

MINUTES FOR THE BOARD OF ADJUSTMENT MEETING

August 12, 2019

- I. **ATTENDANCE** – Acting Chair, Thomas Glover called the meeting to order at 1:30 p.m. in the Council Chambers, 200 East Main Street, August 12, 2019. Members present were: Raquel Carter, Joan Whitman, Harry Clarke, Chad Needham, Jan Meyer and Thomas Glover. Absent was: Branden Gross. Others present were: Josh Dezarn, Division of Engineering; Traci Jones, Department of Law; and Stephen Parker, Traffic Engineering. Staff members in attendance were: Autumn Goderwis, James Marx and Tammye McMullen.

- II. **APPROVAL OF MINUTES** – The Acting Chair announced that the minutes of the July 8, 2019, meeting would be considered at this time.

Action - A motion was made by Mr. Clarke, seconded by Ms. Whitman and carried 6-0 (Gross absent) to **approve** the minutes of the July 8th meeting.

III. PUBLIC HEARING ON ZONING APPEALS

- A. **Sounding the Agenda** - In order to expedite completion of agenda items, The Acting Chair sounded the agenda.

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

Swearing of Witnesses – Prior to sounding the agenda, The Acting 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. ABBREVIATED HEARINGS:

1. **PLN-BOA-19-00046: KBJ CONSTRUCTION** – requests variances to: 1) reduce the required side yard setbacks from 3 feet to 2 feet; 2) to reduce the required front yard setback from 20 feet to 0 feet in order to construct a house with a 12 foot setback and allow a parking space to be located in front of the house; and 3) to reduce the required rear yard setback from 20 feet to 10 feet in order to construct a new single family residence within the defined Infill & Redevelopment area in a High Density (R-4) zone, at 516 Michigan Street (Council District 2).

The Staff Recommends: Approval, for the following reasons:

- Granting the variances should not adversely affect the public health, safety, or welfare, nor alter the character of the general vicinity. The vicinity is characterized by similar small lots and the requested setbacks will be similar to other setbacks in the area.
- The size of the lot is a special circumstance that justifies the need for the variances. Without any variances, the maximum building footprint would be only 350 square feet. Granting the variances will allow the applicant to utilize a currently vacant lot within the Infill & Redevelopment for needed housing.
- The variance requests do not attempt to circumvent the provisions of the Zoning Ordinance. The intent of the Infill and Redevelopment regulations is to allow new construction that is compatible with existing development patterns in older, established neighborhoods. The Zoning Ordinance specifically states that BOA action may sometimes be required in order to facilitate appropriate development without creating an unusual hardship or development that is incompatible with the existing pattern of the neighborhood. Additionally, the applicant has applied for the variance as soon as it was determined that one was needed during the permit process, and prior to beginning construction.

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

- Construction shall be in accordance with the submitted application materials and site plan, except that the driveway shall be a minimum of 16' in length, as measured from the inside edge of the sidewalk.
- All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction and occupancy.

Representation – Keith Jones, applicant was present.

Board Question – Mr. Glover asked if the property goes all the way through from Michigan Street to Bright Ave. Mr. Jones responded, no, it doesn't. Mr. Glover then asked how deep the building was going to be. Mr. Jones responded, 38 feet.

*Note – At this time, Ms. Carter recused herself from this case.

Ms. Meyer asked about the required alter to the front of the building, and asked if Mr. Jones had read the conditions and agreed to abide by them. Mr. Jones indicated yes.

Action – A motion was made by Ms. Meyer, seconded by Mr. Needham and carried 5-0 (Carter recused/Gross absent) to **approve PLN-BOA-19-00046: KBJ CONSTRUCTION** – requests for variances to: 1) reduce the required side yard setbacks from 3 feet to 2 feet; 2) to reduce the required front yard setback from 20 feet to 0 feet in order to construct a house with a 12 foot setback and allow a parking space to be located in front of the house; and 3) to reduce the required rear yard setback from 20 feet to 10 feet in order to construct a new single family residence within the defined Infill & Redevelopment area in in a High Density (R-4) zone, at 516 Michigan Street, for reasons recommended by the staff and subject to the two conditions.

2. **PLN-BOA-19-00048: IVCP ATHENS, LLC** – requests a variance to reduce the required perimeter landscape buffer between an Industrial zone and an A-R zone from 15 feet to 6 feet in order to allow construction near the LFUCG owned pump station located interior to the subject property in a Light Industrial (I-1) zone, at 5301 Athens Boonesboro Rd. (Council District 7).

