

**MINUTES FOR THE BOARD OF ADJUSTMENT MEETING**

November 11, 2019

- I. **ATTENDANCE** – Chair Branden Gross called the meeting to order at 1:34 p.m. in the Council Chamber, 200 East Main Street, November 11, 2019. Members present were: Raquel Carter, Jan Meyer, Harry Clarke and Chad Needham. Others present were: Josh Dezarn, Division of Engineering; Tracy Jones, Department of Law; and Stephen Parker, Traffic Engineering. staff members in attendance were: Autumn Goderwis, James Marx and Donna Lewis.

- II. **APPROVAL OF MINUTES** – The Chair announced the minutes of the October 14, 2019 meeting would be considered at this time.

Action - A motion was made by Mr. Clarke, seconded by Ms. Carter and carried 5-0 (Glover and Whitman absent), to **approve** the minutes of the October 14, 2019 meeting.

III. **PUBLIC HEARING ON ZONING APPEALS**

- A. **Swearing of Witnesses** – The Chair asked all those persons present who would be speaking or offering testimony to stand, raise their right hand to be sworn in. The oath was administered at this time to several staff members and other persons in the audience.
- B. **Sounding the Agenda** – Chair Gross had previously asked staff if there were any letters of support or opposition to any of the cases. Ms. Goderwis responded with that information. In order to expedite completion of agenda items, the Chair sounded the agenda with regard to items requiring no discussion.
- C. **Postponements and Withdrawals**

The Chair asked if there were any postponements or withdrawals. There were none.

D. **Abbreviated Hearings**

1. **PLN-BOA-19-00075: WILLIAM AND BEN STRAMER** – requested a variance to increase the allowable height of a detached accessory structure from 13'9" to 18' in order to construct a detached garage that exceeds the elevation of the structure in a Single Family Residential (R-1B) zone, on property located at 1143 Athenia Drive (Council District 10).

The Staff Recommended: Approval, for the following reasons:

- a. A variance allowing an 18' tall garage should not have a negative impact on the character of the general vicinity. The proposed garage will be located approximately 165' from the front property line, and will have little to no impact on the streetscape. Additionally, the closest house on an adjoining property is over 100' away from the proposed structure, and unlikely to be affected by the height increase.
- b. The request is not a result of a willful violation of the Zoning Ordinance. The applicant has taken care to go through the necessary processes for this project by securing an encroachment agreement for the utility easement and applying for the variance prior to construction of the desired garage.

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

1. The building shall be constructed in accordance with the submitted site plan and application materials.
2. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection, prior to construction.
3. Any vehicular drives and/or parking areas shall be paved in accordance with Article 16 of the Zoning Ordinance, as permitted by the Division of Building Inspection.

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

Representation – William Charles Stramer, applicant was present and presented slides and explained his application.

Board Comments and Questions – Chair Gross mentioned this case was previously heard in May. Ms. Goderwis explained when the case was heard in May, a motion was made to approve the plan but there was no second. Chair Gross asked if it was the same plan. Ms. Goderwis explained that it was, with the exception of the slides presented today. Mr. Clarke asked the applicant to address the neighbors' concerns about noise and storm water issues, as well as commercial activity taking place on the property. Mr. Stramer addressed the issues of storm water.

There was a question from the Board about land disturbance. Mr. Dezarn responded and explained.

Ms. Meyer had a question about paving. Mr. Dezarn responded and explained.

Mr. Stramer assured the Board no business would operate from this property, only hobby vehicle work. Mr. Stramer also addressed the issue of noise that was mentioned in one of the letters of opposition. There was further discussion.

Action – A motion was made by Ms. Carter, seconded by Mr. Clarke, and passed 5-0 (Glover and Whitman absent), to **approve PLN-BOA-19-00075: WILLIAM AND BEN STRAMER** – request for a variance to increase the allowable height of a detached accessory structure from 13'9" to 18' in order to construct a detached garage that exceeds the elevation of the structure in a Single Family Residential (R-1B) zone, on property located at 1143 Athenia Drive, based on the staff's recommendations, and subject to the three conditions listed.

