

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

July 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, July 29, 2016.
- II. **APPROVAL OF MINUTES** - The Chair will announce that the minutes of the April 29, May 20, and June 24, 2016 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.
 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. **PLN-BOA-16-00004: MICHAEL A BLEVINS** - requests a variance to reduce the required front yard from 20 feet to 0 feet in order to provide a parking space in the front yard in a Single Family Residential (R-1E) zone, at 523 Maryland Ave. (Council District 2).

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

- a. Granting the requested variance will not cause a hazard or nuisance to the subject or surrounding properties; it will not negatively affect public health, safety or welfare; and will not alter the character of the vicinity. There are properties on Maryland Avenue that already have driveways in the required front yard that were constructed when the residences were built, long before the current regulations were in place.
- b. Granting the variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the property is too narrow to allow an off-street parking place or driveway anywhere other than where it is proposed.
- c. The special circumstance that applies to this property is its width and the size and location of the historic residence, which preclude location of a driveway anywhere else on the property. Maryland Avenue was developed as a residential street with long, narrow lots long before individual parking spaces were prevalent or even required. Additionally, the recent commercial development of Jefferson Street and Newtown Pike has created a situation where on-street parking is at a premium and often prevents the homeowners on the street from using the on-street spaces.
- d. Strict application of the Zoning Ordinance would prevent the applicant from providing a parking space on his

property, which is a reasonable expectation of any property owner. Further, parking in the area is becoming more and more a valued commodity due to new commercial development that has either already occurred or is planned to occur, on either end of the street (Newtown Pike and Jefferson Street).

- e. The requested variance, although it is because of the desire of the applicant to construct a driveway on his property, is not the result of his actions. No construction of the driveway has yet occurred; and it is only because of the new commercial developments on either end of Maryland Avenue that have made on-street parking a valued commodity, that this variance is being requested.

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

1. That the driveway be constructed according to the submitted application and site plan, leaving the remainder of the front yard as green space.
 2. That a paving permit be obtained from the Division of Building Inspection.
 3. That the driveway/curb cut be subject to the approval of the Urban County Traffic Engineer.
 4. This variance is granted only for the purpose of constructing a 10-foot wide driveway and parking space, and may not be used for any other construction or building purposes.
2. **PLN-BOA-16-00006: SIDNEY O LIZER** - requests a variance to reduce the required side yard from 8 feet to 2 feet to construct an attached garage in a Single Family Residential (R-1C) zone, at 2412 Eastway Drive (Council District 10).

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

- a. Attached garages are not a characteristic feature of this well-established neighborhood. Building such a structure just 2' from the side property line would be noticeably out of character, and could (over time in conjunction with similar construction activities on other properties) significantly alter the character of the general vicinity.
 - b. There are no special circumstances unique to this particular property sufficient to justify a significant reduction in the required side yard from 8' to 2'.
 - c. This property already has two accessory buildings situated very close to the side property line where the attached garage is proposed. The addition of a third structure very close to that same side property line could adversely impact the adjoining property in that area, whether from risk of fire or from general disturbances (e.g., maintenance activities).
 - d. Other options for construction of a garage, not requiring a variance, are available to the applicants. In particular, a detached two-car garage could be constructed to the rear of the residence (as is customary for this neighborhood), or a one-car attached garage could be built in the general area where a carport previously existed.
3. **PLN-BOA-16-00007: MIROSLAVA DOROCHENKO** - requests a variance to reduce the required front yard from 20 feet to 0 feet to provide a parking space in the front yard in a Single Family Residential (R-1E) zone, at 521 Maryland Ave. (Council District 2).

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

- a. Granting the requested variance will not cause a hazard or nuisance to the subject or surrounding properties; it will not negatively affect public health, safety or welfare; and will not alter the character of the vicinity. There are properties on Maryland Avenue that already have driveways in the required front yard that were constructed when the residences were built, long before the current regulations were in place.
- b. Granting the variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the property is too narrow to allow an off-street parking place or driveway similar to other driveways on the larger properties in the area.
- c. The special circumstance that applies to this property is its width and the size and location of the historic residence on the lot, which preclude location of a typical driveway. Maryland Avenue was developed as a residential street with long, narrow lots long before individual parking spaces were prevalent or even required. Additionally, the recent commercial development of Jefferson Street and Newtown Pike has created a situation where on-street parking is at a premium and often prevents the homeowners on the street from using the on-street spaces.
- d. Strict application of the Zoning Ordinance would prevent the applicant from providing a parking space on her property, which is a reasonable expectation of any property owner. Further, parking in the area is becoming more and more a valued commodity due to new commercial development that has either already occurred or is planned to occur, on either end of the street (Newtown Pike and Jefferson Street).
- e. The requested variance, although it is because of the desire of the applicant to construct a driveway on her property, is not the result of her actions. No construction of the driveway has yet occurred, and this variance is only being requested because of the new commercial developments on either end of Maryland Avenue that have made on-street parking a valued commodity.

