

MINUTES FOR THE BOARD OF ADJUSTMENT MEETING

August 13, 2018

- I. **ATTENDANCE** - Acting Chairman (Mr. Needham) called the meeting to order at 1:00 p.m. in the Council Chambers, 200 East Main Street, August 13, 2018. Members present were: Raquel Carter, Chad Needham, Harry Clarke, Thomas Glover (arrived at 1:30 pm), and Joan Whitman. Absent was: Branden Gross, Jan Meyer. 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, and Tammye McMullen.

- II. **APPROVAL OF MINUTES** - Mr. Needham announced that the minutes of the July 9, 2018, meeting would be considered at this time.

Action - A motion was made by Mr. Clarke, seconded by Ms. Carter, and carried 4-0 (Glover, Gross, and Meyer absent) to **approve** the minutes of the July 9, 2018 meeting.

III. **PUBLIC HEARING ON ZONING APPEALS**

Swearing of Witnesses – Prior to sounding the agenda, Mr. Needham 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, Mr. Needham sounded the agenda with regard to any postponements, withdrawals, applicants present and objectors.

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

At this time, Ms. Goderwis announced that the following applicant had withdrawn their application via email:

- a. **PLN-BOA-18-00052: DV8 KITCHEN, LLC** – requests an administrative appeal to change one non-conforming use (cocktail lounge) to another non-conforming use (bakery) within the defined Infill & Redevelopment Area in a Planned Neighborhood Residential (R-3) zone, at 185 Eastern Ave. (Council District 1).

a. **ABBREVIATED HEARINGS:**

1. **PLN-BOA-18-00051: SPA NAILS I, LLC** – requests a conditional use permit to operate a cocktail lounge in order to serve wine by the drink in conjunction with a nail salon in a Neighborhood Business (B-1) zone, at 2358 Nicholasville Rd. Ste. 130 (Council District 4).

The Staff Recommends: Approval, for the following reasons:

- Serving just wine by the glass as part of the salon's operation should not adversely affect the subject or surrounding properties, nor should it disturb the adjoining property owners, as no significant increase in traffic is anticipated and live entertainment will not be provided.
- 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:

- Any signage for the nail salon shall not include any reference to a cocktail lounge or the serving of wine.
- Alcoholic beverages other than beer and wine shall not be served.
- The use shall function as accessory to the nail salon, and the business shall not be open for the sale of alcoholic beverages outside of the normal operating hours for the nail salon, which are 10 am to 8 pm Monday-Saturday.
- The conditional use for serving alcoholic beverages shall immediately cease upon the changing of ownership, or the primary operator, of the facility.
- Should the operator decide that the sale of alcoholic beverages should become the primary use for the property, the applicant shall return to the Board of Adjustment to evaluate the appropriateness of a full-fledged cocktail lounge and to address potential requirements for additional parking.

Representation – Ted Houlehan, attorney, and Tuan Anh Pham, owner, were present. Mr. Houlehan indicated that they had reviewed the conditions and agreed to abide by them.

Action – A motion was made by Ms. Carter, seconded by Ms. Whitman and carried 4-0 (Glover, Gross, and Meyer absent) to **approve PLN-BOA-18-00051: SPA NAILS I, LLC** – a request for a conditional use permit to operate a cocktail lounge in order to serve wine by the drink in conjunction with a nail salon in a Neighborhood Business (B-1) zone, at 2358 Nicholasville Rd. Ste. 130, based on the staff's recommendations and subject to the five conditions.

2. **PLN-BOA-18-00054: THE PAIN TREATMENT CENTER OF THE BLUEGRASS** – requests a conditional use permit to construct a parking lot for use as additional parking in a Professional Office (P-1) zone, at 190 Pasadena Dr. (Council District 10).