2. **PLN-BOA-19-00076: LAKESHORE APARTMENTS ASSOCIATION LLC** – requested a variance to decrease the minimum setback from the floodplain from 25' to 16', to build 8 townhouses in a High Density Apartment (R-4) zone, on property located at 519 Laketower Drive (Council District 5).

The Staff Recommended: Approval, for the following reasons:

- Granting the variance should not adversely affect the public health, safety or welfare, nor alter the character of the general vicinity as the location of the proposed townhouses was approved on the Development Plan prior to the change in the floodplain boundary line. The townhouses will be located 16' from the designated floodplain.
- There are special circumstances that justify the need for the variance, as the property is impacted not only by the floodplain, but also by sanitary sewer and waterline easements that limit the available buildable area. Due to those easements, shifting the townhouses further from the floodplain would not be possible.
- Approval of the variance would not constitute a circumvention of the Zoning Ordinance as the change in the floodplain map occurred subsequent to the Planning Commission's approval of the townhouses at this location.

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

- The townhouses shall be constructed in accordance with the approved Final Development Plan, or as that plan is amended to address design requirements of the Divisions of Engineering, Traffic Engineering, or Building Inspection.
- All necessary permits shall be obtained from the Divisions of Planning, Building Inspection, and Engineering prior to construction.
- Action of the Board shall be noted on both the Final Development Plan and the Final Record Plat for the subject property.

Representation – Tony Barrett, Barrett Partners, was present on behalf of the applicant.

Board Comments and Questions – Mr. Needham asked a question about the floodplain setback. Mr. Barrett responded and explained. Ms. Meyer also had a question about a small portion of the complex that would be in the floodplain setback. Mr. Barrett responded and explained.

Action – A motion was made by Mr. Clarke, seconded by Ms. Meyer and carried 5-0 (Glover and Whitman absent), to **approve PLN-BOA-19-00076: LAKESHORE APARTMENTS ASSOCIATION LLC** – request for a variance to decrease the minimum setback from the floodplain from 25' to 16', to build 8 townhouses in a High Density Apartment (R-4) zone, on property located at 519 Laketower Drive based on staff's recommendations and subject to the three conditions listed.

3. **PLN-BOA-19-00078: H2 CONSTRUCTION, LLC** – requested variances to reduce the required side yards from 10' to 3' in order to construct a new house in a Single Family Residential (R-1B) zone, on property located at 1755 Old Paris Road, (Council District 6).

The Staff Recommended: Approval, for the following reasons:

- Granting the requested variance should not adversely affect the public health, safety, or welfare, nor alter the character of the general vicinity. There are a number of houses in the vicinity with similar setbacks. The width of the lot is a special circumstance that justifies the need for a variance.
- Strict application of the Zoning Ordinance would significantly limit the allowable width of a house on the property. Granting the variance will allow the applicant to utilize an existing vacant lot for needed housing.
- The variance request does not attempt to circumvent the provisions of the Zoning Ordinance. The applicant has applied for the variance as soon as it was determined that it was needed, and prior to beginning construction.

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

- The structure shall be constructed in accordance with the submitted application and site plan.
- All necessary permits shall be obtained from the Division of Building Inspection, prior to beginning construction.

Representation – Tony Barrett, Barrett Partners, was present on behalf of the applicant.

Board Comments and Questions – Ms. Carter asked a question about the positioning of the house on the plat. Mr. Barrett responded and explained.

Action – A motion was made by Mr. Needham, seconded by Mr. Clarke, and carried 5-0 (Glover and Whitman absent), to **approve PLN-BOA-19-00078: H2 CONSTRUCTION, LLC** – request for variances to reduce the required side yards from 10' to 3' in order to construct a new house in a Single Family Residential (R-1B) zone, on property located at 1755 Old Paris Road, based on staff's recommendations and subject to the two conditions listed.

4. **PLN-BOA-19-00081: JEFFREY AND KATHERINE WISEMAN** – requested a variance to reduce the required setback for a swimming pool from 10' (per a previously approved variance), to 7'8" within the defined Infill & Redevelopment Area in a Single Family Residential (R-1C) zone, on property located at 223 Glendover Road (Council District 4).

