

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

January 8, 2018

I. **ATTENDANCE** - The Chair will call the meeting to order at 1:00 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 December 15, 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-17-00092: JEFF BAKER** – requests a variance to increase the allowable projection to within 1 foot of the side lot line in order to construct a covered porch in a Planned Neighborhood Residential (R-3) zone, at 3316 Beaumont Centre Circle (Council District 10).

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 have much effect on the character of the general vicinity. The covered porch is located within the fenced-in yard and is located mostly behind the house. The covered porch will be most visible to the property to the side that shares the existing 6-foot tall fence.
- b. The size and configuration of the property, as well as an approximately 30" slope throughout the yard, are special circumstance which limit the applicant's use of his 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 process of applying for the variance prior to construction of the desired covered porch.

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

1. The deck and covered porch shall be constructed in accordance with the submitted application and site plan.
2. The covered porch shall remain open and unenclosed.
3. All necessary permits shall be obtained from the Division of Building Inspection prior to construction.

D. **Conditional Use Appeals**

1. **PLN-BOA-17-00091: DUSTIN WUNDERLICH** – requests a conditional use permit to establish a commercial greenhouse; and a variance to eliminate the required landscape easement in the Agricultural Rural (A-R) zone, at 7524 Old Richmond Rd. (Council District 12).

The Staff Recommends: Approval of the Conditional Use, for the following reasons:

- a. The proposed use should not adversely affect the subject or surrounding properties. There will be no on-site sales, nor will there be heavy delivery truck traffic.
- b. The small size of the property greatly limits any full-scale agricultural use, and the proximity of both Interstate 75 and Old Richmond Road do not make for a desirable residential use. This type of low-impact agricultural use is well-suited to this challenging lot and will make use of the existing greenhouse structure.
- c. Adequate parking for this type of use will be provided on the property.
- d. All necessary public services and facilities are or will be available and adequate for the proposed use.

The Staff Recommends: Disapproval of the requested variance to eliminate the required easement and Approval of a lesser variance, to reduce the landscape easement, for the following reasons:

- a. Granting the requested variance would result in an unreasonable circumvention of the requirements of the Zoning Ordinance because, while there are valid reasons to reduce the required landscape easement, there are no special circumstances that justify its total elimination.
- b. The special circumstances that justify a reduction in the required landscape easement include the existing vegetation located in the I-75 and Old Richmond Road rights-of-way and the high ridge along the front of the

property, both of which offer some screening. Also, the greenhouse operation proposed will not include any on-site retail or wholesale sales, nor any outdoor storage of any kind.

- c. Additional special circumstances include the necessity for sunlight penetration of the greenhouse in order for this use to be successful. A 20-foot landscape easement that meets all of the requirements of Article 8-1(d) could have potentially detrimental effects on the operation of the greenhouse by limiting sunlight, especially given the relatively small and narrow shape of the property. In lieu of a 6-foot high planting, hedge, fence, wall or earth mound and perimeter trees located every 30', clustering of trees in various specified locations could provide appropriate screening of the structure to the highway and neighbors while still maintaining adequate sunlight for plant growth within the greenhouse.

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

1. The commercial greenhouse shall be established in accordance with the submitted application materials and a revised site plan showing all paving and landscape elements specified in the conditions below, subject to approval by the Division of Planning.
2. All necessary permits and a Certificate of Occupancy shall be obtained from the Divisions of Planning and Building Inspection prior to commencing the approved use.
3. A portion of the driveway shall be paved from the access point on Old Richmond Road to one car length past the turn. Additionally, one parking space shall be paved to meet accessibility requirements and shall include the paving of a sidewalk from that space to the building entrance. The access to Old Richmond Road shall be improved in accordance with recommendations of the Division of Traffic Engineering and with a permit issued by the Kentucky Transportation Cabinet.
4. The final design of the driveway, circulation and parking layout shall be subject to review and approval by the Division of Traffic Engineering.
5. In lieu of the entire 20-foot landscape easement required by the Ordinance, the following landscape elements shall be provided and a landscape plan submitted to and subject to approval by the Divisions of Planning and Environmental Services:
 - a. A cluster of lower growing evergreen trees (such as, but not limited to, Pfizer Junipers) shall be planted along Old Richmond Road, from the access point to the southern property line.
 - b. Lower growing evergreen trees along Old Richmond Road from the access point to the north, for the length of the greenhouse, shall be planted to fill in gaps left by the existing right-of-way trees to create a visual screen for the adjacent property across Old Richmond Road.
 - c. Evergreen trees shall be planted to the north of the greenhouse in order to screen the parking area.
 - d. Two medium to tall trees shall be planted along the western property line in the gap between the two tall trees that exist along the I-75 frontage to screen the building from the Interstate.
6. 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.
7. Any pole lighting for the parking and loading areas, or any other outdoor areas, shall have a maximum height of 12', and shall be of a shoebox (or similar) design, with light shielded and directed downward to avoid disturbing nearby properties.
8. All sales shall be conducted remotely with no sales taking place on the property.
9. Sanitary sewer treatment and garbage pick-up shall be privately provided.

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 February 12, 2018.

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