The Staff Recommends: Approval, for the following reasons:

- a. There should be no adverse traffic impacts on the surrounding neighborhood, with no increase in traffic, as the lot will provide additional parking for an existing business.
- b. The proposed use should not have an adverse effect on the public health, safety, or welfare. There is an existing sidewalk along the frontage of the property that provides a safe path for those who will be parking on the subject property and walking to work at the Pain Treatment Center.
- c. 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 parking lot shall be established in accordance with the submitted application materials and site plan.
2. All necessary permits shall be obtained from the Divisions of Building Inspection, Engineering, and Planning.
3. A storm water management plan shall be implemented in accordance with the requirements of the Engineering Manuals and accepted by the Urban County Engineer.
4. Traffic circulation and layout of the parking areas shall be approved by the Division of Traffic Engineering.
5. All parking areas shall be paved, with spaces delineated, and landscaped/screened in accordance with Articles 16 and 18 of the Zoning Ordinance.

Representation – William Horton, with Denham-Blythe Company was present on behalf of the applicant. Mr. Horton indicated that they had reviewed the conditions and agreed to abide by them.

Action – A motion was made by Mr. Clarke, seconded by Ms. Whitman and carried 4-0 (Glover, Gross, and Meyer absent) to **approve PLN-BOA-18-00054: THE PAIN TREATMENT CENTER OF THE BLUEGRASS** – a request for a conditional use permit to construct a parking lot for use as additional parking in a Professional Office (P-1) zone, at 190 Pasadena Dr., based on the staff's recommendations and subject to the five conditions.

3. **PLN-BOA-18-00058: ROMAN CATHOLIC DIOCESE OF LEXINGTON** – requests a conditional use permit to occupy an existing structure as offices for a place of religious assembly in a Single Family Residential (R-1D) zone, at 185 Toronto Road (Council District 9).

The Staff Recommends: Approval, for the following reasons:

- a. The proposed use should not have a negative effect on the surrounding properties. The residential character of the structure will not be altered, and the uses proposed are not anticipated to be disturbing in nature.
- b. There should not be adverse traffic effects on the surrounding neighborhood, as access will be restricted to the rear of the property, through the existing church parking lot. There should be no increase in traffic on Toronto Road and parking will not be allowed in front of the structure.
- c. 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 use shall be conducted in accordance with the submitted application materials and site plan.
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 occupancy.
3. No signage shall be placed on the property along Toronto Road.
4. No exterior modifications shall be made to the existing structure.
5. Church activities at this location shall not include any form of live entertainment (e.g., youth bands) or special events.

Representation – Bruce Simpson, attorney was present on behalf of the applicant. Mr. Simpson indicated that he had spoken with staff with a couple of slight modifications to the conditions, in which staff has agreed, and these were placed on the overhead projector. Mr. Simpson indicated that they and agreed to abide by them.

Board Question – Mr. Clarke asked how long they expected the renovation to last. In response, Mr. Simpson said two years.

Action – A motion was made by Ms. Whitman, seconded by Mr. Clarke and carried 4-0 (Glover, Gross, and Meyer absent) to **approve PLN-BOA-18-00058: ROMAN CATHOLIC DIOCESE OF LEXINGTON** – a request for a conditional use permit to occupy an existing structure as offices for a place of religious assembly in a Single Family Residential (R-1D) zone, at 185 Toronto Road, for the reasons provided by the staff and subject to the conditions recommended by the staff, replacing conditions #4 & #5 with the following:

4. No exterior modifications shall be made to the existing structure except as may be needed for maintenance or repairs. The door to the garage may be removed for the purpose of enclosing the garage.
5. Church activities at this location shall not include any form of live entertainment (e.g., youth bands), weddings, wedding receptions or special events.

*Note – At this time, as case number **PLN-BOA-18-00053: Crossroads Christian Church** was called to be heard, Mr. Nicholson requested for their application to be heard under the discussion items.