The Staff Recommended: Approval, for the following reasons:

- a. While the measurement error that took place is concerning, it does not appear that there was any intent to circumvent the 10' setback requirement that was previously established by the Board. It is common for property lines to run along the inside edge of a sidewalk, but in this case there is an offset of 2'4", which is the essential factor that led to the error.
- b. Even with this additional variance, the pool will still be surrounded by a 4' wide walkway, so safety concerns previously identified by staff with the prior variance request have been addressed. Further, the Division of Building Inspection has advised that approval of the additional variance will not conflict with provisions of Residential Building Code related to private swimming pools.

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

1. Updated drawings showing the as-built pool shall be submitted to the Division of Building Inspection in order to update the existing permit for the pool.
2. The 6-foot tall fence shall be installed to allow a 4-foot walkway between the fence and pool's edge.

Representation – Bruce Simpson, attorney was present on behalf of the applicants.

Board Comments and Questions – The board reviewed a letter with a petition of support for the applicant. Ms. Carter had a question about the difference in today's request for a variance and the previous request by this applicant. Mr. Simpson responded and explained.

Action – A motion was made by Ms. Meyer, seconded by Ms. Carter and carried 5-0 (Glover and Whitman absent), to **approve PLN-BOA-19-00081: JEFFREY AND KATHERINE WISEMAN** – request for a variance to reduce the required setback for a swimming pool from 10' (per a previously approved variance), to 7'8" within the defined Infill & Redevelopment Area in a Single Family Residential (R-1C) zone, on property located at 223 Glendover Road, based on staff's recommendation and subject to the two conditions listed.

5. **PLN-BOA-19-00077: LARRY HAMILTON** – requested an administrative appeal to increase the allowable total size of accessory structures from 1,033 square feet to 1,560 square feet in order to construct a 384 square foot addition to an existing garage within a Single Family Residential (R-1C) zone, on property located at 690 E. Loudon Avenue (Council District 5).

The Staff Recommended: Approval, for the following reasons:

- a. Granting the requested appeal will not adversely affect the public health, safety or welfare. The addition to the existing accessory structure will provide a safe, usable storage space for the applicant's belongings/vehicles.
- b. The addition should not have much, if any, effect on the character of the general vicinity, as large accessory buildings are not uncommon in the general vicinity. The proposed addition will be less noticeable than the previously approved second structure would have been, as it is smaller, will be located behind the existing garage, and will not be visible from the road.

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

1. The structure shall be constructed in accordance with the submitted application and site plan.
2. This approval shall supersede the previous application's approval (A-2009-41). No additional accessory structures shall be constructed on the property without further review by the Board.
3. All necessary permits shall be obtained from the Division of Building Inspection, prior to beginning construction.

Representation – Larry Hamilton, applicant was present.

Action – A motion was made by Mr. Needham, seconded by Mr. Clarke and carried 5-0 (Glover and Whitman absent), to **approve PLN-BOA-19-00077: LARRY HAMILTON** – request for an administrative appeal to increase the allowable

total size of accessory structures from 1,033 square feet to 1,560 square feet in order to construct a 384 square foot addition to an existing garage within a Single Family Residential (R-1C) zone, on property located at 690 E. Loudon Avenue, based on staff's recommendations and subject to the three conditions..

#### **E. Discussion Items**

1. **PLN-BOA-19-00079: ETS REALTY II, LLC** – requested a variance to increase the allowable height of a fence in the front yard from 4' to 6' in a Neighborhood Business (B-1) zone, on property located at 900 N. Broadway (Council District 1).

The Staff Recommended: Disapproval, for the following reasons:

- a. This type of fence is not typical of the vicinity. Other commercial uses in the immediate area do not have fences, and there are only a few residential buildings with 4' tall fences on the opposite side of N. Broadway.
- b. The fact that the property is currently unoccupied is not a special circumstance that justifies the need for a variance. A 4-foot tall fence is allowed by the Zoning Ordinance and would likely offer a similar level of security and privacy.
- c. The applicant has not provided any information or documentation to support an argument that a 6' tall fence results in greater security than a 4' fence. In lieu of taller fencing, other security measure are available that could be used which would not impact the overall physical appearance of the property.

