

MINUTES FOR THE BOARD OF ADJUSTMENT MEETING

December 10, 2018

- I. **ATTENDANCE** – The Chair called the meeting to order at 1:00 p.m. in the Council Chambers, 200 East Main Street, December 10, 2018. Members present were: Branden Gross, Jan Meyer, Raquel Carter, Harry Clarke, Thomas Glover, Chad Needham, and Joan Whitman. Others present were: Josh Dezarn, Division of Engineering; Tracy Jones and Andrea Brown, Department of Law; and Stephen Parker, Traffic Engineering. Staff members in attendance were: Jim Marx, Autumn Goderwis, and Tammye McMullen.

- II. **APPROVAL OF MINUTES** – The Chair announced that the minutes of the November 12, 2018, meeting would be considered at this time.

Action - A motion was made by Mr. Needham, seconded by Mr. Glover, and carried 6-0 (Needham abstain) to **approve** the minutes of the November 12th meeting.

III. **PUBLIC HEARING ON ZONING APPEALS**

Swearing of Witnesses – Prior to sounding the agenda, The Chair 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, The Chair sounded the agenda.

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

There were none.

a. **ABBREVIATED HEARINGS:**

1. **PLN-BOA-18-00073: RUTH MARIE DAVIS** – requests a variance to reduce the required front setback from 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:

- 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.
- 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:

- 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.

*Note – Ms. Goderwis distributed one letter of opposition to the Board members for review.

Representation – Joseph Reckelhoff, contractor on behalf of the applicant. Mr. Reckelhoff indicated that he had reviewed the condition and agreed to abide by it.

Board Questions and Comments – Mr. Needham asked for a photo to be put on the overhead projector for further review.

Mr. Glover stated that it was not clear to him as to where the curb cut was located. Mr. Reckelhoff responded and explained.

Ms. Meyer questioned as to how the pad was added when it wasn't there when it was applied for. Mr. Reckelhoff responded that a change order was put in place by the homeowner once they started to build. Mr. Glover asked for the google Earth photo presented on the overhead be entered for the record.

Mr. Glover asked why the variance was needed. Ms. Goderwis responded and explained with a photo on the overhead projector. At this time, there was further discussion with regard to possible precedent setting with comments from Mr. Needham, Ms. Carter, and Mr. Parker, as well as Mr. Reckelhoff.

Action – A motion was made by Mr. Glover, seconded by Ms. Carter and carried 6-1 (Clarke nay) to **disapprove PLN-BOA-18-00073: RUTH MARIE DAVIS** – a request for 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., based on the following reasons:

1. There are no special circumstances that apply to this property that don't generally apply to other drive-ways and parking in the area.
 2. Although there will be a cost to make the drive-way compliant, those efforts and costs will not deprive the applicant of the reasonable use of her property and will make the drive-way compliant. Making the drive-way compliant will not cause an undue hardship.
2. **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.

Mr. Gross asked for the site plan to be presented on the overhead projector for further discussion.

Representation – David King, applicant was present. Mr. King presented a PowerPoint presentation and explained his request and the reason for his disagreement of the staff's recommendation of approval of a lesser variance.

Board Questions and Comments – Mr. Glover questioned the previous house and asked if it had the 6 foot setback that the applicant is requesting. Mr. King responded, with further discussion.

Mr. Needham asked if that portion of Martin Luther King was one-way or two-way. Mr. King responded, with comments from Ms. Goderwis and Mr. Parker.

Citizen Comment – Amy Clark, 628 Kastle Rd. expressed her concerns with preserving the tree in the back yard as well as indicating that she believed the front yard should be shortened.

Mr. King noted that there will be on-street parking and the tree will be preserved.

At this time, Mr. Gross asked the applicant, depending on how the vote goes, did he agree to abide by the conditions. Mr. King stated he did.

Action – A motion was made by Mr. Needham, seconded by Mr. Glover and carried 7-0 to **approve PLN-BOA-18-00072: DAVID KING** – the 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., based on the staff's recommendations the approval of a variance from the front yard from 20 feet to 6 feet, based on the following reasons:

- a. A variance allowing a 6 foot front yard would be more in character with the existing neighborhood.
- b. There are special circumstances that justify a 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 at an average in accordance with the provisions of the Infill & Redevelopment area.

Also, based on the staff's second recommendation of approval of a side street yard and the side yard variances for the reasons outlined by the staff, and this recommendation of approval is made subject to the following two conditions:

1. The building shall be constructed in accordance with a revised site plan indicating a front yard setback of at least 6'.
 2. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection, prior to construction and occupancy.
3. **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.

Representation – Katherine Wiseman, applicant. Ms. Wiseman indicated that she had reviewed the conditions and agreed to abide by them.

Board Questions and Comments – Mr. Glover asked staff if the property was “just inside” the Infill & Redevelopment area, and would it change if it were on the outside. Ms. Goderwis responded and explained.