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

1. That the 10-foot wide driveway be built according to the submitted application and site plan, or at a 0-foot setback along the eastern property line, leaving the remainder of the front yard as green space.
2. That a paving permit be obtained from the Division of Building Inspection.
3. That the driveway/curb cut be subject to approval of the Urban County Traffic Engineer.
4. This variance is granted only for the purpose of constructing a 10-foot wide driveway and parking space, and may not be used for any other construction or building purposes.

D. Conditional Use Appeals

1. **PLN-BOA-16-00001: TERESA P JOHNSON** - requests a conditional use permit to establish a home occupation (producing natural products - soaps, lotions, etc.) in a Single Family Residential (R-1E) zone, at 836 Revere Run Rd. (Council District 6).

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

- a. Granting the requested conditional use permit should not adversely impact the subject or surrounding properties. No significant increase in neighborhood traffic is expected (only occasional deliveries of raw materials/ingredients by the standard carrier services). The activity does not involve the use of noisy or harmful equipment of any kind, and the applicant is able to do all work in her kitchen; therefore, the potential of disturbing other property owners is minimal.
- b. All necessary public facilities are available and adequate for the proposed use.

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

1. This home occupation shall be established in accordance with the submitted application and site plan, and operated by the applicant within the residence in an area of no greater than 300 square feet.
 2. All necessary permits, including a Zoning Compliance Permit and Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection prior to operating this home occupation.
 3. The activity shall at all times comply with the provisions of Article 1-11 of the Zoning Ordinance pertaining to home occupations.
 4. The conditional use permit shall become null and void should the appellant cease to either own or reside at the subject property.
2. **PLN-BOA-16-00002: MARK AND KARLA DINARDO** - request a conditional use permit to establish an athletic club facility in a Light Industrial (I-1) zone, at 801 Winchester Rd (Council District 1).

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

- a. Adverse impacts to surrounding properties are not anticipated, as fitness training is not an inherently disturbing activity and will be confined to the interior of an existing building.
- b. Surrounding properties are exclusively commercial in nature, which should greatly limit the potential for any disturbances from indoor fitness training activities.
- c. Adequate parking will be provided on site, and all other necessary public facilities and services (roads, sewers, garbage collection) are already in place.

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

1. The athletic club shall be confined to the interior of the existing building and shall be established in accordance with the submitted application and site plan.
 2. The total number of participants at any given time (for the entire building) shall not exceed 30.
 3. Off-street parking shall be managed to ensure that a minimum of 28 conveniently located and safely usable spaces are provided.
 4. Parking and/or storage of semi-trailers or other similar equipment within the area labeled as "existing parking" on the submitted site plan shall be strictly prohibited.
 5. All necessary permits, including a Zoning Compliance Permit and Certificate of Occupancy from the Divisions of Planning and Building Inspection, shall be obtained prior to opening the facility.
3. **PLN-BOA-16-00003: MB2 RACEWAY INC.** - requests a conditional use permit to establish an indoor recreational facility (Indoor Electric Go Carts) in the Light Industrial (I-1) zone at 2040 Creative Dr. (Council District 5).

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

- a. Adverse impacts to surrounding properties are not anticipated, as the primary activity (electric go-kart racing) will not be noisy nor will it generate disturbing fumes, and will be confined to the interior of an existing building.
- b. Surrounding properties are almost exclusively commercial in nature, which should greatly limit the potential for any disturbances from indoor recreational activities.

- c. Adequate parking will be provided on site, and all other necessary public facilities and services (roads, sewers, garbage collection) are already in place.

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

1. The recreational facility shall be limited to the interior of the existing building and shall be established in accordance with the submitted application and site plan, with only electric go-karts to be used.
2. Events, meetings, parties and any other special occasions shall not include any live entertainment.
3. All necessary permits, including a Zoning Compliance Permit and Certificate of Occupancy from the Divisions of Planning and Building Inspection, shall be obtained prior to opening the facility.

E. **Administrative Reviews**

None to be presented

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. A motion to adopt conditions for case #**V-2015-36: Leah Taylor**. Conditions that do not apply to property were adopted in error, and wording should be as follows:

1. ~~The addition to the existing~~ house shall be constructed in accordance with the submitted application and site plan.
2. A building permit shall be obtained by the applicant from the Division of Building Inspection prior to construction of the ~~addition~~ house, and an occupancy permit shall be obtained once the construction has been completed.

B. Board of Adjustment Work Session

1. Granicus training
2. Discussion of reformatting minutes
3. Discussion of possible Zoning Ordinance text amendments

VI. **NEXT MEETING DATE** - The Chair will announce that the next meeting date will be August 26, 2016.

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