

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

September 29, 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 August 25, 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-17-00046: JEFF GRAVES** - requests a variance to increase the allowable width of a driveway from 10 feet to 21 feet at a property within the defined Infill & Redevelopment Area in a Single Family Residential (R-1E) zone, at 509 Marquis Ave. (Council District 3).

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

- a. The need for a variance has come about because the applicant did not procure the proper permits prior to installation of the driveway.
 - b. The site is located within the Infill and Redevelopment area, which generally has more restrictive requirements regarding the amount of allowable paving and parking areas. Additionally, the subject property is located near the University of Kentucky campus, and creating a precedent to allow non-compliant paving would have negative impact on the character of the general vicinity.
 - c. There is a substantial and recently improved parking area to the rear of the home, and temporary parking of medical personnel in a 10' wide driveway at the front of the home is feasible.
2. **PLN-BOA-17-00061: HARRY & LOUISE BUSH** - request a variance to reduce the required side yard from 6 feet to 4 feet in order to expand the existing residence in a Single Family Residential (R-1C)/Neighborhood Design Character Overlay (ND-1) zone, at 221 Cochran Road (Council District 5).

The Staff Recommends: **Approval of a variance to reduce the required side yard from 6 feet, 4 inches to 5 feet**, for the following reasons:

- a. Granting this somewhat lesser variance should not adversely affect the public health, safety, or welfare; nor should it have much effect on the character of the general vicinity. The property is relatively deep, with an average depth of 163 feet. At its shortest dimension, the rear setback from the house will be 87 feet, significantly exceeding the required rear yard setback of 10 feet. This variance will allow the addition to be constructed in line with the existing residence and will prevent any change in the appearance of the home from the street view.
- b. This variance will allow the applicants to construct a sizeable addition to their home without encroaching any further towards the property line than the house already does. This should not deprive them of the reasonable use of the land or create an unnecessary hardship, as they will still be allowed to construct an addition that has nearly the same square footage as the existing structure.
- c. The need for a variance is not the result of a willful violation of the Zoning Ordinance, as the applicants have taken care to go through the necessary permitting processes and have applied for the variance prior to construction.

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

1. The addition shall be constructed with a minimum average side yard of 5'.
2. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to construction.
3. The addition and new garage shall be subject to the Chevy Chase Neighborhood Design Standards.

3. **PLN-BOA-17-00068: BROOKE LOYD** - requests a variance to reduce the required side yard from 18 inches to 0 inches to allow construction of a deck adjacent to a swimming pool in an Expansion Area Residential (EAR-2) zone, at 1169 Deer Haven Lane (Council District 12).

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

- a. Granting the requested variance should not adversely affect the public health, safety, or welfare; nor should it affect the character of the general vicinity. The deck is located within the fenced in back yard and will not be visible from the street.
- b. The location of 2 sewer lines in the rear yard of the property is a special circumstance that limits the applicant's use of her yard and justifies the need for a variance.
- c. The request is not a result of a willful violation of the Zoning Ordinance. The applicant has taken care to go through the necessary processes for this project by securing a sewer encroachment agreement, applying for a deck permit, and applying for the variance prior to construction of the desired deck.
- d. A compliant deck, placed 18" from the property line, would only allow for 18" of deck space (given the location of the pool) and would result in an awkward gap between the deck and fence, which could potentially result in maintenance issues as the narrow area would be hard to access.

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

1. The deck 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 construction.

4. **PLN-BOA-17-00069: ANDOVER CONSTRUCTION** - requests a variance to reduce the required front yard from 20 feet to 0 feet in order to allow a 16-foot wide driveway within the defined Infill & Redevelopment Area in a Planned Neighborhood Residential (R-3) zone, at 468 Holiday Road (Council District 5).

The Staff Recommends: **Approval of a variance to reduce the required front yard from 20' to 15'**, for the following reasons:

- a. Granting the somewhat lesser variance should not adversely affect the public health, safety, or welfare.
- b. Granting this variance should not have much effect on the character of the general vicinity, as there are driveways of varying widths along this portion of Holiday Road.
- c. Granting this lesser variance will not deprive the applicant of the reasonable use of the land or create an unnecessary hardship because by, allowing the front yard setback to be 15', the applicant will have 20 feet of space in which they can have a 16-foot wide paved area for parking in front of the garage.