Mr. Glover asked the applicant what part is being proposed to be removed. Ms. Wiseman responded and explained.

Mr. Clarke asked for the map to be presented on the overhead projector and asked for the fence to be pointed out. Ms. Goderwis presented the photo and explained, with comments from Ms. Wiseman.

Mr. Glover then asked what street the front yard is being considered. Ms. Wiseman responded that their front door is on the Glendover side, and further discussed.

Mr. Clarke asked if the garage was going to be for parking cars or for woodwork, and if used for woodwork, where would parking be. Ms. Wiseman responded that it would be used for woodwork with drive-way parking.

Action – A motion was made by Mr. Clarke, seconded by Ms. Meyer and carried 7-0 to **approve PLN-BOA-18-00078: JEFFREY AND KATHERINE WISEMAN** – the 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., based on the staff's recommendation and subject to the three conditions.

4. **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.

***Note** – Ms. Goderwis distributed one letter of support to the Board members for review.

Representation – Nick Nicholson, attorney on behalf of the applicant, along with Mary Domigan. Mr. Nicholson indicated that they had reviewed the conditions and agreed to abide by them.

Board Questions and Comments – Mr. Clarke asked for clarification as to the access point to the proposed use. Mr. Nicholson responded and further explained with comments from Mr. Glover, Mr. Needham, and Ms. Domigan. At this time, there was further discussion with regard to entry and exits to the proposed use, as Mr. Nicholson pointed out on the overhead projector.

Action – A motion was made by Ms. Carter, seconded by Ms. Whitman and carried 7-0 to **approve PLN-BOA-18-00076: A & M HAMBURG, LLC.** – a request for 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., based on the staff's recommendations and subject to the five conditions.

5. **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 conditions:

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.

*Note – Ms. Goderwis distributed one letter of concern to the Board members for review.

Representation – Dana Winchester, owner and applicant was present. Ms. Winchester indicated that she had reviewed the conditions and agreed to abide by them.

Board Questions and Comments – Mr. Needham asked if that area of New Circle still had an access point. Ms. Winchester responded and further explained, with comments from Mr. Parker.

Mr. Glover asked what type of fence was being built. Ms. Winchester responded and explained. At this time there were further comments by Ms. Carter with the concern of the type of fencing that is being proposed. Ms. Winchester responded and further explained. Mr. Needham asked if all the vehicles have to be behind the fence. Ms. Winchester responded. Mr. Clarke asked how many work vehicles would there be. Ms. Winchester responded that there would be approximately 5. Mr. Glover then asked if they had planned to keep the existing trees. Ms. Winchester said that was their plan. At this time, there was further discussion.

Action – A motion was made by Mr. Needham, seconded by Mr. Glover and carried 7-0 to **approve PLN-BOA-18-00077: CITY TOWING SERVICES** – a request for a conditional use permit to establish a towing and impound lot in a Light Industrial (I-1) zone, at 1004 West New Circle Rd., based on the staff's recommendations and subject to the six conditions.

6. **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 Bates 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.

Representation – Scott Elpers, sign contractor on behalf of the applicant was present, and was also sworn in at this time). Mr. Elpers indicated that he had reviewed the conditions and agreed to abide by them.

Board Questions and Comments – Mr. Needham asked if the applicant could explain what has actually taken place for this request of the administrative appeal. Mr. Elpers responded and explained.

Action – A motion was made by Mr. Clarke, seconded by Ms. Meyer and carried 7-0 to **approve PLN-BOA-18-00074: CUSTOM SIGN & ENGINEERING, INC.** – a request for 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 Bates Creek Centre, based on the staff's recommendation and subject to the two conditions.

b. **Discussion items:**

1. **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.

Representation – Skip Alexander, director of construction for Baptist Health, was present. Mr. Alexander indicated that he had reviewed the conditions and agreed to abide by them.

At this time, Mr. Alexander distributed a handout to the Board members, presented a PowerPoint presentation on the overhead projector, and then explained their request for the variances and the administrative appeal.

Board Questions and Comments/Discussion – At this time, there was discussion by the Board, staff, and applicant with regard to the following:

- (Ms. Carter) – transferring of unused available wall signage;
- (Mr. Gross) – maximum height of signage, with comments by Mr. Needham;
- (Ms. Carter) – visibility of the signs, with comments by Mr. Gross;
- (Mr. Clarke) – impact of visibility;
- (Ms. Meyer) – entry into the campus;
- (Mr. Glover) – referenced the Ordinance (17-7E-1).

At this time, there was discussion as to how to vote, whether it be one vote or separate, with comments from Ms. Jones.

Action – A motion was made by Ms. Carter, seconded by Mr. Thomas and carried 7-0 to **approve PLN-BOA-18-00075: BAPTIST HOSPITALS INC.** – a request for 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., based on the staff's recommendations and subject to the two conditions.