Mr. Glover arrived at 1:30 pm

4. **PLN-BOA-18-00057: FRANK'S DONUTS, LLC** – requests a conditional use permit for a drive-through facility within the defined Infill & Redevelopment Area, in a Neighborhood Business (B-1) zone, at 547 & 549 East Third Street (Council District 1).

The Staff Recommends: Approval, for the following reasons:

- a. The proposed use should not adversely affect the subject or surrounding properties. The subject property is located near neighborhoods and a number of employers downtown, and this type of drive-through would provide a convenient amenity to people who work or live in this area.
- b. The proposed drive-through should not have adverse effects on traffic at this location. The drive-through design is enhanced by having separate entry and exit points on East Third Street and Grinstead Street, leaving space for customers who park to go inside the donut shop. There is more than adequate space available for the required vehicular stacking area.
- c. 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 drive-through facility shall be established in accordance with the submitted application materials and site plan, with revisions allowed as required by the Division of Traffic Engineering.
2. The final design of the drive-through/parking lot shall be subject to review and approval by the Division of Traffic Engineering.
3. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to construction and occupancy.

Representation – Jack Stewart, with Stewart Architect was present on behalf of the applicant. Mr. Stewart indicated that they had reviewed the conditions and agreed to abide by them.

At this time, Ms. Goderwis distributed several letters of opposition to the Board for review.

Board Questions and Comments – Mr. Clarke expressed his concern with regard to the exit on Grinstead, and asked if there were any reason why the exit couldn't totally be on Third Street. Mr. Stewart responded and explained. There was further discussion between the Board and the applicant with regard to the entrance and exit way of the proposed use, with comments by Ms. Kaucher, with photos presented on the overhead projector and further explained.

Mr. Glover expressed his concerns with the safety issue of having one entry and one exit, with comments from Ms. Kaucher

Opposition – Billie Mallory, Executive Director of the East End Community Development Cooperation at 560 East Third Street. Ms. Mallory said that she is not in opposition of the business itself, but expressed her concern about the East End Small Area plan not being considered, as well as the traffic impact from the drive-through for this proposed use, as she further discussed, with comments from Ms. Carter. At this time, Mr. Stewart discussed and explained the proposed use, along with comments from Mr. Needham.

Action – A motion was made by Mr. Glover, seconded by Ms. Whitman and resulted in a failed vote of 2-3 (Carter, Needham, and Clarke opposed; Gross and Meyer absent) to **approve PLN-BOA-18-00057: FRANK'S DONUTS, LLC** – request for a conditional use permit for a drive-through facility within the defined Infill & Redevelopment Area, in a Neighborhood Business (B-1) zone, at 547 & 549 East Third Street based on the staff's recommendation and the testimony heard at today's hearing, subject to the three conditions.

Note: Mr. Needham declared a brief recess at 1:37 p.m. in order for the Board to discuss facts and findings of disapproval. The meeting reconvened at 1:41 p.m., with the same members in attendance.

Action – A motion was made by Mr. Glover, seconded by Mr. Clarke and carried 5-0 (Gross and Meyer absent) to **continue PLN-BOA-18-00057: FRANK'S DONUTS, LLC** – until the September 10th hearing.

b. **Discussion items:**

1. **PLN-BOA-18-00046: MICHELLE MOREHEAD** – requests a variance to reduce the required front yard setback from 30 feet to 22 feet in order to expand the existing residence in a Single Family Residential (R-1C) zone, at 2120 Island Drive (Council District 5).

The Staff Recommends: Disapproval, for the following reasons:

- a. This new addition and paving could have a negative impact on the character of the general vicinity's streetscape. While a mixture of driveway types (as well as front and side facing garages) exist in the general vicinity, the majority of driveways are 15' to 20' at the curb; and additional paved parking areas are further set back and/or located with significant landscaping that screens the paved areas from the street.
- b. While the desire to preserve a view of the lake at the rear of the home could be considered as a special circumstance (as noted in the original staff report), such a circumstance has wide applicability to many properties on the lake. In that context, alternative designs should be pursued that minimize additional front yard paving and other features that negatively impact the streetscape.
- c. An additional variance is needed to increase the total allowable paved area from 1,281 square feet (50% of the required front yard) to 1,373 square feet.