Staff Comments - Ms. Goderwis presented the staff report.

Representation – Jacob Walbourn, attorney, was present on behalf of the applicant and presented slides and information for this application.

Board Questions and Comments – Mr. Needham asked a question about how much fence was needed. Mr. Walbourn responded and explained.

Mr. Clarke asked whether crime would decrease if the property were occupied. Mr. Walbourn responded. There was further discussion about fencing and a gate.

Ms. Carter asked if a gate would become a traffic concern. Mr. Walbourn responded and explained.

Staff Comments – Ms. Goderwis stated a gate is something that would come up during the permitting process.

Board Questions and Comments – Mr. Clarke asked if staff had any recommendations other than a fence. Ms. Goderwis responded and explained. Ms. Meyer stated the property may not get leased until it becomes less of a problem. There was further discussion.

Action – A motion was made by Mr. Needham, seconded by Ms. Carter, and passed 4-1 (Glover and Whitman absent; Meyer voted Nay), to **disapprove PLN-BOA-19-00079: ETS REALTY II, LLC** - request for a variance to increase the allowable height of a fence in the front yard from 4' to 6' in a Neighborhood Business (B-1) zone, on property located at 900 N. Broadway, based on staff's recommendation.

*\*Note* – At this time, Chair Gross stated the Board would skip ahead to discuss a staff item and consider the Meeting & Filing Schedule for 2020, prior to him recusing himself from the rest of the hearing.

#### **IV. STAFF ITEMS**

##### **A. Consideration of the Meeting & Filing Schedule for 2020**

Action – A motion was made by Ms. Meyer, seconded by Mr. Clarke, and carried 5-0, (Glover and Whitman absent), to approve the Meeting & Filing Schedule for 2020 as presented today.

*\*Note* – At this time, Chair Gross recused himself from the next case, and the rest of the meeting, designating Mr. Needham as Chair.

#### **III. PUBLIC HEARING ON ZONING APPEALS (continued)**

##### **E. Discussion Items**

2. **PLN-BOA-19-00080: LEXLIVE ENTERTAINMENT COMPLEX** – requested 1) variances to increase the allowable lettering height of the “sign bands” below 50’ from 30” to 72” along S. Broadway and High Street; 2) an administrative appeal to transfer 61.33 square feet from one wall sign to another for the sign reading “CORNER”; 3) an administrative appeal to transfer 56.41 square feet from one wall sign above 50’ to a location below 50’ for the sign reading “LEXLIVE” along High Street; 4) an administrative appeal to determine that the use of the property qualifies as a “civic center” and therefore is allowed to have a wall-mounted electronic message board; 5) if #4 is approved, an administrative appeal to transfer 200 square feet from allowed electronic message board to the other in order to have a 400 square-foot electronic message board within the defined Infill and Redevelopment area in the Lexington Center Business (B-2B) zone, on property located at 301 and 307 S. Broadway (Council District 3).

**The Staff Recommended: Approval of Request #1 but only for the “LEXLIVE” sign on S. Broadway and for colored panels (no images) in the sign band on E. High Street**, for the following reasons:

- a. There do not appear to be special circumstances that justify a variance for all of the signs within the sign bands. The intent of the Zoning Ordinance is to allow signs within the sign band which will be visible to nearby motorists, and 2 ½’ in height was determined to be appropriate for that purpose. Staff cannot support the applicant’s claim that the large size of the building and its location are special circumstances, as these are typical and expected circumstances for new development within the downtown business zones.
- b. Granting the requested variance for a portion of the requested signage will not adversely affect the public health, safety or welfare; will not alter the character of the general vicinity; and will not cause a hazard or nuisance to the public. Since “LEXLIVE” is the name of the complex itself, it is generally reasonable to allow that sign to be a bit larger than other signage within the sign band.
- c. Based on Reason “a” above, staff does not support a variance for the images proposed behind the lettering along E. High Street. However, staff is agreeable to allowing taller colored panels to be placed behind the lettering instead to create contrast and allow for greater visibility. Based on the definition of “sign” such panels would still require a variance.

