

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

July 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** – The Chair will announce that the minutes of the May 19, 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. **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**
 1. **PLN-BOA-17-00039: JOHN SAMSON** - requests a variance to increase the allowable area of an accessory building from 1,186 square feet to 3,420 square feet in order to construct a 2,700 square-foot accessory building with a 720 square-foot open air lean-to structure at one end in a Single Family Residential (R-1B) zone, at 280 Swigert Ave. (Council District 6).

***Note** – The following case is a continuance from the June 30, 2017 hearing.

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 accessory structure is similar to others in the area and will not be very visible from the road.
- b. Strict application of the Zoning Ordinance would deprive the applicant of the reasonable use of his land as he would be unable to utilize his property to store personal vehicles and equipment, on a large, oversized lot in an R-1B zone.
- c. The variance request is not the result of any willful violation or attempt to circumvent the requirements of the Zoning Ordinance.

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

1. The structure shall be constructed in accordance with the submitted application and site plan.
 2. All necessary permits shall be obtained from the Division of Building Inspection, prior to beginning construction.
 3. That the applicant consult with the Urban County Engineer to determine what, if any, measure might be recommended to mitigate the potential for increased runoff from the property.
 4. The two existing accessory structures shall be removed upon completion of the new structure.
 5. The new accessory structure shall be used for personal use only and shall not be used for any business purposes.
2. **PLN-BOA-17-00048: CF REAL ESTATE SERVICES, LLC (DBA THE LEX)** – requests a variance to decrease the required number of parking spaces by 51 spaces at a property in the defined Infill and Redevelopment area in a Mixed Use (MU-3) zone, at 501 S. Broadway (Council District 3).

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. There are pedestrian facilities in the area as well as a transit stop, and The Lex offers a complimentary shuttle to campus for its residents.
- b. The variance request is not the result of any willful violation or attempt to circumvent the requirements of the Zoning Ordinance. In fact, the variance request is only a precautionary measure to insure that the property maintains compliance if presently leased property becomes unavailable in the future.

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

1. Action of the Board shall be noted on an amended Development Plan for the subject property.
2. A minimum of 587 off-street parking spaces shall be provided for the development which may be reduced to 524 should the appellant elect to implement the transit stop and bike rack reductions via Articles 16-10(a) and 16-10(b).

D. Conditional Use Appeals

1. **PLN-BOA-17-00042: GRACE FREE WILL BAPTIST CHURCH** – requests a conditional use permit to construct an addition to an existing church building in the Agricultural Rural (A-R) zone, at 4281 Haley 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 of surrounding properties. An addition to the church that does not increase the number of sanctuary seats should have little effect on the intensity of the use on this property.
- b. All necessary public facilities and services are or will be available and adequate for the proposed use, with police and fire protection being available and adequate; and with facilities such as trash pickup, septic system and storm water management being privately provided.

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

1. The structure shall be constructed in accordance with the submitted application and site plan.
2. All necessary permits shall be obtained from the Division of Building Inspection, prior to beginning construction.
3. The applicant shall consult with the Urban County Engineer to determine what, if any, additional stormwater provisions will be required.
4. Any changes to the septic system shall be reviewed and approved by the Fayette County Board of Health prior to the issuance of a building permit.

2. **PLN-BOA-17-00043: NICK WILLIAMS** – requests a conditional use permit to establish an indoor recreational facility in a Light Industrial (I-1) zone, at 117 Westhampton Drive (Council District 2).

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

- a. Adverse impacts to surrounding properties are not anticipated, as the sports training should not be an inherently disturbing activity and will be confined to the interior of an existing building.
- b. Surrounding properties are exclusively industrial in nature, which should greatly limit the potential for any disturbances from indoor training activities, particularly since during most of the year the majority of training will be conducted during evenings and on weekends.
- 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 sports training facility shall be confined to the interior of the existing building and shall be established in accordance with the submitted application and site plan.
2. 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

1. **PLN-BOA-17-00047: JAMES MITCHELL** – an administrative appeal to change one legal non-conforming use (retail market) to another legal non-conforming use (restaurant) in a Planned Neighborhood Residential (R-3) zone, at 201 East Fifth Street (Council District 1).

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

- a. Approval of this change from a small retail market to a restaurant with food service taking place largely outside, in the parking lot or elsewhere would allow a non-conforming use to be enlarged and extended.
- b. Allowing a restaurant in which the food is primarily prepared outside of the building in food trucks would likely create disturbances to the residential neighbors and alter the character of the surrounding neighborhood.
- c. Parking required for a restaurant use is much greater than for a retail market, which would likely result in a more intense use at this location.
- d. Given the operational model proposed for the restaurant, with no commercial kitchen, it appears that alcohol sales proposed for the interior of the building might result in the property functioning more as a bar/nightclub than as a restaurant.

2. **PLN-BOA-17-00049: JOHN & SHARON THELIN** – an administrative appeal to determine that the Division of Building Inspection erred in issuing a building permit in a Single Family Residential (R-1C) zone, at 121 Holiday Road (Council District 5).

*Note – Staff will report at the time of the hearing.

- 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 August 25, 2017.
- VII. **ADJOURNMENT** - If there is no further business, the Chair will declare the meeting adjourned.