

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

December 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 November 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.
 - 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-18-00072: DAVID KING** – request for variances to: 1) reduce the required front yard from 20 feet to 6 feet; 2) to reduce the required side street side yard from 20 feet to 3.5 feet; and 3) to reduce the required side yard for a deep building from 4 feet 7 inches to 3 feet in order to construct a new single family residence within the defined Infill & Redevelopment area in a Planned Neighborhood Residential (R-3) zone, at 675 North Martin Luther King Blvd. (Council District 1).

The Staff Recommends: **Approval of a lesser variance for the front yard, from 20' to 12'**, for the following reasons:

- a. A variance allowing a 12' front yard will be more in character with the existing neighborhood.
- b. Granting the lesser variance should not create an unnecessary hardship for the applicant, as it appears that the proposed building could be remain as designed, but be set back 12' from the front property line and still maintain the required 20' rear yard setback.
- c. There are special circumstances that justify the need for a variance because the property is situated on a corner and adjacent to a vacant lot, so the front yard setback cannot be averaged in accordance with the provisions of the Infill and Redevelopment Area.

The Staff Recommends: **Approval of the side street side yard and side yard variances**, for the following reasons:

- a. There are special circumstances which justify the need for variances. The lot is quite narrow and the required side yard setbacks would render the lot unbuildable.
- b. The requested variances for the side street side yard and side yard are generally reasonable. The variances will allow the applicant to build a modestly sized single family residence, which will replace the residential structure that had existed there previously.
- c. The variance requests do not attempt to circumvent the provisions of the Zoning Ordinance. The applicant is going through the appropriate process and has applied for the variances prior to commencing construction.

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

1. The building shall be constructed in accordance with a revised site plan indicating a front yard setback of at least 12'.
2. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection, prior to construction and occupancy.

2. **PLN-BOA-18-00073: RUTH MARIE DAVIS** – requests a variance to reduce the required front setback 6 feet to 0 feet for additional paved parking in order to bring an additional parking space in a front yard into compliance in a Planned Neighborhood Residential (R-3) zone, at 2605 Old Rosebud Rd. (Council District 6).

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. In order to have a compliant and functional parking space, a portion of the existing paving would have to be removed and a new portion would have to be added closer to the house, and would likely result in a larger total paved area.
- b. Granting the variance will not have an adverse effect on the public health, safety, or welfare. It will provide additional space for the homeowner to maneuver safely in and out of her car. A minor accommodation in this

particular case seems reasonable.

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.

3. **PLN-BOA-18-00075: BAPTIST HOSPITALS INC.** – request for variances to increase the allowable height of two free-standing signs from 10 feet to 12 feet; and an administrative appeal to transfer 10 square feet of wall signage in order to construct two 45 square-foot free-standing signs in a Professional Office (P-1) zone, at 2101 Nicholasville Rd. (Council District 10).

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

- a. There do not appear to be any compelling special circumstances that justify the need for 2 additional feet in height. While the applicant references trees and shrubbery impeding visibility, this appears to only apply to Monument 1, and the referenced shrubbery is located on the subject property and could be trimmed or relocated to prevent visibility issues.
- b. Strict application of the zoning ordinance should not create an unnecessary hardship, as the sign could be installed with a shorter monument base to avoid reducing the size of the copy on the sign. Freestanding signs that comply with the 10' height limit have existed at this location for many years.

The Staff Recommends: **Approval of the Administrative Appeal**, for the following reasons:

- a. The requested signage transfers are modest in comparison to the total allowable signage at this location, and should not have an effect on the character of the general vicinity. Two of the buildings on the property have parking in front on the Nicholasville Road side, and none of the buildings face Southland Drive, so it is reasonable to allow slightly larger signs closer to the road where they will be more visible to drivers.

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, but shall not exceed 10' in height, and shall comply with a minimum 10' setback.
2. All necessary permits for signage shall be obtained from the Division of Building Inspection.

4. **PLN-BOA-18-00078: JEFFREY AND KATHERINE WISEMAN** – request for variances to: 1) to increase the allowable number of parking spaces from 2 to 3 for a single family residence; and 2) to increase the allowable height of a fence in the front yard from 4 feet to 6 feet within the defined Infill & Redevelopment area in a Single Family Residential (R-1C) zone, at 223 Glendover Rd. (Council District 4).

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

- a. Granting the variances will not have an adverse effect on the public health, safety, or welfare. The circular driveway will give the applicants the opportunity to provide easy front-door entry for their elderly parents and will provide access to the new parking area and accessory structure behind the house.
- b. The configuration of the lot and the location of the existing house are special circumstances which justify the need for a variance for the fence height. The portion of fencing requiring a variance is located on a portion of the property that while technically the front yard, acts as a side street side yard. The fence will be behind the front plane of the building and will be twice the required distance for a 6'-tall fence from the right-of-way as would be required for a fence in a side street side yard.
- c. Granting the variances will not result in an unreasonable circumvention of the Zoning Ordinance. The applicant is going through the appropriate processes to seek approval prior to commencing construction. The more restrictive parking allowances of the Infill & Redevelopment Area are generally based on the smaller lots which are more typical in that overlay. This property is over three-quarters of an acre and the proposed circle driveway will not result in an excessive amount of paving relative to lot size.