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

1. The driveway shall be paved in compliance with the approved variance and shall be no wider than 10 feet for 15' from the front lot line.
2. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
3. 0An administrative action plat shall be filed to document Board of Adjustment action.

D. Conditional Use Appeals

1. **PLN-BOA-17-00057: BEHRS & DAWGS, LLC.** – requests a conditional use permit to allow indoor and outdoor live entertainment and dancing accessory to a cocktail lounge; and a variance to reduce the required setback of such a use from a residential zone from 100 feet to 30 feet within the defined Infill & Redevelopment Area in a Neighborhood Business (B-1) zone, at 385 South Limestone (Council District 3).

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

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties, provided the applicant complies with appropriate measures, as recommended. These include restrictions on the days, hours, and amplification of the entertainment.
- b. All necessary public facilities and services are available and adequate for the proposed live entertainment conditional use.
- c. Granting the requested variance will not adversely affect the public health, safety or welfare. It will not alter the character of the general vicinity, and will not cause a hazard or nuisance to the public provided there are limits on the hours of operation and amplification is prohibited. No physical change or expansion of the existing building is required or proposed by the applicant to accommodate this use.
- d. Granting the requested variance will not result in an unreasonable circumvention of the Zoning Ordinance because, although the residential zone is closer to the proposed use than 100', the nearest residential structure is over 100' away.

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

1. The use shall be conducted in accordance with the submitted site plan and as further regulated below.
2. All necessary permits, including a Zoning Compliance Permit and a Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection, prior to establishing the use.
3. Amplified music/entertainment shall be limited to Thursday through Saturday nights, beginning no earlier than 9:00 p.m. and ending no later than 1:00 a.m.
4. All music/entertainment shall be provided in a manner that does not create a nuisance to the surrounding neighborhood.

2. **PLN-BOA-17-00062: TOM & CATHRYN MILLER (dba THE RUFFLED HEN CO.)** – request a conditional use permit for a home occupation (wardrobe consultation and fitting) in a Single Family Residential (R-1B) zone, at 821 Chinoe Road (Council District 5).

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

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. The applicant has been operating in this manner for many years, with only the complaint made in April of this year being recorded. Clients are scheduled one at a time, and adequate parking is provided on the applicant's property, so traffic should not be an issue.
- b. Only samples are kept at the residence for display; therefore, the operation is unlike that of a retail store. Staff views this service as similar to that of a seamstress, which is an allowable home occupation.
- c. All necessary public facilities and services are available and adequate for the proposed use.

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

1. The use shall be conducted in accordance with the submitted site plan and application.
2. All necessary permits, including a Zoning Compliance Permit and a Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection, within one month following action by the Board.
3. Hours of operation shall be limited to 10 a.m. to 7 p.m. Monday through Saturday.
4. This approval shall be considered null & void if the applicant should cease operating this use at this location or ceases to reside at the subject property.

3. **PLN-BOA-17-00063: TRINITY UNITED METHODIST CHURCH** – requests a conditional use permit to expand the existing church in a Planned Neighborhood Residential (R-3) zone, at 3600 Bates Creek Rd. (Council District 8).

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

- a. The proposed building expansion should not adversely affect the subject or adjoining/nearby properties. The new building will be centrally located on the property, and set back a reasonable distance from adjoining residential uses to the east and south. The new and improved facilities should be beneficial for the surrounding community.
- b. All necessary public services and facilities are available and adequate for the proposed expansion.

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

1. The building expansion shall take place in accordance with the submitted application and site plan, or as revised to satisfy requirements of the Divisions of Engineering, Traffic Engineering or Building Inspection.
2. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to construction and occupancy.
3. The final design of the reconfigured parking and traffic circulation shall be reviewed and approved by the Division of Traffic Engineering.
4. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
5. Required landscaping for the reconfigured vehicular use areas shall be provided and maintained in accordance with the provisions of Article 18 of the Zoning Ordinance.