The Staff Recommends: Approval, for the following reasons:

- a. Granting the requested variance should not adversely affect the public health, safety, or welfare, nor alter the character of the general vicinity. The A-R zoned parcel containing the pump station has existed in the location for some time. A narrower landscape buffer will still provide appropriate screening in this location.
- b. There are special circumstances with regard to grading and access that affect the location of the proposed access drive and justify the need for the variance.
- c. The location of the pump station property entirely within the subject property is a special circumstance that does not generally apply to land in the vicinity or in the same zone. Because moving the pump station is not feasible, the variance is generally reasonable.

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

1. The property shall be developed in accordance with the submitted application and site plan, as amended to meet the conditions below.
2. There shall be a 6' solid wood privacy fence or a 6' high hedge between the drive aisle and the zoning boundary.
3. There shall be one tree per every 15' of linear boundary, to be located in a group away from the drive aisle. The type of trees and final location shall be reviewed and determined to be appropriate by the Landscape Examiner with the Division of Environmental Services.

Representation – Patrick Garrett, was present on behalf of applicant.

Board Question – Mr. Glover indicated that he couldn't tell what was being built, and asked if they plan to move the pump station. Mr. Garrett responded.

Action – A motion was made by Mr. Needham, seconded by Mr. Clarke and carried 6-0 (Gross absent) to **approve PLN-BOA-19-00048: IVCP ATHENS, LLC** – request for a variance to reduce the required perimeter landscape buffer between an Industrial zone and an A-R zone from 15 feet to 6 feet in order to allow construction near the LFUCG owned pump station located interior to the subject property in a Light Industrial (I-1) zone, at 5301 Athens Boonesboro Rd., based on the staff's recommendations and subject to the three conditions.

3. **PLN-BOA-19-00049: BELLAIRE DEVELOPMENT, LLC** – requests a variance to reduce the required landscape buffer from 15 feet to 0 feet within the defined Infill and Redevelopment area in a Light Industrial (I-1) zone, at 744 Bellaire Ave. (Council District 1).

The Staff Recommends: Approval of a lesser variance (from 15' to 6'), for the following reasons:

- a. Granting a lesser variance should not adversely affect the public health, safety, or welfare, nor alter the character of the general vicinity. There is currently very little landscaping on this property and the proposed development should be an overall improvement to this portion of Bellaire Avenue.
- b. Approval of a lesser variance would not constitute a circumvention the provisions of the Zoning Ordinance. The applicant has taken care to go through the necessary process of applying for the variance prior to construction.
- c. The Landscape Review Committee met on July 23, 2019 and recommended approval of this variance.

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

1. The property shall be developed in accordance with the submitted application and site plan, as amended to meet the conditions below.
2. There shall be a 6' solid wood privacy fence along the side lot line adjacent to 742 Bellaire Avenue.

3. Trees from Group A or B of the Planting Manual shall be installed one every 40 feet, or fraction thereof. These trees do not have to be equally spaced and may be grouped.

Representation – Jason Futch, was present on behalf of applicant.

Board Question – Ms. Meyer noted that the staff has recommended approval of a lesser variance, and asked the applicant were they in agreeance with this. Mr. Futch responded yes.

Action – A motion was made by Ms. Carter, seconded by Ms. Meyer and carried 6-0 (Gross absent) to **approve PLN-BOA-19-00049: BELLAIRE DEVELOPMENT, LLC** – request for a variance to reduce the required landscape buffer from 15 feet to 6 feet within the defined Infill and Redevelopment area in a Light Industrial, as recommended by the staff and subject to the three conditions.

*Note – The following case is a postponement from the July 8th meeting.

4. **PLN-BOA-19-00040: KRISTOFER AND HELEN NONN** – request a conditional use permit for a child care facility within the defined Infill and Redevelopment area in a Planned Neighborhood Residential (R-3) zone, at 561 N. Limestone. (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. A family child care for up to 6 children would be allowable by right in this location as an accessory use if the applicant lived in the house. The limited enrollment of only 4 children should result in virtually no impact on traffic. A fenced 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 4 children shall be provided in accordance with the submitted application materials and an amended site plan indicating compliance with Condition #3.
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. A loading zone shall be designated by the Division of Traffic Engineering and/or at least one off-street parking space shall be established prior to initiation of the childcare use.
4. The use shall at all times operate in compliance with the regulations of the Kentucky Cabinet for Health and Family Services.

