

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

September 10, 2018

I. **CALL TO ORDER** - 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 August 13, 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.

B. **Swearing of Witnesses** - The Chair will announce that any applicant or objector to any appeal before the Board who plans to speak will be sworn in at this time.

C. **Variance Appeals**

1. **PLN-BOA-18-00056: SARA HEADLEY** – requests variances to reduce the required front setback from 10 feet to 0 feet; and the required side setback from 4 feet to 2.5 feet for additional paved parking in a Single Family Residential (R-1B) zone, at 908 Chinoe Ct. (Council District 5).

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

- a. Removal of the noncompliant pavement would be a costly endeavor for very little value as the portion of paving that does not comply with the Zoning Ordinance is rather small and does not have much impact on the overall character of the neighborhood.
- b. Granting the variance will not have an adverse effect on the public health, safety, or welfare. It will provide additional space for caretakers and emergency service vehicles, should the need arise, and should allow for added mobility for the applicant.

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

1. The applicant shall submit corrected drawings showing the work as completed in order to obtain a paving permit from the Division of Building Inspection within 30 days of Board action.

2. **PLN-BOA-18-00059: BARBARA FOLEY** – requests a variance to reduce the required setback for additional paved parking from 6 feet to 0 feet in a Single Family Residential (R-1D) zone, at 4005 Elora Lane (Council District 9).

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

- a. Removal of the noncompliant pavement would be a costly endeavor for very little value as the pavement does not have much impact on the overall character of the neighborhood. The portion of paving that does not comply with the Zoning Ordinance is rather small and the neighborhood has multiple driveway types, with some properties even having two driveways.
- b. Granting the variance will not have an adverse effect on the public health, safety, or welfare, as it will provide off-street parking where street parking has resulted in incidents with parked cars following the connection of a previously dead-end street to a new subdivision in recent years.

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

1. The applicant shall submit corrected drawings showing the work as completed in order to obtain a paving permit from the Division of Building Inspection within 30 days of Board action.

D. **Conditional Use Appeals**

1. **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.

2. **PLN-BOA-18-00060: VERONICA JOSEPH** – requests a conditional use permit to operate a family childcare for up to 12 children in a Single Family Residential (R-1C) zone, at 1205 Octavian Circle (Council District 8).

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

- a. Granting the requested conditional use should not adversely affect the subject or surrounding properties. Adequate off-street and on-street parking is available. A fenced outdoor play area will be provided that is much larger than the minimum size required.
- b. 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. Childcare for up to 12 children shall be provided 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 initiation of the childcare use.
3. The use shall at all times operate in compliance with the regulations of the Kentucky Cabinet for Health and Family Services.
4. The conditional use shall become null and void should the applicant no longer reside at this location.

3. **PLN-BOA-18-00061: ERIC AND NANCY STELTER** – request a conditional use permit to operate a home-based business (individual piano lessons) in a Single Family Residential (R-1D) zone, at 606 Gingermill Lane (Council District 7).

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

- a. Granting the requested conditional use should not adversely affect the subject or surrounding properties, as it should not create a significant increase in traffic or noise. Adequate off-street and on-street parking is available.
- b. 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 home-based business (individual piano lessons) shall be operated 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 initiation of the use.
3. The conditional use shall become null and void should the applicants no longer reside at this location.

4. **PLN-BOA-18-00062: NISHANN SANDHU** – requests a conditional use permit to operate a home-based business (health coaching) in a Planned Neighborhood Residential (R-3) zone, within the defined Infill & Redevelopment Area, at 457 Silver Maple Way (Council District 1).

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

- a. Granting the requested conditional use should not adversely affect the subject or surrounding properties, as it should not create disturbing levels of traffic, noise, or odors. Adequate on-street parking is available.
- b. 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 home-based business (health coaching) shall be operated in accordance with the submitted application materials and site plan. A modest increase in client visits is allowable up to no more than two per day only on

- weekdays.
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 initiation of the use.
 3. The conditional use shall become null and void should the applicant no longer reside at this location
5. **PLN-BOA-18-00063: ELEMENT DESIGN** – requests a conditional use permit to construct a parking lot in a Professional Office (P-1) zone, at 2405 Greatstone Pt. (Council District 10).

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

- a. There should not be any adverse traffic impacts on the surrounding neighborhood. The proposed parking lot is relatively modest in size and should relieve expected parking congestion issues caused by the additional services planned at the KMSF building. Over two-thirds of the lot will remain as open space.
- 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 KMSF building.
- 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.

6. **PLN-BOA-18-00064: HARMONY DAY MONTESSORI SCHOOL** – requests a conditional use permit to establish a pre-school program in a High Density Apartment (R-4) zone, at 2885 Rio Dosa Dr. (Council District 7).

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 in the church for a number of years without creating a problem. Church properties are typically not used throughout the week, so they are generally well suited for uses such as a preschool. This property is located near residential properties, and a preschool could provide a useful service for the surrounding neighbors.
- b. More than adequate parking exists and is available on the subject property.
- c. A fenced play area exists as required, and is large enough to accommodate up to 41 children.
- 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 preschool use shall be conducted in accordance with the submitted application, site plan, and the listed conditions.
2. All necessary permits, including a Zoning Compliance Permit and a Certificate of Occupancy, shall be obtained prior to the commencement of this use.
3. The preschool's days and hours of operation shall not exceed Monday through Friday, from 6:00 a.m. to 6:00 p.m. without further approval of by the Board of Adjustment.
4. Should the operators of the preschool wish to expand class size in the future, it may provide services for no more than 41 students on the subject property, without further approval from the Board of Adjustment.
5. The facility shall be fully licensed and comply with requirements of the Kentucky Cabinet for Health and Family Services, Division of Regulated Child Care.

- 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 8, 2018.
- VII. **ADJOURNMENT** - If there is no further business, the Chair will declare the meeting adjourned.