At this time, Ms. Goderwis distributed several letters to the Board for review, indicating that two of the letters were from the previously submitted application.

Representation – Jack Stewart, with Stewart Architect and Michelle Morehead, applicant, were present. At this time, Mr. Stewart discussed and explain the requested variance.

Ms. Morehead distributed a formal letter from the Home Owner's Association to the Board, as well as another document to the Board. Ms. Morehead presented photos and a video on the overhead projector and discussed her reason why the requested variance should be approved.

Board Questions and Comments – Mr. Glover questioned the new site plan with regard to the garage. Ms. Morehead explained. Ms. Morehead presented a photo on the overhead projector and explained further, per the request of Ms. Carter. Ms. Carter asked the staff if another variance is needed. Ms. Goderwis said no.

Mr. Clarke asked how far the current garage is setback. Ms. Goderwis explained.

Staff Comments – At this time, Ms. Goderwis discussed a staff report with regard to the staff's recommendation of disapproval. There were further questions and comments by the Board with regard to this requested variance, along with further discussion regarding if there were other properties with this same request and landscaping. There was also discussion with possibly approving this request by the testimony received at this hearing. Mr. Marx presented draft findings and conditions in the case of approval, with comments from Mr. Stewart.

Action – A motion was made by Ms. Carter, seconded by Ms. Whitman and carried 5-0 (Gross and Meyer absent) to **approve PLN-BOA-18-00046: MICHELLE MOREHEAD** – a request for a variance to reduce the required front yard setback from 30 feet to 22 feet in order to expand the existing residence in a Single Family Residential (R-1C) zone, at 2120 Island Drive, based on the testimony at today's hearing for the following reasons and conditions:

The Staff Recommends: Approval, for the following reasons:

- a. Granting the variance should not affect the character of the surrounding neighborhood. A mixture of driveway types (as well as front and side facing garages) exist in the general vicinity.
- b. The needed variance is actually just 3' if averaging is considered, and is only required because the wall encroaches more than 5' into the required front yard depth.
- c. The variance request does not attempt to circumvent the provisions of the Zoning Ordinance. The applicant is going through the appropriate processes and has applied for the variances prior to commencing construction.

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

1. The addition shall be constructed in accordance with the submitted site plan and application materials.
2. All necessary permits and/or approvals shall be obtained from the Divisions of Planning and Building Inspection

prior to construction and occupancy.

3. Any allowable landscaping as indicated on the presented plan shall be completed.

2. **PLN-BOA-18-00050: CHRIS KOPITZKE** – requests a variance to reduce the rear yard from 10 feet to 1 foot in order to construct a residence with an attached garage in a Planned Neighborhood Residential (R-3) zone, at 723 Downs Ave. (Council District 5).

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

- a. Strict application of the Zoning Ordinance would not deprive the property owner of reasonable use of their land, or create an unnecessary hardship. The property is a relatively large residential lot with nearly 150' of frontage and 100' in depth. The setback requirements of the R-3 zone do not seem to be overly restrictive on a property of this size and configuration.
- b. The applicant has not shown sufficient evidence that there are special circumstances unique to this property that would justify the variance. It appears that the structure could be moved forward toward the front lot line and meet all setback requirements. Alternatively, a new residence could be moved to the south, away from the gas line, in conjunction with moving the attached garage and/or redesigning the alignment with the new residence.
- c. While the character of the neighborhood is not clearly defined, given the mixture of uses on Downs Avenue, a structure located closer to the front property line, at the required front setback, would be more in character with the other residential uses across Downs Avenue.

Representation – Chris Kopitzke, applicant was present. At this time, Mr. Kopitzke was sworn in. Mr. Kopitzke discussed his reasons for the requested variance.