**This recommendation of approval was made subject to the following conditions:**

1. The “LEXLIVE” sign on the S. Broadway façade shall be installed in accordance with the submitted application materials and site plan. The other signs within that sign band shall be limited to 2 ½’ in height.
2. Along the E. High Street façade, the portion of the signs behind the lettering shall be allowed to be up to 72” in height, but shall be limited to solid color panels to allow for contrast, and shall not depict images of activities occurring within the complex.
3. All necessary permits shall be obtained from the Division of Building Inspection, prior to installation of the signs.

**The Staff Recommended: Approval of a lesser transfer for Request #2**, for the following reasons:

- a. The Zoning Ordinance allows tenant spaces with independent entrances to have an additional wall sign on each facade. Without a transfer, Corner Bar would be allowed two 80 sf signs (one on each façade). Currently, “CORNER” is proposed to be 141.33 sf and “BAR” is proposed to be 67.25 sf, for a total of 208.58 sf. Staff recommends that the full “CORNER BAR” sign be scaled down to a total of 160 square feet to allow the signage transfer for “CORNER” to come from unused square footage available for “BAR”.
- b. Granting this lesser appeal will allow the applicant to have a modest size increase for the sign, while maintaining the total allowable signage for this tenant allowed by the Ordinance. There do not appear to be special circumstances that justify the need for a larger sign for this particular tenant, in comparison to other nearby businesses with independent entrances in similar downtown buildings.

**This recommendation of approval was made subject to the following conditions:**

1. The “CORNER BAR” signs shall be no larger than 160 sf total.
2. All necessary permits shall be obtained from the Division of Building Inspection, prior to installation of the signs.

**The Staff Recommended: Approval of Request #3**, for the following reason:

- a. The applicant will forego allowable signage above 50’ in order to allow a wall sign to be placed at a lower elevation. This should not have an effect on the public health, safety, or welfare, nor the character of the general vicinity. This sign will be identical to the “LEXLIVE” sign within the sign band on the S. Broadway façade and should serve a similar purpose of identifying the complex.

**This recommendation of approval was made subject to the following conditions:**

1. The “LEXLIVE” sign on the E. High Street façade shall be installed in accordance with the submitted application materials and site plan.
2. All necessary permits shall be obtained from the Division of Building Inspection, prior to installation of the signs.

**The Staff Recommended: Disapproval of Request #4**, for the following reasons:

- a. The use of this entertainment complex is not substantially similar to that of a civic center. While the Zoning Ordinance does not specifically define this use, it does state that there must be an exhibition hall and an arena in

order to allow electronic message boards. Additionally, the term “civic center” typically implies that there is a public or municipal component. This complex is a completely private venture. While the activities mentioned in the applicant’s justification (i.e. commercial and educational exhibitions and seminars, cultural events, etc.) may occur occasionally, based on the applicant’s website the primary uses of this venue will be its movies, sports bar, bowling, bourbon bar, and arcade. These uses are clearly that of an entertainment venue, but should not be construed as an “exhibition hall” or “arena”.

- b. Rather than attempting to represent the proposed uses as a civic center, a more appropriate process to possibly allow an electronic message board system at this location would be to pursue a Zoning Ordinance Text Amendment to broaden the scope of uses where such signage could be allowed.

The Staff Recommended: Disapproval of Request #5, for the following reason:

- a. Based upon the findings for Request #4 above, the use of this entertainment complex is not substantially similar to that of a civic center; therefore, no electronic message board signage is permitted.

Staff Comments – Ms. Goderwis presented staff’s findings and recommendations, as well as slides, concerning the five requests of this application.

Board Comments & Questions - Ms. Meyer asked whether the proposed signs moved/rotating messaging. Ms. Goderwis responded and explained that the message board would. The other signs are just regular signs.

Representation – Richard Murphy, attorney for the applicant, LexLive Entertainment Complex, was present. Mr. Murphy introduced George Krikorian, president and owner; Tim Cambron, vice-president of the company; Bruce Wrenn, manager of the property; Harold Tate project manager for the construction of the Lexington property; Elizabeth Ruggles Pitchford and Katie Durham designers from Ruggles Signs.

\*Note – At this time, Elizabeth Ruggles Pitchford presented packets of information to the Board for their review.