Representation – Kristofer Nonn, applicant was present.

*Note – At this time, Mr. Needham, recused himself from this case.

Board Question – Mr. Glover asked who the owner was of the nearby property, where parking was proposed. Mr. Nonn responded, Mr. Needham.

Mr. Clarke noted that he was a little concern as to why the utilization of the parking lot is undecided and asked how will this be resolved. Mr. Nonn responded and explained.

Action – A motion was made by Mr. Clarke, seconded by Ms. Whitman and carried 5-0 (Needham recused/Gross absent) to **approve PLN-BOA-19-00040: KRISTOFER AND HELEN NONN** – request for a conditional use permit for a child care facility within the defined Infill and Redevelopment area in a Planned Neighborhood Residential (R-3) zone, at 561 N. Limestone, based on the staff's recommendations and subject to the four conditions.

5. **PLN-BOA-19-00047: MIKE SCOTT BASKETBALL, LLC** – requests a conditional use permit for a childcare facility in a Light Industrial (I-1) zone, at 2414 Palumbo Drive (Council District 7).

The Staff Recommends: Approval, for the following reasons:

- a. The conditional use for a childcare facility should not adversely affect the subject or surrounding properties, and will allow the applicant to provide additional services that are compatible with the existing activities on site.
- b. Negative traffic impacts are unlikely and sufficient parking is available on the subject property.
- c. 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 after-school program shall be operated in accordance with the submitted site plan and application materials.
2. The use shall at all times operate in compliance with the regulations of the Kentucky Cabinet for Health and Family Services.

Representation – Mike Scott, applicant was present

Action – A motion was made by Ms. Carter, seconded by Mr. Clarke and carried 6-0 (Gross absent) to **approve PLN-BOA-19-00047: MIKE SCOTT BASKETBALL, LLC** – request for a conditional use permit for a childcare facility in a Light Industrial (I-1) zone, at 2414 Palumbo Drive, based on the staff's recommendations and subject to the two conditions.

6. **PLN-BOA-19-00053: STEADFAST COLLIN LPC, LLC** – requests a conditional use permit for a temporary real estate sales office in an Expansion Area Residential (EAR-3) zone, at 2575 Polo Club Boulevard (Council District 12).

The Staff Recommends: Approval, for the following reasons:

- a. The proposed use should not adversely affect the subject or adjoining/nearby properties. The leasing trailer will be located on the property adjoining construction, and should not disturb construction activities. The leasing trailer will be a temporary structure, which will only be utilized until construction of the assisted living is completed.
- b. Adequate parking will be available and conveniently located on site, adjacent to the leasing trailer.
- 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 leasing trailer shall be established in accordance with the submitted application and site plan.
2. All necessary permits, including a Zoning Compliance Permit and a Placement Permit/Certificate of Occupancy from the Division of Building Inspection, shall be obtained prior to the installation of the trailer and commencement of this use.
3. The leasing trailer shall be in place for no more than 12 months and shall be removed within 14 days of the issuance of a Certificate of Occupancy for the assisted living facility.
4. Restroom facilities for the public shall be provided in accordance with the requirements of the Fayette County Health Department.

Representation – Matt Carter with Vision Engineering, was present on behalf of the applicant.

Board Questions – Mr. Clarke asked how long the sales office will be in place. Mr. Carter responded that they have asked for a year and further explained.

Mr. Glover questioned the language of the Ordinance with regard to sales office user/occupancy. Ms. Goderwis responded and further explained.

Action – A motion was made by Mr. Needham, seconded by Ms. Carter and carried 6-0 (Gross absent) to **approve PLN-BOA-19-00053: STEADFAST COLLIN LPC, LLC** – request for a conditional use permit for a temporary real estate sales office in an Expansion Area Residential (EAR-3) zone, at 2575 Polo Club Boulevard, based on the staff's recommendations and subject to the four conditions.

7. **PLN-BOA-19-00055: APOSTLES ANGLICAN CHURCH, INC.** – requests an amendment to an existing conditional use for a place of religious assembly to include seasonal activities (a weekly farmer's market) in a Single Family Residential (R-1C)/Neighborhood Design Character Overlay (ND-1) zones, at 200 & 296 Colony Blvd. (Council District 5).