Board Questions and Comments – Mr. Needham asked if there was another structure being added to the east of the property. Mr. Kopitzke responded, yes.

Ms. Carter asked for clarification of the staff report; she was under the impression that the footprint was not the same. Mr. Kopitzke further explained. At this time, there was further discussion by the Board as to what the project was to consist of, with comments from Ms. Goderwis, as she presented photos on the overhead projector and further discussed.

At this time, there was further discussion with regard to the garage and reason for the request, with comments from Mr. Kopitzke.

Opposition – Heather Rizen, who lives at 1924 Liberty Road, which is directly in front of the subject property, expressed her concerns with regard to the impact the “run down” property will have on the property value of her property. Ms. Rizen stated that it is just another “project” that the applicant will not finish.

Staff Comments – Ms. Goderwis presented photos on the overhead projector and discussed the staff's reasons for disapproval, with further discussion by the Board, to include comments from Ms. Jones.

At this time, Mr. Kopitzke made further comments with regard to his requested variance, with questions and comments by the Board.

Action – A motion was made by Ms. Carter, seconded by Mr. Glover and carried 4-1 (Whitman opposed; Gross and Meyer absent) to **disapprove PLN-BOA-18-00050: CHRIS KOPITZKE** – a request for a variance to reduce the rear yard from 10 feet to 1 foot in order to construct a residence with an attached garage in a Planned Neighborhood Residential (R-3) zone, at 723 Downs Ave., based on the staff's recommendations and the lack of clarity of the plans that were submitted.

3. **PLN-BOA-18-00055: DENNIS ANDERSON INV. 1700, LLC** – requests a variance to increase the maximum front setback from 20 feet to 74 feet in order to construct a coffee shop with a drive-through and a commercial building in a Neighborhood Business (B-1) zone, at 1745 Sharkey Way. (Council District 2).

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

- a. Granting the variance would likely have a negative impact on the character of the general vicinity. The applicant asserts that “Townley Center was designed to allow the commercial uses which are more dependent on automobile traffic to be clustered along Sharkey Way, while uses that rely more heavily on pedestrian traffic are grouped in the shopping center along Towne Center Drive.” However, this plan does not seem to respect that configuration of uses, instead placing the drive-through facility on the corner and the other commercial building fronting on Sharkey Way.

- b. While a variance is not required along Towne Center Drive, this plan does not fit in with the other businesses located there. While developed prior to the setback limitation for B-1 properties, Towne Center Drive is an excellent example of how such a setback can create a vibrant, pedestrian-friendly commercial commons. Instead of embracing that, the proposed plan shows a narrowing of the pedestrian sidewalk adjacent to Town Centre Drive, and does not show pedestrian facilities from that sidewalk, creating a hazard for those crossing through the proposed drive-through aisle onto the subject property. Additionally, the drive-through lane (and likely location of the point of order) runs directly adjacent to the patio area for the A&W restaurant, whose users would likely find the drive-through traffic and noise disruptive.
- c. While there are other lots along Sharkey Way with a similar setback, there are no special circumstances unique to this property that justify the variance; nor will strict application of the Zoning Ordinance deprive the applicant of a reasonable use of his land. The size and shape of the property would allow for alternate arrangements of the two proposed buildings, their associated parking, drive aisles, and the drive-through lane. Such an alternative might require no variance, or a lesser variance, and could be in better keeping with the character of the development.
- d. Approval of the variance request could be interpreted as a circumvention of the provisions of the Zoning Ordinance. The argument that the application is a result of a change in the Zoning Ordinance that occurred after the initial development of Townley Center is not sufficient to support approval of the variance.
- e. Given the uncertainty of what use will go in the second commercial building, and how that might impact the overall design of the entire property, consideration of this variance request is premature.

