

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

April 28, 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** – There are no minutes 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.

B. **Variance Appeals**

1. **PLN-BOA-17-00013: JAKE RIORDAN** – requests variances to: 1) increase the maximum front setback from 20 feet to 90 feet for Lot 1, and 2) increase the maximum front setback from 20 feet to 145 feet from the private access easement for Lot 2 in a Neighborhood Business (B-1) zone, at 4235 Harrodsburg Rd. (Council District 10).

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

- a. The orientation and architectural details of the buildings in the B-1 portion of the lot have not been finalized; therefore, the variance request is premature.
- b. The lots have not yet been created via a final record plat, and the Final Development Plan for the site was recommended for postponement. Until further action has been made by the Planning Commission, this appeal should not be acted on by the Board.

C. **Conditional Use Appeals**

1. **PLN-BOA-17-00012: DARBY DAN FARM** – requests a conditional use permit to establish a farm gift shop in the Agricultural Rural (A-R) zone, at 3225 Old Frankfort Pike (Council District 12).

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

- a. Granting the requested conditional use will not compromise the area surrounding Darby Dan Farm. The primary client base for the gift shop will be guests who are on the property for a tour of the equine facility, and the purpose of the gift shop is to enhance their experience of the farm. Memorabilia of the farm operation have been offered on the internet for several years; this is only an on-site continuation of what has been remotely offered by Darby Dan Farm in the past.
- b. The scale of the use, both in the size of the building and the operation of the gift shop, is minimal compared to the overall size and general operation of the farm. There will be no signage advertising the gift shop, other than interior to the property; no additional facilities or services are needed for its operation; it will be located in an existing building, adjacent to the already provided guest parking area; and traffic other than what will be associated with scheduled farm tours will be minimal and possibly non-existent.
- c. A small farm gift shop, such as the one proposed, providing memorabilia specific to Darby Dan Farm, is an excellent example of what the recently adopted text amendment was designed to accomplish regarding agritourism in Fayette County.

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

1. That the gift shop be located and operated in compliance with the submitted application and site plan.
2. That only farm or industry memorabilia or items related to Darby Dan Farm and its racing history be provided for sale on the property.
3. That there be no signage, other than directional or identification signage interior to the property, advertising the farm gift shop.

2. **PLN-BOA-17-00015: SOUTHERN OAK, LLC.** – requests a conditional use permit for a drive-through window in a Downtown Frame Business (B-2A) zone, within the defined Infill and Redevelopment Area, at 473 East Main Street (Council District 3).

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

- a. Granting the requested conditional use permit for a drive-through facility will adversely affect the subject property and surrounding properties because it will exacerbate an already less than desirable traffic situation on this portion of East Main Street, as well as in the property's parking lot. Turning left out of the parking lot is very difficult due to the traffic situation and lack of a turn lane, and could result in traffic backing up on the site as well as treacherous conditions for drivers, pedestrians, and cyclists along this portion of East Main Street.
- b. A coffee shop with a drive-through is anticipated to result in nearly five times as many morning trips, and nearly four times as many total trips per day as a bank with a drive-through. As such, adverse impacts associated with this proposed use are reasonably expected to be much greater than the previously approved bank facility.
- c. The elevated noise associated with a coffee shop drive-through facility including frequent use of speakers, cars idling, and car radios, is not appropriate, given the adjacent property's use as a funeral home.

3. **PLN-BOA-17-00016: IMMANUEL BAPTIST CHURCH** – requests an amended conditional use permit to expand the on-site parking; and a variance to reduce the minimum setback from 40 feet to 18 feet in a Single Family Residential (R-1B) zone, at 3100 Bates Creek Road (Council District 5).

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

- a. Granting the requested amended conditional use permit to expand the parking lot should not adversely affect the subject or surrounding properties, provided that storm water management requirements are met.
- b. The need for the requested variance arises from a special circumstance existing on this site, which is the slanted configuration of the current parking lot, and is not the result of actions of the applicant taken without regard to zoning regulations.
- c. The requested variance will not alter the character of the general vicinity, as it creates a situation that is similar to the parking lot on the neighboring property.

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

1. The new parking areas shall be established in accordance with the submitted application and site plan.
2. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
3. An updated storm water management plan shall be implemented as part of the parking lot expansion. This plan, subject to acceptance by the Division of Engineering, shall address existing drainage problems in the immediate area, as required by the adopted Engineering Manuals.
4. Any outdoor play area (in association with a child care use), of at least 25 square feet per child, shall be fenced and screened as required by the Zoning Ordinance.
5. All parking areas shall be landscaped in accordance with the provisions of Article 18.

4. **PLN-BOA-17-00020: LEXINGTON PRIMITIVE BAPTIST CHURCH** – requests a conditional use permit to expand the existing church in a Planned Neighborhood Residential (R-3) zone, at 4574 Old Schoolhouse Lane (Council District 10).

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

- a. Granting the requested conditional use permit to modestly expand the existing building should not adversely affect the subject or surrounding properties, nor should it disturb the adjoining property owners. Parking is on site and adequate for the use. Additional parking will not be required as a result of the expansion.
- 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 church shall be expanded in accordance with the submitted application and site plan.
2. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection, including a Certificate of Occupancy, prior to opening the expanded facility.
3. The parking lot addition shall be landscaped/screened in accordance with Article 18 of the Zoning Ordinance.

5. **PLN-BOA-17-00021: NEWTON'S ATTIC, LLC.** – requests a conditional use permit for a proposed building to be used for academic instruction in the Agricultural Rural (A-R) zone, at 4974 Old Versailles Road (Council District 12).

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

- a. The applicant wishes to construct a building that does not comply with the restrictions on schools for academic instruction located in the A-R zone. The applicant is considering other options to achieve compliance for a new school building and has requested to postpone the application for at least one month.

6. **PLN-BOA-17-00022: MASJID BILAL** – requests a conditional use permit to establish a cemetery in the Agricultural Rural (A-R) zone, at 3427 Georgetown 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, nor should it disturb the adjoining property owners. The area of use is relatively secluded. Parking is on site 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. All necessary permits shall be obtained from the Divisions of Planning, Engineering, and Building Inspection, including a Zoning Compliance Permit, a land disturbance permit for initial grading (if necessary), and Certificate of Occupancy, prior to use of the property as a cemetery.
 2. Any approvals that may be needed from the Health Department or other state agency must be obtained and documented prior to issuance of a Zoning Compliance Permit.
 3. Any outdoor pole lighting for the parking area shall be of a shoebox (or similar) design, with light shielded and directed downward to avoid disturbing adjoining or nearby properties.
7. **PLN-BOA-17-00023: FAIRHAVEN BAPTIST CHURCH** – requests a conditional use permit to amend a previously approved conditional use (expanding the existing building) in the Agricultural Urban (A-U) zone, at 2265 Liberty Road (Council District 6).

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

- a. The proposed addition does not comply with Article 8-4(i), which requires a minimum side yard of 25 feet. The proposed addition should be redesigned to meet the requirements of Article 8-4(i), or a variance must be requested to decrease the required side yard.

D. **Revocation Hearing**

1. **CV-2006-20: AARON JAMISON/MARVIN FELDPAUSCH** - the Board of Adjustment has requested a revocation hearing for a conditional use permit to operate a plant nursery and commercial greenhouse in the Agricultural Rural (A-R) zone, at 7524 Old Richmond Road (Council District 12).

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 May 19, 2017.

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