

MINUTES FOR THE BOARD OF ADJUSTMENT MEETING

December 15, 2017

- I. **ATTENDANCE** - The Chairman called the meeting to order at 1:30 p.m. in the Council Chambers, 200 East Main Street, December 15, 2017. Members present were: Branden Gross, Harry Clarke, Chad Needham, Joan Whitman, Jan Meyer, Raquel Carter, and Thomas Glover. Others present were: Josh Dezarn, Division of Engineering; Tracy Jones, Department of Law; and Casey Kaucher, Traffic Engineering. Staff members in attendance were: Jim Marx, Autumn Goderwis, Barbara Rackers, and Tammye McMullen.

- II. **APPROVAL OF MINUTES** - The Chair announced that the minutes of the November 17, 2017, meeting would be considered at this time.

Action - A motion was made by Mr. Clarke, seconded by Ms. Meyer, and carried 4-0 (Whitman and Glover absent) to **approve** the minutes of the November 17, 2017 meeting.

*Note – Ms. Whitman arrived at 1:35 p.m.; Mr. Glover arrived at 1:40 p.m.

III. PUBLIC HEARING ON ZONING APPEALS

Swearing of Witnesses – Prior to sounding the agenda, the Chair asked all those persons present who would be speaking or offering testimony to stand, raise their right hand and be sworn. The oath was administered at this time to several staff members and other persons in the audience.

- A. **Sounding the Agenda** - In order to expedite completion of agenda items, the Chair sounded the agenda with regard to any postponements, withdrawals, applicants present and objectors.

1. **Postponement or Withdrawal of any Scheduled Business Item** - The Chair announced that any person having an appeal or other business before the Board may request postponement or withdrawal of such at this time.

a. ABBREVIATED HEARINGS:

1. **PLN-BOA-17-00085: SERENITY PLACE** – requests a conditional use permit to establish an outpatient office in one unit of an existing apartment building in a Planned Neighborhood Residential (R-3) zone, at 1589 Hill View Place (Council District 11).

The Staff Recommends: Approval, for the following reasons:

- The requested use should not adversely affect the subject or surrounding properties. It is compatible with the mission of the overall campus operated by Chrysalis House and Hope Center, which extends from Hill View Place to Versailles Road. The intent of this organization is to provide supportive services in conjunction with housing that will promote long-term stability, sobriety, and independence for recovering women heads of families.
- There are 70 parking spaces on the property. Parking is not a major concern as some of the participants will be residents of Serenity Place, and the hours of operation coincide largely with typical work hours when residents of the apartments may be elsewhere.
- While this type of use is not specifically listed in the Zoning Ordinance as a Conditional Use for the R-3 zone, similar uses such as community centers and hospitals are listed. Historically, this type of office, as long as it is part of a non-profit organization, has been allowed to exist within community centers. Given the overall mission of Chrysalis House and Serenity Place, this type of use is appropriate for this location. This office will provide needed services to residents of the apartments and other clients.
- 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:

- The outpatient office shall be operated in accordance with the submitted application and site plan.
- All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to occupancy.
- There shall be no prescribing or dispensing of medications as part of the outpatient operation.
- The conditional use permit shall become null and void should the applicant cease to either own the subject property or occupy the property as an outpatient office.

Representation – Tonya Jernigan, representing Serenity Place, was present. Ms. Jernigan indicated that they had reviewed the conditions and agreed to abide by them.

Action – A motion was made by Ms. Meyer, seconded by Mr. Clarke and carried 4-0 (no vote by Ms. Whitman; Glover absent) to **approve PLN-BOA-17-00085: SERENITY PLACE** – a request for a conditional use permit to establish an

outpatient office in one unit of an existing apartment building in a Planned Neighborhood Residential (R-3) zone, at 1589 Hill View Place, for the reasons recommended by the staff and subject to the four conditions.

2. **PLN-BOA-17-00088: MAN O' WAR GOLF** – requests a conditional use permit to expand an existing golf course; and a variance to increase the maximum height of a sign from 10 feet to 20 feet in the Agricultural Rural (A-R) zone, at 1201 Man O' War Blvd. (Council District 12).