4. **PLN-BOA-17-00064: YMCA OF CENTRAL KENTUCKY, INC.** – requests a conditional use permit to expand the previously approved picnic shelter from 2,000 square feet to 3,800 square feet in the R-3 portion of a property that is split-zoned R-3 (Planned Neighborhood Residential)/P-1 (Professional Office) at 2681 Old Rosebud Road (Council District 6).

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

- a. The proposed expansion to 3,800 square feet should not adversely affect the subject or adjoining/nearby properties. The structure will be constructed in essentially the same location as was previously approved by the Board, and will be no nearer adjoining residential properties to the north of the site. The new and

improved facility should be beneficial for the surrounding community and will enhance the services able to be provided by the YMCA.

- b. All necessary public services and facilities are available and adequate for the proposed expansion of the pavilion.

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

1. The pavilion shall be constructed as shown on the site plan submitted with this application, as revised to satisfy requirements of the Divisions of Engineering or Building Inspection during the normal permitting process, or as approved by the Planning Commission on an amended development plan.
2. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to construction and occupancy of the pavilion.
3. Assuming that this request is approved, if construction of the playing fields has not yet been completed, all previous conditions imposed by the Board in December of 2015 regarding construction, lighting and screening shall remain in effect.
4. If deemed necessary by the Division of Engineering, a storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by that Division.
5. Action of the Board shall be noted on the development plan (PLN-MJDP-17-00087) for the subject property.

5. **PLN-BOA-17-00065: TIME TO SHINE CAR WASH, INC.** – requests a conditional use permit to establish a self-service car wash in a Planned Shopping Center (B-6P) zone, at 2320 Grey Lag Way (Council District 6).

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

- a. The proposed self-service car wash should not adversely affect the subject or adjoining/nearby properties. The facility will be located where minimal traffic impacts are anticipated, and will be far removed from the nearest residential uses to the west on the opposite side of Sir Barton Way. The property is of sufficient size to allow for proper design with adequate parking and internal vehicle circulation.
- 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 constructed and operated in accordance with the submitted application and site plan, or as revised by the Planning Commission or otherwise modified to satisfy requirements of the Divisions of Engineering, Traffic Engineering or Building Inspection.
2. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to construction and occupancy.
3. The final design of the parking, access and traffic circulation shall be reviewed and approved by the Division of Traffic Engineering.
4. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
5. Landscaping for the vehicular use areas shall be provided and maintained in accordance with the provisions of Article 18 of the Zoning Ordinance.
6. Action of the Board shall be noted on an amended Final Development Plan for the subject property.

6. **PLN-BOA-17-00066: HOPE CENTER** – requests a conditional use permit to construct a rehabilitation home in a Professional Office (P-1) zone, at 298 West Loudon (Council District 1).

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

- a. The proposed rehabilitation home should not adversely affect the subject or adjoining/nearby properties. The new building will be centrally located on the property, and will be integrated into the overall Hope Center development on West Loudon Avenue. It is separated from nearby single and multi-family residential uses to the south/southeast by the R.J. Corman rail line. Additionally, a tree protection area is indicated on the site plan/development plan that will further help to separate and shield the uses. The new facility will be beneficial for the Hope Center as well as the surrounding community by expanding services that are currently offered.
- b. All necessary public services and facilities are available and adequate for the proposed Hope Center expansion.

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

1. The new construction shall take place in accordance with the submitted application and site plan; as revised to satisfy requirements of the Divisions of Engineering, Traffic Engineering or Building Inspection; or as amended by the Planning Commission.
2. All necessary permits shall be obtained from the Divisions of Planning, Building Inspection, Engineering and/or Traffic Engineering, as needed, prior to construction and occupancy.
3. The final design of the reconfigured parking and traffic circulation that will be shared by the two properties

shall be reviewed and approved by the Division of Traffic Engineering.

4. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
5. Required landscaping for the vehicular use areas shall be provided and maintained in accordance with the provisions of Article 18 of the Zoning Ordinance; additionally, the tree protection area shown on the site/development plan shall be maintained as shown and supplemented, if determined necessary by the Urban County Landscape Examiner.
6. Action of the Board shall be noted on an amended Final Development Plan for the subject 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 October 27, 2017.

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