

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

February 24, 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 January 27, 2017 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-17-00010: VINCENT ZHOU** – requests a variance to reduce the required setback for a parking area from 6 feet to 0 feet and to eliminate the required separation between the private walkway and parking area in a Single Family Residential (R-1D) zone, at 2208 Chesapeake Ct. (Council District 10).

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

- a. Granting the variance will not adversely affect the public health, safety, or welfare as the paving in question is relatively minor and was installed without the need to widen the curb cut.
- b. Removal of the noncompliant pavement would be a costly endeavor for very little value as the pavement does not have much impact on the overall character of the neighborhood. The cul-de-sac is already fairly heavily paved due to the driveways for each of the six homes located there, with one of those homes having two driveways.

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

1. The basketball goal or another physical barrier shall remain at the shared edge of the private walkway and the new paving to delineate the walkway as such and to prevent vehicles from being parked on the walkway.

C. **Conditional Use Appeals**

1. **PLN-BOA-17-00002: YMCA OF CENTRAL KENTUCKY** - requests a conditional use permit to convert existing multi-purpose rooms into offices and expand the existing parking lot in a Light Industrial (I-1) zone), at 381 W. Loudon Ave. (Council District 1).

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

- a. A relatively minor parking lot expansion should not adversely affect the subject or surrounding properties, as adequate space is available and large areas of open space will remain.
- b. The new parking areas will be landscaped and designed to handle water drainage.

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

1. The parking lot expansion shall comply with the submitted site plan; and the existing Development Plan shall be amended subject to approval by the Division of Planning, or the Planning Commission, as appropriate.
 2. All necessary permits shall be obtained from the Division of Building Inspection prior to paving, with the new parking areas to be landscaped per Article 18 of the Zoning Ordinance. Additionally, a Certificate of Occupancy will be required prior to use of the new parking area.
 3. Final design of the new parking areas and drive aisles shall be subject to review and approval by the Division of Traffic Engineering.
 4. A storm water management plan shall be provided in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
2. **PLN-BOA-17-00003: DUKE ROAD PERSONAL CARE, LLC.** – requests a conditional use permit to modify and expand a rest home in a Planned Neighborhood Residential/Neighborhood Design Overlay (R-3/ND-1) zones, at 319 and 327 Duke Road (Council District 5).

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

- a. Granting the requested conditional use permit will not adversely affect the subject or surrounding properties, as the use will remain the same; there will be only a slight increase in the number of residents that can be

accommodated (from 16 to 18), and the facility will be expanded and modernized to better serve the residents and staff; the parking in the rear of the property will resolve a currently non-conforming situation, alleviating the on-street parking that is currently experienced on Duke Road; and the facility will be inspected and approved by both the Office of the Inspector General and the Division of Health Care with the State of Kentucky, as well as all appropriate local government agencies.

- b. All public facilities and services continue to be available and adequate for the expanded facility.

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

1. That the property be developed according to the submitted application and site plan.
2. That any permits, including a Zoning Compliance Permit, a Land Disturbance Permit (if necessary), a Paving Permit, a Building Permit and a Certificate of Occupancy be obtained from the Divisions of Planning, Engineering and Building Inspection, as appropriate.
3. That all encroachment agreements be obtained from the Urban County Government, as well as all applicable utilities.
4. That the properties known as 319 and 327 Duke Road be consolidated via plat, submitted to the Division of Planning, prior to commencement of construction.
5. That the parking area be paved and screened, in compliance with Articles 16 and 18 of the Zoning Ordinance.

3. **PLN-BOA-17-00006: BRYAN STATION BAPTIST CHURCH** – requests a conditional use permit for a school for academic instruction in the Agricultural Rural (A-R) zone, at 3175 Briar Hill Road (Council District 12).

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

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties, as the school will accommodate a limited number of students and the surrounding property is primarily agricultural.
- b. All necessary public services and facilities are or will be available and adequate for the proposed use.

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

1. The school shall be established in accordance with the submitted application and site plan, with enrollment limited to no more than 40 students.
2. All necessary permits and licenses, including a Zoning Compliance Permit and Certificate of Occupancy from the Divisions of Planning and Building Inspection, shall be obtained prior to opening the school.
3. Evidence of compliance with sewage treatment requirements of the Fayette County Health Department (for a combined church and school) shall be submitted to the Division of Building Inspection prior to the issuance of a Certificate of Occupancy.

4. **PLN-BOA-17-00007: TOTAL GRACE CHURCH** – requests a conditional use permit to expand the existing church and parking in a Planned Neighborhood Residential/Single Family Residential (R-3/R-1C) zones, at 1217, 1313, & 1317 N. Limestone & 100 Withers Ave. (Council District 1).