Representation - Mr. Murphy presented and explained the project and application before the Board today, referring to the handouts which were previously distributed, and the slides on the screen.

Board Comments and Questions – Mr. Needham stated this was a lot of information to take and asked the Board if they would like to discuss each request individually. He asked staff and Mr. Murphy if they were okay with that as well.

Ms. Meyer asked how the applicant came up with the size of 6’. Mr. Murphy responded and explained.

Ms. Carter asked if there were pictures of other entertainment centers with similar sized signage. Mr. Murphy deferred to Mr. Krikorian and his staff for further explanation. Mr. Cambron responded and presented slides showing other Krikorian projects. There was further discussion.

Mr. Clarke asked staff for a rundown of the difference between what the applicant is asking for and what staff is recommending.

Ms. Goderwis responded and explained.

Ms. Meyer had a question for staff regarding solid color vs. image. Ms. Goderwis responded and explained. There was further discussion.

Mr. Marx requested another slide be shown for reference. Mr. Cambron responded and explained. Discussion continued.

Ms. Carter had a question about the “CORNER BAR” sign. Mr. Murphy responded and explained. Discussion continued.

Mr. Needham asked Legal about the procedure for voting on all of the requests at once or individually. Ms. Jones responded and explained. Mr. Needham suggested the Board discuss items 1-3 before discussing items 4 and 5.

Rebuttal – George Krikorian presented some of his concerns regarding staff’s recommendations for the Board to consider.

Board Comments and Questions – Mr. Clarke asked Mr. Krikorian to speak on the lighting involved in the signs. Mr. Krikorian responded and explained, then deferred to Ruggles Sign for further explanation. Katie Durham responded and explained.

Support – Ethan Howard, Downtown Lexington Partnership, spoke in support of the project and the requested appeals.

Board Comments and Questions – Ms. Carter asked Legal a question about additional findings regarding requests 1, 2 and 3. Ms. Jones responded and explained.

\*Note - At this time, Mr. Needham called a recess at 3:53 p.m. to discuss items 1-3. The meeting reconvened at 4:10 p.m.

Board Comments – Mr. Needham stated the Board has decided to vote on items 1-3 and then discuss items 4 and 5.

Action – A motion was made by Ms. Carter, seconded by Ms. Meyer and carried 4-0 (Glover and Whitman absent; Gross recused), to **approve PLN-BOA-19-00080: LEXLIVE ENTERTAINMENT COMPLEX - Request #1**, for variances to increase the allowable lettering height of the “sign bands” below 50’ from 30” to 72” along S. Broadway and High Street, for the following reasons:

- a. There are special circumstances that justify a variance for all of the signs within the sign bands. The intent of the Zoning Ordinance is to allow signs within the sign band, which will be visible to nearby motorists, and its proposed use due to the busy traffic flow, would require the size of the signage. The large size of the building and the location are special circumstances.
- b. Granting the requested variance for a portion of the requested signage will not adversely affect the public health, safety or welfare; will not alter the character of the general vicinity; and will not cause a hazard or nuisance to the public.

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

1. The “LEXLIVE” sign and the signs within the sign bands on the S. Broadway and E. High Street facades shall be installed in accordance with the submitted application materials and site plan.
2. All necessary permits shall be obtained from the Division of Building Inspection, prior to installation of the signs.

Action – A motion was made by Ms. Carter, seconded by Mr. Clarke and carried 4-0 (Glover and Whitman absent; Gross recused), to **approve PLN-BOA-19-00080: LEXLIVE ENTERTAINMENT COMPLEX – Request #2**, for an administrative appeal to transfer 61.33 square feet from one wall sign to another for the sign reading “CORNER”, for the following reasons:

- a. The Zoning Ordinance allows tenant spaces with independent entrances to have an additional wall sign on each façade, and the location and entrance for the entire entertainment facility make this corner bar a location which needs to be visible to patrons in the convention, tourism and entertainment area.
- b. Special circumstances that justify the need for a larger sign for this particular location are the size of the building, the purpose of the signs and the use of the facility.

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

1. The “CORNER BAR” signs shall be installed in accordance with the submitted site plan.
2. All necessary permits shall be obtained from the Division of Building Inspection, prior to installation of the signs.

