

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

January 14, 2019

- I. **CALL TO ORDER** - The Chair will call the meeting to order at 1:30 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 December 10, 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-18-00081: JEFFREY & KATHERINE WISEMAN** – request a variance to reduce the required setback for a swimming pool from 30 feet to 6 feet within the defined Infill & Redevelopment area in a Single Family Residential (R-1C) zone, at 223 Glendover Road (Council District 4).

The Staff Recommends: **Approval of a lesser variance, to reduce the required setback from 30' to 10'**, for the following reasons:

- a. Granting a variance will not have an adverse effect on the public health, safety, or welfare. The lesser variance will allow for a walkway surrounding the pool on all sides.
- b. Granting a variance will not have a negative impact on the character of the general vicinity. While a pool is considered to be a "structure," the visual impact of a pool is significantly less than that of a building. Therefore, a setback variance from, 30' to 10' is generally reasonable.
- c. The configuration of the lot, locations of other structures, and the location of the existing easement are special circumstances which justify the need for a variance.
- d. Granting a variance 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.

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

1. The pool shall be installed at a minimum setback of 10' from the property line along Glendover Road.
2. All necessary permits shall be obtained from the Division of Building Inspection prior to beginning construction.

D. **Conditional Use Appeals**

1. **PLN-BOA-18-00080: SPY COAST FARM KENTUCKY, LLC.** – requests a conditional use permit to operate a farm gift shop as an accessory use in the Agricultural Rural (A-R) zone, at 3295 Spy Coast Lane. (Council District 12).

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

- a. The proposed use should not adversely affect the subject or surrounding properties. The use is compatible with the existing horse farm operations on the site and the primary client base for the gift shop will be guests who are on the property for a tour of the equine facility, and the purpose of the gift shop is to enhance their experience of the farm.
- b. The proposed use should not have any major traffic impact since customers of the gift shop will already be visiting the property for tours. There will be no new employees and no new parking spaces are required.
- 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. That the gift shop be located and operated in compliance with the submitted application and site plan.
2. That there be no signage, other than directional or identification signage interior to the property, advertising the farm gift shop.
3. All necessary permits and approvals, including a Certificate of Occupancy shall be obtained from the Divisions of Planning and Building Inspection, prior to commencement of the gift shop use.

2. **PLN-BOA-18-00083: MICHAEL ECTON** – requests conditional use permits to: 1) establish a plant nursery, and 2) to extend the regulations for the A-R portion of the lot 50 feet beyond the zone line into the remaining R-1B portion of the lot in order to conduct the plant nursery use on the R-1B portion at split zoned property in the Agricultural Rural (A-R) zone, at 191 Swigert Ave. (Council District 12).

The Staff Recommends: Approval, for the following reasons:

- The proposed use should not adversely affect the subject or surrounding properties. The storage and maintenance of live plants is generally an appropriate use for an agricultural area, and the 50-foot extension into the R-1B portion will allow an existing barn to be utilized.
- The proposed use should not have any major traffic impact since there will be no retail operations and clients will not be visiting the site.
- 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:

- The plant nursery shall be operated in accordance with the submitted application and site plan.
- There shall be no retail operations on the subject property.
- Hours of operation shall be limited to 7:30 a.m. to 4:00 p.m. Monday through Friday, and 8:00 a.m. to 2:00 p.m. on Saturdays.
- Additional landscaping (at least three 8-foot Norway Spruce or similar) shall be provided on the R-1B portion of the property that adjoins 177 Swigert Avenue.
- The access drive and driveway apron at Swigert Avenue shall be graveled or paved and otherwise improved in accordance with the recommendations of the Division of Traffic Engineering. Improvements (including a determination of appropriate apron width for anticipated truck/trailer traffic) shall extend for a distance of at least 50' from the paved edge of Swigert Avenue.
- A Zoning Compliance Permit and Certificate of Occupancy shall be obtained from the Divisions of Planning and Building Inspection within 30 days of Board action.

3. **PLN-BOA-18-00085: ROMAN CATHOLIC BISHOP DIOCESE** – requests a conditional use permit for a place of religious assembly in order to expand parking for an existing church; and a request for a variance to reduce the required front setback for a parking lot from 20 feet to 10 feet in a High Density Apartment (R-4) zone, at 427, 429, 431, 435, 437, and 441 Smith Street and 432 Jefferson Street. (Council District 1).

The Staff Recommends: Approval, for the following reasons:

- The proposed use should not adversely affect the subject or surrounding properties. The parking lot will provide needed parking spaces for the expanding church, which is located in an area that generally needs more parking. The parking lot will be landscaped in order to create a buffer between the vehicular use and the residential neighborhood.
- The proposed use should not have any major traffic impact. The new parking lot will replace the 23 leased parking spaces that are no longer available to the church, and will be suitable for the previously approved sanctuary building.
- The proposed variance should not have a negative impact on the character of the general vicinity. Many buildings in the vicinity have a setback of less than 20' and there will be no access to the parking lot from Smith Street.
- 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:

- The project shall be completed in accordance with the submitted application materials and site plan, subject to any alterations required throughout the permitting process.
- All necessary permits and approvals shall be obtained from the Divisions of Planning, Building Inspection, and Engineering prior to construction.
- The final configuration of the parking lot, including any changes to the church's existing parking layout, shall be subject to approval by the Division of Traffic Engineering.
- The parking lot shall be paved, with spaces delineated, and landscaped/screened in accordance with the requirements of Article 16 and 18 of the Zoning Ordinance.
- A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
- Any pole lighting for the parking lot shall be of a shoebox (or similar) design, with light directed downward to avoid disturbing any adjoining residential properties.
- Should the previously approved 400-seat sanctuary building be constructed, the applicant shall secure additional parking spaces through a lease agreement or seek a variance. Should these options not be viable, the allowable sanctuary seating shall be adjusted accordingly at the time that building permits are issued.

E. Administrative Reviews

1. **PLN-BOA-18-00082: ECKMAN PROPERTIES** – requests an administrative appeal to change one non-conforming use (cocktail lounge) to another non-conforming use (florist) in a Planned Neighborhood Residential (R-3) zone, at 185 Eastern Ave. (Council District 1).

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

- a. Granting the requested change in non-conforming use from a cocktail lounge to a florist should not adversely affect either the subject or surrounding properties. This change in use will allow a positive change, as it will provide an amenity for residents of the neighborhood with less potential for disturbance than the prior use.
- b. There should not be adverse impacts on traffic. The required parking will be provided on site.
- c. The proposed use is in a more restricted zoning classification than the previous use, and therefore qualifies for approval per Article 4-3(e).

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

1. The change in use to a florist shall be done in accordance with the submitted application materials and site plan. Cite plan revisions are acceptable if needed to meet Traffic Engineering requirements.
2. All necessary permits shall be obtained from the Division of Planning and the Division of Building Inspection prior to occupancy of the property as a florist.
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 Articles 16 and 18 of the Zoning Ordinance.

- 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 February 11, 2019, at 1:30 p.m.
- VII. **ADJOURNMENT** - If there is no further business, the Chair will declare the meeting adjourned.