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

- a. Additional time is needed for the applicant to consider a modified proposal that reduces the extent of paving proposed in the front yards of 1217 and 1317 North Limestone and 100 Withers Avenue, with the goal of maintaining a comparable amount of open space as that provided on the adjoining residential properties.
- b. There are significant questions related to the overall design of the parking areas that are proposed, which should be discussed with the Division of Traffic Engineering prior to the Board's consideration of the conditional use request.
- c. The provisions of landscape buffers for the proposed parking lot, whether required by the Zoning Ordinance or otherwise deemed desirable, should be addressed by the appellant. Given the dimensions of the lots where parking is proposed, such buffers may ultimately determine the feasibility and design options for expanding the off-street parking areas for this church facility.

5. **PLN-BOA-17-00008: SHOWPROP PICO RIVERA, LLC.** – requests a conditional use permit to install a drive-up ITM in the Downtown Business (B-2) zone, at 400 E. Vine Street (Council District 3).

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

- a. Granting the requested conditional use permit for a drive-up Interactive Teller Machine (ITM) should not adversely affect the subject or surrounding properties, as adequate parking will remain available and the use will be relatively low impact. The drive-through will provide convenient and quick service for bank customers without requiring them to park and go inside the building.
- 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, with revisions

allowed as required by the Division of Traffic Engineering.

2. The island on which the ITM is to be installed shall be landscaped in accordance with Article 18 of the Zoning Ordinance.
3. The final design of the ITM/parking lot shall be subject to review and approval by the Division of Traffic Engineering.
4. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to construction and occupancy.

D. **Administrative Reviews**

1. **PLN-BOA-17-00004: THE SUMMIT** – an administrative appeal to transfer 35 square feet of unused signage to allow a primary freestanding sign of 110 square feet, and a variance to increase the allowable height of that sign from 10 feet to 12'4"; and an administrative appeal to transfer 35 square feet of unused signage to allow a secondary freestanding sign of 75 square feet, in a Mixed Use Community (MU-3) zone, at 4100 Nicholasville Road (Council District 4).

The Staff Recommends: **Approval** of the variance and the administrative appeals, for the following reasons:

- a. Granting this request will not cause a hazard or nuisance to the public; will not adversely affect public health, safety, or welfare; nor will it alter the essential character of the vicinity. Much of the nearby property along Nicholasville Road is either a Highway Service Business (B-3) or a Planned Shopping Center (B-6P) zone, each of which permits significantly taller free-standing signs. In addition, contextually, the request signage is not out of scale or overwhelming due to the size of the development and its location, which is a heavily traveled area.
- b. Granting this request will not allow an unreasonable circumvention of the Zoning Ordinance, as transferring signage to the Man O' War and Nicholasville Road frontages will shift the visual impact of the signs to the more populous, commercial streets and access points, away from the adjacent residential areas where large signs would be more concerning.
- c. The circumstances that justify granting this request are the large scale of the development, as well as its location at the intersection of Man O' War Boulevard and Nicholasville Road. This is one of the more heavily traveled areas and busy intersections in Fayette County, and the increased size and height of the signs may actually contribute to the safety of motorists traveling in the area.

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

1. The proposed signage shall be established in accordance with the submitted application and site plan.
2. All necessary permits for signage shall be obtained from the Division of Building Inspection.
3. Free-standing signage shall not be permitted along the East Tiverton Way or Habersham Drive frontage.
4. A project identification sign shall not be permitted on the northerly wall of the parking garage facing East Tiverton Way.

2. **PLN-BOA-17-00001: EDDIE HUNT** – an administrative appeal to allow continued use of a previously authorized second kitchen in a single family residence with new owners, and to amend the previously imposed conditions so that future owners could retain the second kitchen without further appeals in a Single Family Residential (R-1D) zone, at 3965 Forsythe Drive (Council District 10).

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

- a. The inclusion of a second kitchen in a residence does not automatically constitute the establishment of a second dwelling unit if used by family members of the property owner residing in the home.
- b. There have been no zoning compliance issues or citizen complaints regarding the second kitchen in the 14 years that have passed since the original approval in 2002.

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

1. The second kitchen and associated living area shall not be rented out or otherwise used as a separate living unit and shall only be used by blood or marriage relatives of the property owner who resides in the home.
2. The applicant shall clearly convey this use limitation to any prospective buyers of the property.

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.

VI. **NEXT MEETING DATE** - The Chair will announce that the next meeting date will be March 31, 2017.

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