Action – A motion was made by Ms. Carter, seconded by Ms. Meyer, and carried 4-0 (Glover and Whitman absent; Gross recused), to **approve PLN-BOA-19-00080: LEXLIVE ENTERTAINMENT COMPLEX – Request #3**, for an administrative appeal to transfer 56.41 square feet from one wall sign above 50’ to a location below 50’ for the sign reading “LEXLIVE” along High Street, based on staff’s recommendations and subject to their two listed conditions.

Board Comments – Mr. Needham asked Mr. Murphy and staff if either would want to discuss items 4 and 5.

Rebuttal – Bruce Wrenn, Director of Operations gave a short presentation about this project and application. Mr. Murphy had further comments.

Staff Comments – Ms. Goderwis reminded the Board, while considering the applicant’s request, to keep in mind a precedent for allowing this type of entertainment facility to be considered a civic center. While that is not a term that is defined in the ordinance, to think about what other facilities in Lexington could now be considered a civic center if this is going to be called a civic center.

Board Comments – Mr. Needham called for any other comments. Ms. Jones mentioned the copy of the sign ordinance Mr. Murphy had previously presented and added further explanation about the B-2B zone. Mr. Needham asked if there was only one official civic center in Lexington that has an electronic message board. Ms. Jones responded and explained.

Staff Comments – Mr. Parker, Traffic Engineering, expressed concerns about the requested message board display, the lighting of the signs and the traffic signals in the area of this project. Mr. Parker mentioned that some of these signs are in the “cone of vision” for the signal head located in this intersection. Mr. Parker stated there is concern the signs would contribute to distracted driving.

Board Comments – Mr. Clarke commented on what a wonderful project this is. He also stated it is not a civic center. He stated the Board should consider the ordinance and its meaning. Mr. Needham called for further comments.

Rebuttal – Mr. Murphy had further comments about some of the issues that had been brought up. Mr. Murphy asked the Board to consider postponing for a month or two.

Board Comments – There were comments from Ms. Carter and Ms. Meyer concerning electronic message boards.

Rebuttal - Mr. Murphy asked the Board to consider a dwell time for the messages to stay on the message board before it changes, or to otherwise postpone this indefinitely, or at least a month initially.

Board Comments – Mr. Needham asked if everyone on the board understood exactly what type of sign this is. It was decided the sign is a message board. Mr. Needham asked what the Kentucky Administration Regulations rules on dwell time are.

Staff Comments – Mr. Parker responded and explained. He stated further concerns about a message board. Ms. Jones mentioned there is a work group on billboards.

Board Comments – Mr. Needham stated a postponement would be more likely than agreeing to dwell time Mr. Clarke commented on this as well.

Staff Comments – Ms. Goderwis suggested before getting into the details about the specific sign, they need to consider that Request #4 is to determine whether or not this use is a civic center. If it is not a civic center, this sign is not allowed. Ms. Goderwis also mentioned the applicant could pursue a text amendment which would add a new use category that would permit an electronic message board if it is determined this is not a civic center.

Mr. Murphy stated they would agree to a postponement.

Action – a motion was made by Ms. Carter, seconded by Ms. Meyer and carried 4-0, (Glover and Whitman absent; Gross recused), to **continue PLN-BOA-19-00080: LEXLIVE ENTERTAINMENT COMPLEX:** Request #4) an administrative appeal to determine that the use of the property qualifies as a “civic center” and therefore is allowed to have a wall-mounted electronic message board and Request #5) if #4 is approved, an administrative appeal to transfer 200 square feet from allowed electronic message board to the other in order to have a 400 square-foot electronic message board within the defined Infill and Redevelopment area in the Lexington Center Business (B-2B) zone, on property located at 301 and 307 S. Broadway, for one month.

#### IV. BOARD ITEMS

There were none.

VI. NEXT MEETING DATE – The Acting Chair announced that the next meeting date would be December 9, 2019, at 1:30 p.m.

VII. ADJOURNMENT - There was no further business. The Acting Chair declared the meeting adjourned at 5:23 p.m.

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Branden Gross, Chair

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Joan Whitman, Secretary