The Staff Recommends: Approval, for the following reasons:

- a. Granting the conditional use request should not have any adverse effects on the public health, safety, or welfare, nor should it alter the character of the existing vicinity. The market will take place in the existing parking lot of the church and does not require any additional structures or parking spaces.
- b. The market use is a component of the church's mission as it acts as a community engagement program for the church and serves neighboring residents. The market also makes donations to local community groups as part of the church's mission.
- c. All necessary public facilities and services are available and adequate.

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

1. The market use shall be conducted in accordance with the submitted application materials and site plan.

2. The market shall occur on Wednesdays only, from 7:00 a.m. to 12:30 p.m. during up to two 90-day periods per year.

*Note – At this time, Ms. Goderwis distributed two letters of opposition to the Board for their review.

Representation – Jessica Morris, was present on behalf of the applicant.

Board Questions – Mr. Needham asked for an overview as to how the market would operate. Ms. Morris responded and explained.

Mr. Glover asked how long has the market been in operation. Ms. Morris responded, three months. Mr. Glover then referenced the Ordinance that stated seasonal activities shall only be a 90-day operation and asked how this operation would work. Ms. Goderwis responded and further explained.

Action – A motion was made by Mr. Clarke, seconded by Ms. Meyer and carried 6-0 (Gross absent) to **approve PLN-BOA-19-00055: APOSTLES ANGLICAN CHURCH, INC.** – request for an amendment to an existing conditional use for a place of religious assembly to include seasonal activities (a weekly farmer's market) in a Single Family Residential (R-1C)/Neighborhood Design Character Overlay (ND-1) zones, at 200 & 296 Colony Blvd., based on the staff's recommendation and subject to the two conditions.

8. **PLN-BOA-19-00051: COMPASS CAPITAL, LLC** – requests an administrative appeal to change one legally non-conforming use (retail sales) to another (office and retail sales) within the defined Infill & Redevelopment area in a Historic Overlay (H-1)/ Planned Neighborhood Residential (R-3) zones, at 131 Kentucky Avenue (Council District 3).

The Staff Recommends: Approval, for the following reasons:

- a. Granting the requested change in non-conforming use from a needlepoint shop to an office with a smaller portion of retail space should not adversely affect either the subject of surrounding properties. This change in use should be a positive change, resulting in less traffic.
- b. The proposed office use is first allowable in a more restrictive zone than the existing use and the existing use will be reduced. Therefore the non-conforming use will be less non-conforming and 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 an office-type business with a limited retail component shall be done in accordance with the submitted application materials and site plan.
2. All necessary permits and/or approvals including a Certificate of Occupancy shall be obtained from the Division of Building Inspection prior to occupancy.

Representation – Jacob Walbourn, attorney was present on behalf of the applicant.

Action – A motion was made by Ms. Meyer, seconded by Ms. Whitman and carried 6-0 (Gross absent) to **approve PLN-BOA-19-00051: COMPASS CAPITAL, LLC.** – request for an administrative appeal to change one legally non-conforming use (retail sales) to another (office and retail sales) within the defined Infill & Redevelopment area in a Historic Overlay (H-1)/ Planned Neighborhood Residential (R-3) zones, at 131 Kentucky Avenue, based on the staff's recommendations and subject to the two conditions.

9. **PLN-BOA-19-00054: STONEWALL INVESTMENTS, LLC** – requests an administrative appeal to transfer 150 square feet of unused signage in order to construct a 200 square-foot free-standing sign in a Neighborhood Business (B-1) zone, at 3101 Clays Mille Road (Council District 9).

The Staff Recommends: Approval for the following reasons:

- a. Granting the request will not circumvent the Zoning Ordinance as the proposed signage will comply with the limitations outlined in Article 17-8(a).
- b. Approval of the request will not adversely affect the public health, safety, or welfare, nor alter the character of the vicinity. The proposed sign will replace a long-existing sign that is non-conforming with a new sign that will have a similar visual impact. Approximately 60 square feet of the sign structure is decorative and will not contain any copy. The area containing copy is only about 10 square feet larger than the existing non-conforming sign and the sign will now comply with the height restriction of the Zoning Ordinance.
- c. The combined total size of all business signs on the subject property will not exceed that allowed by Article 17 of the Zoning Ordinance.

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

1. The proposed signage shall be established in accordance with the submitted application materials and site plan.
2. All necessary permits for signage shall be obtained from the Division of Building Inspection.
3. Total signage on the property shall not exceed 1,474.5 square feet.

Representation – Doug Martin, attorney was present on behalf of the applicant.