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

- a. The additions should not adversely affect the subject or surrounding properties. The addition and covered porch are located near the existing structures on the site, and are not particularly close to any of the property lines. The additions will be used for activities that already exist on the site and should not cause significant increases in traffic or noise.
- b. There are special circumstances that justify the variance. The property has an increased right-of-way width along Man O' War Blvd., which causes the required setback for the sign to be farther away from the road. There are existing trees in this area which would reduce visibility of a compliant 10-foot tall sign.
- c. The variance will not adversely affect the public health, safety, or welfare; nor will it allow an unreasonable circumvention of the Zoning Ordinance. The applicant has not erected the requested sign and is going through the appropriate process to seek the variance. The sign will make the golf course more visible to motorists who are looking for the entrance.
- d. No additional parking is required for this addition because parking for golf courses is based on the number of holes on the main course.
- e. All necessary public services and facilities are or will be available and adequate for the proposed expansion.

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

1. The additions and sign shall be constructed and operated in accordance with the submitted application and site plan.
2. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to construction and occupancy, and prior to installation of the sign.
3. The applicant shall consult with the Board of Health and make any changes to the existing septic system as determined to be necessary.
4. The existing identification sign posted on the fence at the entrance shall be removed when the new sign is installed, as only one sign is permitted.

Representation – Laura Wachter, with EA Partners, was present on behalf of the applicant. She indicated that they had reviewed the conditions and agreed to abide by them.

Board Question – Mr. Clarke questioned the staff report with regard to “expanding an existing golf course.” Ms. Wachter explained, with further clarification from Ms. Goderwis.

Action – A motion was made by Mr. Clarke, seconded by Mr. Needham and carried 6-0 (no vote by Mr. Glover) to **approve PLN-BOA-17-00088: MAN O' WAR GOLF** – a request for a conditional use permit to expand an existing golf course; and a variance to increase the maximum height of a sign from 10 feet to 20 feet in the Agricultural Rural (A-R) zone, at 1201 Man O' War Blvd., based on the staff's recommendations and subject to the four conditions.

3. **PLN-BOA-17-00086: WHITEHAVEN** – requests a conditional use permit to establish a wedding/events venue in an Agricultural Urban (A-U) zone, at 3515 Richmond Rd. (Council District 7).

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

- a. The proposed use should not adversely affect the subject or surrounding properties. The designated wedding and reception area is located well within the site, at least 800 feet from any residential use. The area proposed for the events utilizes an existing natural tree buffer, which should help to mitigate noise or loud music from the events.
- b. The property is within the Urban Service Area and the surrounding area is a mix of residential, office, and commercial uses. A moderate intensification of use on this particular property with no new building construction should not have an effect on the character of the general vicinity, nor have adverse effects on the public health, safety, or welfare.
- c. Adequate parking for this type of use exists on the property and will be available during weddings and receptions.
- d. 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 use of this property as a venue for weddings and receptions shall be operated in accordance with the submitted application and site plan.

2. All events shall be limited to no more than 200 participants.
3. Participants shall enter the site at the Yorkshire Boulevard entrance and shall not utilize the service access to Richmond Road, except in the event of an emergency.
4. Any lighting for events shall be shielded and directed downward to avoid disturbing the surrounding properties
5. Temporary structures, such as tents, shall be permitted for this use for up to 180 days, provided approval is obtained from the Division of Building Inspection.
6. For events, approval for the septic system and/or any portable toilets as well as for any food services offered, shall be obtained from the Fayette County Health Department.

*Note – After speaking with the representative for the applicant, Ms. Robin Gall, Homeowner's Association representative, withdrew their opposition to the following case.

Ms. Goderwis distributed one letter of opposition.

Representation – Nathan Billings, with Billings Law Firm, was present. He indicated that they had reviewed the conditions and agreed to abide by them.

Board Questions and Comments – At this time, there were several questions and comments from the Board members with regard to the noise in an open outdoor area, as well as who currently owns the property. Ms. Goderwis, at the request of Mr. Gross, presented the site plan on the overhead projector, and addressed/explained the applicant's request, along with comments from Mr. Billings.

Action – A motion was made by Mr. Needham, seconded by Mr. Glover and carried unanimously to **approve PLN-BOA-17-00086: WHITEHAVEN** – a request for a conditional use permit to establish a wedding/events venue in an Agricultural Urban (A-U) zone, at 3515 Richmond Rd., based on the recommendations from the staff and subject to the six conditions.

b. **Discussion items:**

1. **BOA-17-00089: TIME TO SHINE CAR WASH** – requests a conditional use permit to establish a self-service car wash in a Neighborhood Business (B-1) zone, at 1250 South Broadway (Council District 3).