Action – A motion was made by Ms. Meyer, seconded by Mr. Clarke and carried 5-2 (Glover and Needham nay) to **disapprove PLN-BOA-18-00075: BAPTIST HOSPITALS INC.** – a request for variances to increase the allowable height of two free-standing signs from 10 feet to 12 feet in a Professional Office (P-1) zone, at 2101 Nicholasville Rd., for reasons recommended by the staff.

2. **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.

Representation – Bruce Simpson, attorney on behalf of the applicant was present, along with Matt Kerley, General Manager for the applicant. Mr. Simpson distributed handouts to the Board members for review.

Staff Report – At this time, Ms. Goderwis presented images on the overhead projector and 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.

Board Questions and Comments/Discussion – Mr. Gross asked if the front of the property was considered to be on Rogers Rd. Ms. Goderwis responded and explained. Mr. Gross also asked about self-storage for the requested variance. Ms. Goderwis responded that she had not looked into self-storage.

Mr. Needham asked where vehicles would come into the building from. Ms. Goderwis responded.

At this time, Mr. Simpson asked questions of Ms. Goderwis to better clarify some of his concerns prior to his presentation.

Representation – Mr. Simpson presented a PowerPoint presentation on the overhead projector and further explained their request for the variance. During Mr. Simpson's discussion, Mr. Gross asked if the Board were to grant approval of the variance, would his client willing to put in some shrubbery to buffer the fence from the roadway. Mr. Simpson responded and further discussed. Mr. Glover asked if there was any existing property currently. At this time, Mr. Simpson referred the questions to Mr. Kerley.

At this time, Mr. Kerley discussed the proposed fence for the subject property.

Board Questions and Comments/Discussion – Ms. Carter questioned the frontage of Rogers Road, and what is already allowable with regard to the fence. Ms. Goderwis responded and explained further. At this time, there was discussion with regard to the requested variance.

Mr. Clarke questioned as to whether the applicant would be willing to adjust the height of the fence. He further made comments with regard to requested use, with comments from Mr. Glover.

Ms. Jones asked the applicant if the proposal for the fence 6 foot all the way around. Mr. Simpson responded, and further discussed. At this time, Ms. Goderwis placed the site plan back on the overhead projector with further discussion.

Citizen Comment – Amy Clark, 628 Kastle Rd., speaking on behalf of the Fayette County neighborhood council, presented a presentation on the overhead projector and expressed their concerns with regard to the requested variance.

Board Questions and Comments/Discussion – Mr. Clark asked to have the site plan placed back on the overhead projector, and stated that it was different from what has been seen before. Ms. Goderwis responded that the original site plan was not correct.

At this time, there was further discussion by the Board, the staff, and the applicant with regard to the requested variance.

Representation Rebuttal – Mr. Simpson addressed the concerns of Ms. Clark and further discussed. Mr. Glover asked Mr. Simpson to refer to the photos on the overhead projector for clarification of the fence proposal. Mr. Simpson responded.

At this time, there was further comments by the Board and further discussion as to whether they wanted to approve the request, with comments by Mr. Justin Martin, one of the owners of the subject property, with regard to the overnight parking concerns, noting it on the photo on the overhead projector. Mr. Gross wanted to note for the record, that barbed wire is not allowed on any property, so there would be no barbed wire.

Action – A motion was made by Mr. Needham, seconded by Mr. Clarke and carried 7-0 to **approve PLN-BOA-18-**

00079: MARTIN'S PETERBILT – a request for a variance to increase the allowable height of a fence from 4 feet to 6 feet in the front yard and side street yard in order to construct a 6-foot tall fence at a truck/equipment dealership in a Highway Service Business (B-3) zone, at 425 Rogers Rd., based on the following reasons and based on two conditions:

Reasons:

1. The front of plane of the building is on Paris Pike so applying the variance will only be on the front plane side of the building and side yard to the front plane of the building on Rogers Road.
2. The requested variance arises from some special circumstances such as intrusion and burglary of businesses nearby or adjacent to the property, a utility substation and posing a potential danger to uninvited persons who may enter the property without permission.
3. Granting a 2-foot variance as requested will not alter the essential character in the general vicinity near an interstate exchange, and will not cause a hazard or nuisance to the public and may help prevent nuisances or hazards by limiting engagement with the large equipment on site by general public.

Conditions:

1. That the proposed fence be built as amended and shown on site plan.
2. Obtain all necessary permits from the Division of Building Inspection.

At this time, Mr. Gross asked the applicant that if this case is approved, did they agree to abide by the conditions. Mr. Simpson noted that they did agree.

IV. **BOARD ITEMS**

Mr. Needham reminded everyone that the Board meetings of next year will be at 1:30 p.m. instead of 1:00 p.m.

V. **STAFF ITEMS**

Mr. Marx wished everyone a happy holiday.

VII. **NEXT MEETING DATE** – The Chair announced that the next meeting date would be January 14, 2019.

VIII. **ADJOURNMENT** - There was no further business. The Chair declared the meeting adjourned at 4:09 p.m.

Branden Gross, Chair

Joan Whitman, Secretary

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