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

1. The paving and fencing shall be installed in accordance with the submitted application materials and site plan.
2. The existing driveway shall be removed and replaced with grass/landscaping materials.
3. All necessary permits and approvals shall be obtained from the Divisions of Building Inspection and Traffic Engineering prior to beginning construction.

5. **PLN-BOA-18-00079: MARTIN'S PETERBILT** – request for a variance to increase the allowable height of a fence from 4 feet to 8 feet in the front yard and side street yard in order to construct an 8-foot tall fence at a truck/equipment dealership in a Highway Service Business (B-3) zone, at 425 Rogers Rd. (Council District 6).

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

- a. There do not appear to be any compelling special circumstances that justify the need for a variance. Vehicle and equipment dealerships are typical uses in the B-3 zone without fences of the requested height. The applicant has not provided sufficient information to justify the need for the variance.
- b. An 8-foot tall fence is not in character with the general vicinity. The neighborhood is largely residential with some smaller commercial businesses. With the exception of the KU substation adjacent to the property at the southeast, there do not appear to be any fences in front or side street side yards that exceed 6' in height in the general vicinity.
- c. While this property does not fall inside the boundaries of the Paris Pike Overlay Zone, it was included in the Paris Pike Corridor Small Area Plan, adopted in 1993. One of that plan's goals was "to retain the Agricultural/Historic/Scenic qualities of the corridor." While a former bowling alley turned truck and equipment dealership is unlikely to contribute to the scenic qualities of the corridor, an 8-foot tall fence certainly does not.
- d. The applicant has not provided any information or documentation to support an argument that taller fencing results in greater security. In lieu of taller fencing, other security measures are available that could be used which would not impact the overall physical appearance of the property.

D. Conditional Use Appeals

1. **PLN-BOA-18-00076: A & M HAMBURG, LLC.** – requests a conditional use permit for a bank and coffee shop with drive-through facilities in a Community Center (CC) zone, at 2800 Polo Club Blvd. (Council District 12).

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

- a. Granting the requested conditional uses should not adversely affect the subject or surrounding properties, provided that the final design is approved by the Division of Traffic Engineering. These two drive-through facilities will provide convenient services for the nearby residents. The character of the vicinity will not be altered as other drive-through facilities exist in the vicinity, including a fast food restaurant, pharmacy, and bank.
- b. Adverse traffic impacts are not anticipated, as stacking area and circulation space will be provided for each drive-through.
- c. All necessary public facilities are available and adequate for the proposed uses.

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

1. The drive-through facilities shall be constructed in accordance with the submitted application and site plan, or as amended by the Planning Commission and/or the Division of Traffic Engineering.
2. All necessary permits shall be obtained from the Division of Building Inspection prior to construction.
3. The final design of the drive-through facilities shall be subject to review and approval by the Division of Traffic Engineering.
4. Storm water management is to be provided in compliance with the Division of Engineering Storm Water Manual.
5. Action of the Board shall be noted on the Final Development Plan.

2. **PLN-BOA-18-00077: CITY TOWING SERVICES** – requests a conditional use permit to establish a towing and impound lot in a Light Industrial (I-1) zone, at 1004 West New Circle Rd. (Council District 1).

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

- a. The proposed vehicle storage yard in conjunction with a towing and minor auto repair business should not have an adverse effect on the subject or surrounding properties. The adjacent uses are typical of the light industrial zone, and it is unlikely that the requested use would create any disturbances.
- b. All necessary public services and facilities are or will be available for the proposed use.

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

1. The vehicle storage yard shall be established in accordance with the submitted application materials and site plan.
2. All necessary permits and approvals shall be obtained from the Divisions of Planning, Building Inspection and Engineering prior to commencement of the use.
3. The storage area shall be enclosed on all sides by a 6' tall solid wall or fence. Any existing chain link fence of at least 6' in height can be considered "solid" if privacy screening is added.
4. There shall be no storage of vehicles within the public right-of-way.
5. Vehicles shall be parked on the rear of the lot in a fashion that permits independent access (by tow trucks) to each vehicle stored on-site.
6. Any pole lighting for the storage and parking areas shall be of a shoebox or similar design, with light directed downward to avoid disturbing any adjoining or nearby properties.

E. Administrative Reviews

1. **PLN-BOA-18-00074: CUSTOM SIGN & ENGINEERING, INC.** – requests an administrative appeal to transfer a total of 62 square feet of potential wall signage to two canopy signs (31 square feet each) in order to construct two 36 square foot canopy signs in a Planned Shopping Center (B-6P) zone, at 4171 Tates Creek Centre (Council District 4).

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

- a. Granting the requested appeal should not adversely affect the public health, safety, or welfare; nor should it affect the character of the vicinity. The requested signage is not out of scale or overwhelming in this location. The requested signage is considerably smaller than what would be permitted on the walls of the building to which the canopies are attached.
- b. Strict application of the ordinance would only allow for a 5 square-foot sign on the canopy which would not be legible in this location.

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

1. The installed signage shall be maintained 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.

The staff would like to wish the Board members and their families a safe and happy holiday.

VI. **NEXT MEETING DATE** - The Chair will announce that the next meeting date will be January 14, 2019, at 1:30 p.m.

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