

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

March 12, 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 February 12, 2018 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-18-00021: CABALLO CROSSINGS APARTMENTS** – requests a variance to increase the allowable height of a front yard fence from 4 feet to 6 feet in a Planned Neighborhood Residential (R-3) zone, at 500, 510, and 522 Hollow Creek Rd. (Council District 1).

The Staff Recommends: Disapproval, for the following reasons:

- a. There are no compelling special circumstances that justify the variance. A 4-foot tall fence is allowed by the Zoning Ordinance and would likely offer a similar level of security and privacy. Secure by Design principles indicate that lower fences in front yards provide more safety and reduce the risk of crime by keeping dwelling frontages open to view. This creates active street frontages and allows natural surveillance of the public space. Their recommendation is for front yard fences to be even lower than our Zoning Ordinance allows, at a maximum of 1 meter, or about 3.3 feet, in height.
- b. This type of fence is not typical of the vicinity. The apartments to the west of the subject properties have an approximately 4-foot tall wooden fence, similar to the existing fence on the subject properties; and the apartments to the east do not have a front yard fence. Across Hollow Creek are primarily single-family residences, without front yard fences.
- c. Strict enforcement of the Zoning Ordinance would not create an unnecessary hardship for the applicant, as the desire for a 6-foot tall fence seems to be primarily based on aesthetic preference. A 4-foot tall fence, which should provide some security as well as improved aesthetic, is allowed at this location.

2. **PLN-BOA-18-00022: DAN DAVIS** – requests a variance to reduce the required setback for additional paved parking from 6 feet to 0 feet in a Single Family Residential (R-1C) zone, at 130 Jesselin Drive. (Council District 4).

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 does not have any special circumstances that justify the requested variance. There appears to be sufficient space to serve the applicant's needs in the paved area that would remain if the noncompliant portion were removed.
- c. This neighborhood is characterized primarily by properties with single lane driveways.

D. **Conditional Use Appeals**

1. **PLN-BOA-18-00003: GRANTHAM, LLC** – requests a conditional use permit to operate a home-based business (gunsmithing, and mail order and onsite retail sale for firearms and items that serve as accessories to firearms; i.e., scopes, binoculars, etc.) in a Single Family Residential (R-1C) zone, at 103 Woods Ave. (Council District 5).

The Staff Recommends: Disapproval, for the following reasons:

- a. The proposed use could adversely affect the adjoining/nearby properties. The introduction of a business handling and exchanging potentially hazardous items (guns, parts, and accessories) could threaten the health and safety of the neighbors. The sale of firearms has historically been rejected in residential zones due to concerns about safety and security.

- b. The limited connectivity of the streets in this neighborhood and lack of available parking on site make this residence unsuitable for retail sale of commercial goods with customers coming to the property.

2. **PLN-BOA-18-00016: PORTER MEMORIAL BAPTIST CHURCH** – requests a conditional use permit to expand an existing church building and parking lot in a Single Family Residential (R-1D) zone, at 4300 Nicholasville Rd. (Council District 9).

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

- a. This church has operated on this property since 1976 and the new addition should not adversely affect the surrounding properties, being limited to an area between the existing building and Toronto Road.
- b. All public facilities are in operation for the use of the property as a church.
- c. The proposed addition should not have a significant impact on traffic. Over twice as many parking spaces as are required exist on site, and additional parking is not required for the proposed addition.

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

1. The addition shall be constructed in accordance with the submitted application and site plan.
2. All necessary permits and approvals, including a Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection prior to operation of this use.
3. Any changes to the parking configuration shall be reviewed by and subject to approval of the Division of Traffic Engineering.

3. **PLN-BOA-18-00017: ROBERT CROVO** – requests a conditional use permit to establish a home-based business (scuba instruction) in a Single Family Residential (R-1B) zone, at 3279 Roxburg Drive (Council District 9).

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

- a. The proposed use should not adversely affect the subject or adjoining/nearby properties. The use has been conducted on the property for 8 years with no complaints to LFUCG. The use is part-time and seasonal, with adequate parking provided in the applicant's driveway. The use should not result in a nuisance, as the activity is relatively quiet and has proven to have little impact on the neighbors.
- b. While the activity has been taking place for a number of years, this application is an effort to comply with the Zoning Ordinance, which the applicant has made upon learning that such an approval is required.
- 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. Signage for the business shall not be placed on the property or at any other location.
3. Should the applicant cease to own or occupy the subject property, the conditional use permit shall become null and void.
4. All necessary permits, including a Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection.
5. The applicant shall maintain a current certification as a scuba instructor during all times that lessons are provided.

