

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

July 13, 2020

I. CALL TO ORDER - The Chair will call the meeting to order at 1:30 p.m. **via video teleconference.**

Due to the COVID-19 pandemic, state of emergency and Governor Beshear's Executive Orders regarding social distancing, this meeting is being held via teleconference pursuant to Senate Bill 150 (as signed by the Governor on March 30, 2020) and Attorney General Opinion 20-05, and in accordance with KRS 61.826, because it is not feasible to offer a primary physical location for the meeting.

Please utilize the following information to participate in this public hearing:

<https://zoom.us/join>

Webinar ID: 934 0516 7584

Password: 013514

Call in Number

+1 (929) 436-2866

If participants have items to submit for consideration by the Board of Adjustment (photos, videos, documents, etc.), please email them to **planningmailbox@lexingtonky.gov** before 10:00 a.m. on the day of the meeting. Information may also be mailed to the Division of Planning, 101 E. Vine Street, Suite 700, Lexington, KY 40507. Members of the public will have the opportunity to speak during the meeting, but will not have the opportunity to share their screens during the video teleconference.

If you do not feel comfortable participating in a video teleconference meeting, written comments may be sent to the Division of Planning at the above listed email address, and will be distributed to the Board of Adjustment members.

The media and public may view the public hearing on LexTV Spectrum channel 185, MetroNet channel 3, Windstream channels 3 and 20, or via live stream at the following link: http://lfucg.granicus.com/MediaPlayer.php?publish_id=12

II. APPROVAL OF MINUTES – The Chair will announce that the minutes of the June 8, 2020 meeting will be considered at this time.

III. PUBLIC HEARING ON ZONING APPEALS

A. 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.

B. Sounding the Agenda - In order to expedite completion of agenda items, the Chair will sound the agenda with regard to any postponements, withdrawals, and items requiring no discussion.

C. Variance Appeals

- 1. PLN-BOA-20-00026: JOSHUA CAMERON MARCUM** – requests a variance to increase the allowable height of a fence that is within 3' of the public right-of-way in a side street side yard from 4' to 6' in a Single Family Residential (R-1C) zone on property located at 1990 Mark Avenue. (Council District 2)

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

- a. Approval of the variance would allow an unreasonable circumvention of the requirement of the Zoning Ordinance, as the need for a variance has come about as the result of the applicant's actions. The fence was not completed in accordance with the approved fence permit and approved site plan, both of which specifically detailed the requirements of the Zoning Ordinance. Additionally, the applicant received an email on June 12, 2019 from the Division of Building Inspection that stated that the fence must be 3' from the sidewalk.
- b. Granting the variance could have adverse effects on the public health, safety, or welfare, as the subject property is located just across the street from a public park. When considering access to public facilities like neighborhood parks, the pedestrian experience is particularly important. Best practices regarding sidewalk design often reference a "shy" distance. This refers to a gap in between pedestrian facilities and buildings or fences, as pedestrians generally do not feel comfortable walking directly adjacent to a building wall or a

fence. A one-foot setback does not allow for a sufficient distance between a fence or wall and the pedestrian zone.

- c. There are not special circumstances that justify the requested variance. Strict application of the Zoning Ordinance would not deprive the applicant of the reasonable use of their land, as relocating the fence would not greatly reduce the usable space in the rear yard.
2. **PLN-BOA-20-00028: OGDEN HILLIARD** – requests a variance to reduce the required side street side yard setback from 30' to 10' in order to construct a new attached garage and covered patio in a Single Family Residential (R-1B) zone on property located at 2068 Manor Drive. (Council District 5)

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

- a. Granting the variance would result in construction that is out of character with that of the general vicinity. There are not similar setbacks on other corner lots within the neighborhood, and there are no other structures along Seeley Drive with a setback of less than 30'.
 - b. The strict application of the Zoning Ordinance would not result in an unnecessary hardship for the applicant, nor are there special circumstances that justify the need for the requested variance. The property is one-third of an acre and already contains both an attached garage and a detached garage. Additionally, there is sufficient space on the property to construct an addition that would meet the setback requirements of the Zoning Ordinance and plat of record.
3. **PLN-BOA-20-00029: THOMAS D. and CHRISTINA AURORA PARRISH** – request a variance to increase the allowable floor area ratio (FAR) from 0.35 to 0.52 in order to construct a 725 square foot addition to an existing single family residence within the defined Infill & Redevelopment Area in Planned Neighborhood Residential (R-3)/Historic District Overlay (H-1) zones on property located at 260 Clay Avenue. (Council District 5)

The Staff Recommends: **Approval of a lesser variance, to increase the allowable FAR from 0.35 to 0.50**, for the following reasons:

- a. Granting the lesser variance will not represent an attempt to circumvent the Zoning Ordinance, but will meet the intent of the provisions of the Ordinance that allow for variances to FAR, as it will not create an opportunity for more units on the subject property than would be allowed by right.
- b. Granting the lesser variance should not adversely affect the public health, safety, or welfare, nor alter the character of the general vicinity. A relatively small addition to the rear of the house will not have much, if any, impact on the appearance of the house from the public rights-of-way.
- c. The lesser variance is generally reasonable, as the subject property is somewhat larger than many within the defined Infill and Redevelopment area and allowing some additional floor area on this particular lot will not result in construction that is out of character with the general vicinity. The Zoning Ordinance specifically states that BOA action may sometimes be required within the defined Infill and Redevelopment Area in order to facilitate appropriate development without creating an unusual hardship or development that is incompatible with the existing pattern of the neighborhood.

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

1. Construction shall be in accordance with the submitted application materials and a revised site plan to reflect the lesser variance allowing an FAR of 0.50.
2. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction and occupancy.

IV. **BOARD ITEMS** - The Chair will announce that any items a Board member wishes to present will be heard at this time.

A. **Landscape Review Committee** – The Board will appoint a member to replace Janice Meyer as the BOA representative on that committee.

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 August 10, 2020, at 1:30 p.m.

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