Staff Comment – Ms. Goderwis noted at this time, that the staff and applicant had agreed on a change of language to condition #3, and wanted to read it for the record. Mr. Martin agreed to abide by the new change.

Action – A motion was made by Mr. Needham, seconded by Ms. Whitman and carried 6-0 (Gross absent) to **approve PLN-BOA-19-00054: STONEWALL INVESTMENTS, LLC** – request for an administrative appeal to transfer 150 square feet of unused signage in order to construct a 200 square-foot free-standing sign in a Neighborhood Business (B-1) zone, at 3101 Clays Mille Road, based on the staff's recommendation and subject to the three conditions with the alteration of language for condition #3 as follows:

3. Total signage on the property shall not exceed the total square footage allowed by Article 17-7(f).

b. **Discussion items:**

1. **PLN-BOA-19-00052: GALEN P. STONE AND LEANNE ASH** – request a variance to increase the allowable height of a detached garage from 20 feet to 22 feet in a Two Family Residential (R-2) zone, at 327 McDowell Rd. (Council District 5).

The Staff Recommends: Disapproval for the following reasons:

- a. Although the applicant has stated they did not intentionally violate the Zoning Ordinance requirements, there has been a willful decision by the applicant or their contractor to not follow the approved plans. This could constitute a circumvention of the Zoning Ordinance.
- b. There is no clear delineation of special circumstances that do not generally apply to other properties, nor would the strict application of the Zoning Ordinance deprive the applicant of reasonable use of their land.

Representation – LeAnne Ash, applicant, and Nick Keitz contractor were present.

*Note – At this time, Ms. Goderwis distributed five letters of opposition to the Board for their review.

Staff Comment – At this time, Ms. Goderwis discussed the reasons for the staff's recommendation for disapproval.

Board Questions and Comments – Ms. Meyer asked if the building construction has halted. Mr. Keitz responded and further explained.

Mr. Glover asked for an explanation as to what happened. Mr. Keitz responded and explained (presenting photos on the overhead projector), with comments by Ms. Ash. Ms. Ash distributed a letter with signatures by the neighbors "approving" of the requested variance.

At this time, there were comments and discussion by the Board, with comments by Ms. Ash and Mr. Keitz with regard to the requested variance.

Citizen Comments – The following citizens expressed their concerns with regard to the requested variance:

- Kathleen Linder, 107 Irvine Rd.
- Patricia Elpern, 1306 Fincastle Rd.

Action – A motion was made by Ms. Carter, seconded by Mr. Clarke and carried 6-0 (Gross absent) to **disapprove PLN-BOA-19-00052: GALEN P. STONE AND LEANNE ASH** – request for a variance to increase the allowable height of a detached garage from 20 feet to 22 feet in a Two Family Residential (R-2) zone, at 327 McDowell Rd., based on the staff's recommendations.

2. **PLN-BOA-19-00045: HORSESHOE BEND VINEYARD, LLC (DBA JESTER'S PADDOCK)** – requests a conditional use permit for a bistro and to host special events accessory to a small farm winery in the Agricultural Rural (A-R) zone, at 4688 Paris Pike (Council District 12).

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

- a. The requested uses (limited special events and a bistro) are clearly incidental and subordinate to the operation of the small farm winery and should not adversely affect the subject or surrounding properties. No new structures are needed to accommodate these uses and adequate parking will be provided.
- b. All necessary public services and facilities are or will be available and adequate for the proposed use.

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

1. Construction shall be in accordance with the submitted application materials and an amended site plan addressing condition #3 below.
2. All necessary permits and/or approvals shall be obtained from the Divisions of Planning and Building Inspection prior to operation,
3. 30 parking spaces shall be provided, each with independent access (no tandem parking). 15 shall be paved, striped, and landscaped in accordance with the requirements of the Zoning Ordinance. The remaining 15 spaces shall utilize permeable grass pavers or turf reinforcement mesh and shall be clearly identified. The driveway, circulation, and parking design as well as the specific type of grass paver used shall be subject to approval by the Division of Traffic Engineering.
4. Special events shall be limited to the Winery Production and Tasting Building and the 1.42-acre "Proposed Outdoor Event Space." The existing house and barn shall not be utilized for special events.
5. Events shall be limited to no more than 150 participants, and no more than two times per month.
6. Any lighting for events shall be shielded and directed downward to avoid disturbing the surrounding properties.
7. Temporary structures, such as tents, shall be permitted for this use for up to 180 days, provided approval is obtained from the Division of Building Inspection.
8. For events, approval for the septic system and/or any portable toilets as well as for any food services offered, shall be obtained from the Fayette County Health Department.