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 not be adjacent to any residential uses and nearby buildings are oriented away from the proposed facility. The property is of sufficient size to allow for proper design with adequate vehicular stacking space and internal vehicle circulation.
- b. Adequate parking will be provided. 32 parking spaces are required and 36 will be provided.
- c. The site plan includes landscape improvements, including new green space areas at the front and rear of the property.
- d. 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 (dated 12/04/17), or as 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. The parking area shall be paved and striped according to article 16 of the Zoning Ordinance.
6. Landscaping for the vehicular use areas shall be provided and maintained in accordance with the provisions of Article 18 of the Zoning Ordinance.

Citizen Comment – Peter Brown, adjoining property owner, was present. After speaking with the representative for the applicant, Mr. Brown withdrew his opposition to this case.

Representation – Darrin Croucher, with Thoroughbred Engineering, was present on behalf of the applicant. He indicated that they had reviewed the conditions and agreed to abide by them.

Board and Staff Discussion/Comments – At this time, there was discussion between the Board, staff and applicant with regard to the concerns of noise, stacking, exiting and entering the facility, as well as buffering for the proposed use. There were also comments from Ms. Kaucher and Ms. Goderwis regarding the site plan that was presented on the overhead projector.

There was additional discussion as to whether there should be a 7th condition added with regard to mitigation of sound on the subject property.

Citizen Comments – Peter Brown, 120 Hamilton Park, indicated that his business abuts where the exit would be for the car wash tunnel, and expressed his concern with regard to the noise from the blowers; however, the applicant had indicated that they would provide screening to reduce noise to base line levels, and this satisfied his original concern.

Ms. Goderwis presented the proposed 7th condition on the overhead projector, with comments from Mr. Marx. Mr. Brown indicated that he was comfortable with the new condition and reiterated that he was withdrawing his objection. Mr. Croucher agreed to abide by the 7th condition.

Ms. Jones noted that the proposed plan will still have to go before the Planning Commission as a development plan for final approval. Further discussion followed.

In closing, each of the Board members provided comments with regard to the proposed use.

Representative Comments – Mr. Croucher explained the proposed use, and further discussed, with questions and comments from the Board.

Action – A motion was made by Ms. Carter, seconded by Ms. Whitman and carried 4-3 (Gross, Meyer and Clarke opposed) to **approve BOA-17-00089: TIME TO SHINE CAR WASH** – a request for a conditional use permit to establish a self-service car wash in a Neighborhood Business (B-1) zone, at 1250 South Broadway, based on the staff's recommendation of approval and subject to the six conditions identified by the staff, adding the following condition to provide mitigation for sound with some type of barrier:

7. Noise from drying blowers shall be managed to ensure that adjoining properties are not disturbed. Methods of noise mitigation may include fencing/landscape buffers, the use of silencing technology, insulation, the strategic location of the blower motors and related equipment, and other overall design features.

IV. **BOARD ITEMS**

- a. The Chair wished the Staff members and their families a safe and happy holiday season.

V. **STAFF ITEMS**

- a. Landscape Review Committee - The term of Mr. Louis Hillenmeyer, Nurseryman member of the Landscape Review Committee, expired on November 30 of this year. Mr. Hillenmeyer has agreed to serve another four-year term. Based on his agreement to serve another term, names and terms of current Landscape Review Committee members are as follows:

<u>TERM</u>	<u>NAME</u>	<u>REPRESENTING</u>
Term on BOA	Jan Meyer	Board of Adjustment
11/30/2018	Mr. Richard Weber	Landscape Architect
11/30/2019	Mr. Mark McCain	Tree Board
11/30/2020	Mr. Mike Cravens	Lexington Homebuilders
11/30/2021	Mr. Louis Hillenmeyer, III	Nurseryman

Action – A motion was made by Mr. Needham, seconded by Ms. Whitman and carried unanimously to **re-appoint Mr. Hillenmeyer as Nurseryman member of the Landscape Review Committee.**

- b. The staff wished the Board members and their families a safe and happy holiday season.

- VII. **NEXT MEETING DATE** - The Chair announced that the next meeting date would be January 8, 2018.
- VIII. **ADJOURNMENT** - There was no further business. The Chair declared the meeting adjourned at 2:49 p.m.

Branden Gross, Chair

Joan Whitman, Secretary

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