

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

January 27, 2017

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 16, 2016 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.

B. **Variance Appeals**

1. **PLN-BOA-16-00056: RIMTYME** - requests a variance to reduce the required perimeter boundary setback from 50 feet to 10 feet in a Planned Shopping Center (B-6P) zone, at 361 E. New Circle Road (Council District 6).

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

- a. Granting the requested variance will not adversely affect the public health, safety or welfare; will not alter the character of the general vicinity; and will not cause a hazard or nuisance to the public. The proposed use is appropriate to the vicinity and will utilize a currently vacant property.
- b. Granting the requested variance will not result in an unreasonable circumvention of the Zoning Ordinance because the new automobile service station will be located 10 feet from the side property line, which is permissible in other commercial zones.
- c. Strict application of the Zoning Ordinance would prevent construction of the proposed 6,000 square-foot automobile service station due to the restricted buildable area caused by the on-site easements and would deprive the applicant of a reasonable use of the property.
- d. The circumstances surrounding the requested variance are not the result of a willful violation of the Zoning Ordinance.

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

1. The facility shall be established in accordance with the submitted application and site plan, or as amended to address the requirements of the Divisions of Engineering, Traffic Engineering, and Building Inspection.
2. The final design of parking areas, access, and traffic circulation shall be subject to review and approval by the Division of Traffic Engineering.
3. Per the property's Conditional Zoning Requirements (91-6 CZ), landscaping that meets and/or exceeds the requirements of the Lexington-Fayette Urban County Zoning Ordinance shall be installed. The applicant shall attempt to preserve existing healthy trees on the boundary of the shopping center where reasonably possible.
4. Action of the Board shall be noted on an amended Development Plan for the subject property, subject to approval by the Planning Commission.
5. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection, including a Certificate of Occupancy, prior to opening the facility.

C. **Conditional Use Appeals**

*Note – The following case was withdrawn via email on 01/18/17.

1. **PLN-BOA-16-00029: CLAYS MILL ROAD BAPTIST CHURCH** - requests a conditional use permit to construct a 52,500 square-foot sanctuary and educational facility in the Agricultural Rural (A-R) zone), at 3440 Versailles Road (Council District 12).
2. **PLN-BOA-16-00037: KROGER COMPANY** – requests a conditional use permit to construct a new parking lot and driveways in a Neighborhood Business (B-1) zone, at 445 South Ashland Avenue (Council District 3).

Based on a recently submitted amended site plan (dated 1-17-17) that reasonably addresses staff concerns regarding impacts to the South Ashland streetscape and pedestrian/biker access, the following revised findings and conditions for approval are recommended:

Findings:

- a. A new parking lot at this location should not adversely impact the subject or surrounding properties. The parking lot will include a direct access from the main Kroger store to South Ashland Avenue, which is considered as a much needed improvement for traffic management purposes. Additional parking will alleviate crowded conditions in the existing surface parking lot, and biker/pedestrian access will be facilitated by the provision of a 5' wide internal sidewalk adjacent to the parking.
- b. All necessary public services and facilities are available and adequate for the proposed use.

Conditions:

1. The parking lot and access shall be constructed in accordance with the revised site plan (dated 1-17-17), or as amended to address requirements of the Divisions of Engineering, Traffic Engineering and Building Inspection.
 2. All necessary permits, including a Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection prior to construction and prior to opening the parking lot and access.
 3. The final design of the parking lot, including the layout of parking spaces, access to South Ashland and overall circulation, shall be subject to review and approval by the Division of Traffic Engineering. This may require, at the minimum, that two spaces be deleted at the southwest corner of the property, at a potentially awkward location where various traffic movements converge along a property line.
 4. The front of the lot (along South Ashland) shall be landscaped in accordance with the requirements of Article 18-3(a)(2)2 of the Zoning Ordinance. In order to maintain sight triangles for traffic visibility, per Article 3-3 of the Zoning Ordinance, it may be necessary to provide only ground cover in some of the landscaped area where a 3' tall continuous planting would otherwise be required. A minimum of three trees shall be provided along the 100' of frontage, with planting location and species selected to minimize the potential for sight triangle obstruction.
 5. Landscape buffers bordering the 5' wide sidewalk shall be planted with Liriope muscari (a low-growing plant in the Lily family, commonly known as spider grass), or another similar low maintenance ground cover, with spacing as customarily recommended for the plant chosen.
3. **PLN-BOA-16-00054: CHAMPS ENTERTAINMENT COMPLEX** – requests a conditional use permit to amend previously imposed conditions for operation of Champs Entertainment Complex, and allow continued operation of the facility under different ownership in a Light Industrial (I-1) zone, at 297 Ruccio Way/401 Sporting Court (Council District 9).

The Staff Recommends: Approval of a continued conditional use with removal of Condition #13, for the following reasons:

- a. Requiring a new Conditional Use hearing for an established facility under new ownership or operator is unnecessarily cumbersome. The remaining conditions are sufficient to insure that operations of the facility are compliant with the Board's intent. If a future owner/operator wishes to operate the facility without the remaining conditions, they should return to the Board.

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

1. Action of the Board shall be noted on the Final Development Plan for the subject property.
 2. Any pole lighting for the parking areas shall be of a shoebox (or similar) design, with light shielded and directed downward to avoid disturbing the surrounding properties.
 3. The sports bar/café shall not serve any alcoholic beverages other than beer and wine.
 4. The sports bar/café shall not have a direct entrance from the outside of the recreational building, and any signage for the facility shall not include any reference to a sports bar/café or the serving of beer and wine.
 5. The sports bar/café shall not be open outside of the normal operating hours for the entertainment center.
4. **PLN-BOA-16-00055: VILLAGE ANIMAL HOSPITAL, LLC** – requests a conditional use permit to establish a small animal hospital/veterinary clinic in a Professional Office (P-1) zone, at 1610-1612 Harrodsburg Road (Council District 11).

The Staff Recommends: Approval, for the following reasons:

- a. Granting the requested conditional use permit for use of an existing building should not adversely affect the subject or surrounding properties, nor should it disturb the adjoining property owners. It is a brick building that is at least 200 feet from the nearest residential structure. There will be no outdoor animal pens and no overnight boarding of animals, other than for medical purposes. Parking is onsite and adequate for the use.
- b. All necessary public services and facilities are available and adequate for the proposed use.

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

1. The facility shall be established in accordance with the submitted application and site plan.
2. Action by the Board shall be noted on an amended Development Plan for the subject property, subject to approval by the Planning Commission or staff, as appropriate.
3. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection including a Certificate of Occupancy prior to opening the facility.
4. A minimum of 14 off-street parking spaces shall be provided.

D. Administrative Reviews

None to be heard.

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

- A. Election of Officers - At the January meeting each year, the Board shall elect a Chairperson, a Vice-Chairperson, a Secretary and any other officers it deems necessary. Nominations shall be made from the floor, and the candidate receiving the majority vote of the membership in attendance shall be declared elected and shall take office at the close of the meeting. The present officers are: Chair – Vacant, due to the resignation of Mr. Stumbo from the Board; Vice-Chair – Thomas Glover; Secretary – Joan Whitman.
- B. In the past, the duties of Secretary have been delegated to the Planning Manager or a staff member appointed by the Planning Manager. The Chair will request action on this item.

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 24, 2017.

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