**Note* – At this time, Ms. Goderwis distributed letters of opposition to the Board for their review.

Note: Mr. Glover declared a brief recess at 2:32 p.m. in order for the Board members to review the opposition letters. The meeting reconvened at 2:58 p.m., with the same members in attendance.

Representation – Daniel O’Gara, attorney present on behalf of the applicant, as well as Brian Parnell, operations director/manager for the applicant, and Matt Bowling, owner of subject property. Mr. O’Gara noted that he distributed correspondence to the Board; presented a PowerPoint presentation on the overhead projector and further discussed the requested conditional use, with comments/discussion by Mr. Parnell.

Board Questions and Comments – At this time, there were questions by the Board to the applicant and further discussion with regard to the requested conditional use, with further comments by Mr. Parnell, and Ms. Goderwis. The following items were discussed:

- Bistro use
- Parking and traffic impact
- Growth of grapes for wine
- Lighting and noise impact

Citizen Comments – Jacob Walbourn, attorney representing several surrounding neighbors of subject property. Mr. Walbourn presented a PowerPoint presentation on the overhead projector and further discussed his concerns of the requested conditional use. He submitted a copy of his presentation as well as two studies regarding the effect of light and noise on equine populations, for the record. Mr. Walbourn noted that he distributed several documentations to the Board for their review and for the record, prior to this case with a question by Ms. Carter regarding the equine industry.

Clay Barkley, attorney representing Hardscuffle Inc. Mr. Barkley noted that Elmendorf, 3931 Paris Pike, is a historic horse farm that has been in operation since the 19th century. Mr. Barley further expressed their concerns with regard to the requested conditional use.

The following citizens expressed their concerns with regard to the requested conditional use:

- Brittany Roethemeir on behalf of Fayette Alliance.
- Nana Lampton, chair of Hardscuffle Inc.
- Ashley Greathouse with the Bluegrass Land Conservancy.
- Hillary McCowan, representing Gainesway Farm.
- Bill Justice on behalf of Virginia Payson and David Cole.
- Connie Hale, representing Gainesway Farm.

- Amy Clarke, 628 Kastle Road.
- Catherine Perkins, 258 Swigert Ave.

Applicant Rebuttal – Mr. O’Gara addressed the concerns of the concerned citizens, with comments by Mr. Parnell.

At this time, Mr. Walbourn made comments to the applicant rebuttal.

At this time, there were comments by the Board with regard to their thoughts of the requested conditional use.

Action – A motion was made by Ms. Meyer, seconded by Ms. Whitman and carried 5-1 (Carter Nay/Gross absent) to **disapprove PLN-BOA-19-00045: HORSESHOE BEND VINEYARD, LLC (DBA JESTER’S PADDOCK)**– request for a conditional use permit for a bistro and to host special events accessory to a small farm winery in the Agricultural Rural (A-R) zone, at 4688 Paris Pike, for the following reasons:

Findings of disapproval

1. The applicant has failed to demonstrate that the requested conditional use are “clearly” incidental and subordinate to a small farm winery operation”, which is required by 8-1(d)(27) of the Lexington-Fayette Urban County Zoning Ordinance, because the proposed conditional uses, specifically the special events, are out of scope with the size of the property and the existing winery operation.
2. The subject property does not contain 500 feet of frontage on Paris Pike, the road the property relies upon for frontage, in contravention of Ordinance 24A-8(c) of the Lexington-Fayette Urban County Zoning Ordinance.
3. The applicant failed to demonstrate that the site can be accessed and departed from safely by the general public, which will generate potentially unsafe conditions on a challenged roadway.
4. The increased light, noise and traffic generated by the requested conditional uses would detrimentally impact the existing thoroughbred operations located adjacent to the property and cause adverse effects on the surrounding properties.

IV. **BOARD ITEMS**

None to be discussed

V. **STAFF ITEMS**

None to be discussed.

VII. **NEXT MEETING DATE** – The Acting Chair announced that the next meeting date would be September 9, 2019.

VIII. **ADJOURNMENT** - There was no further business. The Acting Chair declared the meeting adjourned at 5:06 p.m.

Thomas Glover, Acting Chair

Joan Whitman, Secretary

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