of the access drives satisfies the needs of the development while avoiding the many constraints. Gates (if any) will be subject to approval by Traffic Engineering and the Fire Department, and the new access drives will be appropriately screened from the adjacent residential properties.
- b. Utilities are not expected to be necessary for this improvement unless a gate is installed, and then it will likely require electricity. All utilities exist in this area and are adequate to serve this purpose.

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

1. The property shall be developed in accordance with the staff alternative layout and the submitted application, provided that minor adjustments will be allowed, as necessary, to satisfy the needs of Traffic Engineering and the Fire Department.
2. All applicable permits, including a Zoning Compliance Permit and a Paving Permit, shall be obtained by the applicant from the Divisions of Planning and Building Inspection, prior to construction of the access drive.

E. **Administrative Reviews**

Note: The Board postponed the following appeal at their December 11th meeting.

1. **A-2015-60: STEVE PERRY & LEX PROPERTIES, LLC.** – a third party administrative appeal of the decision of Zoning Enforcement to accept the as-built survey as evidence of compliance with the development plan and plat in a High Density Apartment (R-4) zone, at 201 & 205 Burley Avenue and 1107, 1109 & 1111 Stillwell Avenue (Council District 3).

The Staff Recommends: Disapproval of the administrative appeal, for the following reasons:

- a. The Division of Planning consulted with multiple other divisions within the Lexington-Fayette Urban County Government (including the Commissioner of Planning, Preservation and Development; the Division of Engineering; the Division of Building Inspection and the Department of Law) before accepting the certified as-built survey from a licensed land surveyor as evidence of compliance with the Development Plan and recorded plat. According to that survey, the development was built according to the approved final development plan and plat.
- b. Furthermore, the claims that the development in question has created a safety hazard for the public and the area's residents are unfounded. The Division of Traffic Engineering has determined that the development is outside of the regulatory sight triangle and does not cause a safety hazard to the public.

IV. **BOARD ITEMS** - The Chair will announce that any items a Board member wishes to present will be heard at this time.

- A. The Board has requested an update from Zoning Enforcement with regard to 7524 Old Richmond Road (**CV-2006-20: AARON JAMISON / MARVIN FELDPAUSCH**).

Note: Zoning Enforcement staff will report at the hearing.

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 February 26, 2016.

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