Representation – Dick Murphy, attorney, Tony Barrett- landscape architect, and Dennis Anderson were present. Mr. Barrett distributed information to the Board. Mr. Murphy explained and discussed their requested variance. He presented a PowerPoint on the overhead projector. Mr. Murphy also distributed facts and findings to the Board, in support of approval.

Board Questions – Mr. Glover asked how a pedestrian gets to the coffee shop from Towne Center Drive. Mr. Murphy referred to the photo on the overhead projector and explained.

Citizen Comment – Barbara Albaugh, who lives at 132 Towne Square Park, and has served on the Townley Park neighborhood association board for approximately seven years, expressed her support for the requested variance, noting that it would be nice to have a coffee shop closer to home, and would complement the area. She also noted that she is speaking on behalf of Ms. June Sawyer, who was unable to attend today's hearing.

Staff Comments – Ms. Goderwis presented photos on the overhead projector and discussed the staff's reasons for the recommendation of disapproval.

Board Questions/Discussion – Mr. Glover questioned the patio at the corner where A&W is. Ms. Goderwis explained. At this time, there was further discussion with regard to screening, parking in the area, drive-through, and different types of plans for the applicant, with comments from Ms. Whitman, Mr. Clarke and Mr. Needham. Mr. Clarke noted that he saw the plan as fitting for the area.

Mr. Glover asked Mr. Murphy what would be going in the commercial building. Mr. Murphy responded that they did not know at this time and further discussed, with comments from Mr. Anderson (who was sworn in at this time).

At this time, there was discussion with regard to the proposed findings and conditions presented by the applicant, with comments from Ms. Jones. Ms. Jones noted that she would prefer not to include finding #4 as written.

Action – A motion was made by Mr. Clarke, seconded by Ms. Whitman and carried 5-0 (Gross and Meyer absent) to **approve PLN-BOA-18-00055: DENNIS ANDERSON INV. 1700, LLC** – a request for a variance to increase the maximum front setback from 20 feet to 74 feet in order to construct a coffee shop with a drive-through and a commercial building in a Neighborhood Business (B-1) zone, at 1745 Sharkey Way, based on the testimony at today's hearing, the following 4 out of the 5 findings presented by the applicant, and subject to four conditions :

Findings:

1. Granting this variance will not adversely affect the public health, safety or welfare and will not alter the character of the general vicinity and will not cause a hazard or nuisance to the public because the variance will allow this property to develop consistently with nearby businesses along Sharkey Way and Louie Park. Sharkey Way and Louie Place accommodate businesses which rely upon automobile traffic in addition to the pedestrian traffic from the neighborhood. In addition, granting the variance will allow a desired neighborhood use, the coffee shop.
2. Granting this variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because Townley Center was developed prior to the amendment to the B-1 ordinance which established a maximum setback of 20 feet. At the time Townley Center was developed, there was no maximum setback set forth in the ordinance. A similar variance was granted last year for property at 124 Louie Place.

3. The special circumstances which apply to this property and which do not generally apply to land in the general vicinity or in the same zone are that granting this variance will allow this property to be developed similarly to other properties on Sharkey Way and Louie Place. Those other lots, and Townley Center as a whole, were developed and planned prior to the amendment to the ordinance establishing a maximum setback in the B-1 zone. Granting the variance will allow this to be developed consistently with other lots in the area.
4. The circumstances surrounding the requested variance are not the result of the actions of this applicant taken subsequent to the regulations from which relief is sought. This application is the result of a change in an ordinance which occurred after the initial development of the property. This property is now a vacant lot. No construction has commenced on the property.

Conditions:

1. The use shall be done with accordance to the submitted application and materials and site plan.
2. All necessary permits shall be obtained from the divisions of Planning and Building Inspection prior to occupancy.
3. Traffic circulation and layout of the parking areas shall be approved by the Division of Traffic Engineering.
4. All parking areas shall be paved with spaces delineated and landscaped/screened in accordance with Article 16-18 of the Zoning Ordinance.