4. **PLN-BOA-18-00018: ROOD & RIDDLE PARTNERS** – requests a conditional use permit to construct a 3,200 square-foot addition to an existing equine hospital building in an Agricultural Urban (A-U) zone, at 2150 Georgetown Rd. (Council District 2).

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

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. This is a well-established equine hospital with numerous facilities. The addition will be located away from adjoining residential properties, oriented toward the interior of the property.
- b. All necessary public and private services are available and adequate for the proposed use.

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

1. The building addition 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 and occupancy. Prior to issuance of a Certificate of Occupancy, a Zoning Compliance Permit (or its equivalent) shall be obtained from the Division of Planning.
3. The storm water management plan shall be updated in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.

5. **PLN-BOA-18-00020: IGLESIA ADVENTISTA DEL SEPTIMODIA** – requests a conditional use permit to expand an existing church in a Single Family Residential (R-1D) zone, at 1718 and 1722 Bryan Station Road.

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

- a. Churches have operated at this location for many years, since the building was constructed. No adverse impacts to the neighborhood are expected as a result of this relatively small addition.
- b. All public facilities are in operation for the use of the property as a church.
- c. Adequate parking exists on site and additional parking is not required for the proposed addition.

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

1. The addition shall be constructed in accordance with the submitted application and site plan.
2. All necessary permits and approvals, including a Zoning Compliance Permit and Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection prior to construction and operation of this use.
3. Any changes to the access points or parking configuration shall be reviewed by and will be subject to approval of the Division of Traffic Engineering.

E. **Administrative Reviews**

1. **PLN-BOA-18-00007: MICHAEL BOOTH** – requests an administrative review to determine that events such as family reunions, birthday parties, and weddings should be considered a conditional use in the A-R (Agricultural-Rural) zone: if determined to be so, a conditional use to offer these events, as well as seasonal activities in the Agricultural-Rural (A-R) zone, at 4010 and 4026 Haley Road. (Council District 12).

The Staff Recommends: **Disapproval** (of the administrative appeal), for the following reasons:

- a. Article 8-1(e) 25 clearly states that special events, parties, festivals, and concerts related to a commercial purpose are prohibited in the A-R zone.
- b. The question of what the ordinance should say is not an appropriate topic for an appeal to the Board, but would be appropriate as a proposed text amendment should the appellant want to pursue having the current ordinance language changed.

The Staff Recommends: **Disapproval** (of the conditional use for special events), for the following reason:

- a. Hosting stand-alone special events for a commercial purpose is not listed as a conditional use in the A-R zone, and such uses are actually prohibited per Article 8-1(e)25 of the Zoning Ordinance.

The Staff Recommends: **Postponement** (of the conditional use for seasonal activities), for the following reasons:

- a. More detailed and comprehensive information is needed regarding the type of seasonal farm activities to be offered to the public, the time of year to be provided and their location on the farm.
- b. The extent to which any driveways and the proposed 75-space and 400-space parking areas are paved or otherwise improved/designed must be clarified by the appellant, along with a description of how storm water will be managed.
- c. Existing and/or proposed restroom facilities for seasonal farm activities open to the public must be identified, along with a description of how sewage treatment will be provided and where any new septic fields will be located.
- d. As is feasible and appropriate, additional information and details relating to the above should be incorporated into an amended site plan for consideration by the Board.

2. **PLN-BOA-18-00019: SOUTH ELKHORN VILLAGE SHOPPING CENTER** - requests an administrative review to transfer 75 square feet of unused allowable signage to allow a 150 square-foot freestanding sign in a Planned Shopping Center (B-6P) zone, at 4379 Old Harrodsburg Road (Council District 10).

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

- a. Granting this requested appeal should not adversely affect the public health, safety, or welfare; nor should it affect the character of the general vicinity. The requested signage is not out of scale or overwhelming due to the location of the shopping center, which is at a significantly lower elevation than Harrodsburg Road.
- b. The elevation of the site is a special circumstance that justifies approval of the appeal. In fact, the increased size and height of the sign may actually contribute to the safety of motorists traveling in the area.
- c. Since there is limited need for a freestanding sign on Bowman Mill Road, a single larger sign along the Old Harrodsburg Road frontage seems reasonable.

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

1. The proposed signage shall be established in accordance with the submitted application and site plan.
2. All necessary permits for signage shall be obtained from the Division of Building Inspection.

- 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 April 9, 2018.
- VII. **ADJOURNMENT** - If there is no further business, the Chair will declare the meeting adjourned.