4. **PLN-BOA-18-00053: CROSSROADS CHRISTIAN CHURCH** – requests an administrative appeal to transfer 64 square feet of unused signage to construct a 92 square-foot free-standing sign in an Expansion Area Residential (EAR-1) zone, at 4128 Todds Road (Council District 12).

The Staff Recommends: Approval of a lesser transfer to allow a 64 square-foot free-standing sign, for the following reasons:

- a. The requested sign is nearly 3 times the size that is permitted by the Zoning Ordinance without a transfer. While a 32 square-foot sign is perhaps a bit small for a property with such expansive frontage, a 92 square-foot sign is a dramatic increase and could have a negative impact on the character of the general vicinity.
- b. This church is not located in a commercial zone; and allowing such a large sign at this location could set a precedent for allowing much larger signs in residential zones, where very few signs of this size are typically located. A 64 square-foot sign, double what is allowed by the Zoning Ordinance, should provide sufficient visibility to motorists at this location.
- c. Since there is limited need for a freestanding sign on I-75, as there are no access points, a single larger freestanding sign of 64 square feet along the Todds Road frontage seems reasonable.

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

1. The freestanding sign shall be no more than 64 square feet and located on the property as shown on the submitted site plan.
2. All necessary permits for signage shall be obtained from the Division of Building Inspection prior to installation of the sign.
3. A sign permit for construction and placement of the sign shall not be issued by the Division of Building Inspection until the applicant has demonstrated, to the satisfaction of LFUCG, that they are in compliance with the System Improvement Design and Construction Memorandum dated September 24, 2004.

Representation – Nick Nicholson, attorney and Brian Carter, executive pastor, were present on behalf of the applicant. Mr. Nicholson noted that they are in agreement to all of the conditions as stated, but request that instead of limiting the square feet, that the board accepts their full request for the 92 square feet. At this time, Mr. Nicholson, presented a PowerPoint on the overhead projector and further discussed their request for the administrative appeal.

Board Questions/Discussion – Ms. Whitman asked what the dimensions were for the proposed transfer. Mr. Nicholson responded that they were 10 feet in height and 10 feet 9 inches wide, and presented an exhibit to the board.

At this time, there was further discussion by the board and the applicant with regard to the proposed sign, with comments from Ms. Goderwis.

Staff Comments – Ms. Goderwis discussed the staff's concerns with regard to the requested transfer for the signage, and further explained, with questions and comments by the board.

Action – A motion was made by Mr. Glover, seconded by Ms. Whitman and carried 5-1 (Clarke opposed; Gross and Meyer absent) to **approve PLN-BOA-18-00053: CROSSROADS CHRISTIAN CHURCH** – a request for an administrative appeal to transfer 64 square feet of unused signage to construct a 92 square-foot free-standing sign in an Expansion Area Residential (EAR-1) zone, at 4128 Todds Road, based on the testimony heard at today's hearing and subject to the three conditions, with the change to the following condition:

1. The freestanding sign shall be no more than 92 square feet and located on the property as shown on the submitted site plan.

IV. **BOARD ITEMS**

None to be heard.

V. **STAFF ITEMS**

*Note – At this time (4:29 p.m.), Mr. Needham announced that the Board would go into a closed session to discuss a matter regarding potential litigation.

A motion was moved by Mr. Glover, pursuant to KRS 61.810(1)(c) to go into closed session for the purpose of discussing proposed litigation against or on behalf of the Board of Adjustment. The motion was seconded by Ms. Whitman and carried 5-0 (Gross and Meyer absent). The meeting reconvened at 4:53 p.m. with the same members in attendance.

VII. **NEXT MEETING DATE** – Mr. Needham announced that the next meeting date would be September 10, 2018.

VIII. **ADJOURNMENT** - There was no further business. Mr. Needham declared the meeting adjourned at 4:57 p.m.

Mr. Needham, Acting Chair

Joan Whitman, Secretary

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