

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

September 14, 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: 914 6125 1816

Password: 937603

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 August 10, 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-20-00039: L O P 1 LTD** – requests a variance to reduce the required setback for a projection into a side street side yard from 10' to 5' in order to construct a new deck within the defined Infill and Redevelopment area in a Planned Neighborhood Residential (R-3) zone, on property located at 200 Race St. (Council District 1)

The Staff Recommends: Approval of a lesser variance to reduce the required setback for a projection into a side street side yard from 10' to 8', for the following reasons:

- a. There do not appear to be special circumstances that justify the need for the variance as requested, nor will strict enforcement of the Zoning Ordinance deprive the applicant of the reasonable use of their land. However, the recommended lesser variance is generally reasonable as it will allow the applicant to project 4' into the required side street side yard, which should be sufficient to accommodate a stoop and steps used to access a grade-level patio, or a smaller deck. A stoop and grade level patio could provide a similar space for outdoor dining and entertaining in the proposed location.

This recommendation of **approval of a lesser variance to reduce the required setback for a projection into a side street side yard from 10' to 8'** is made subject to the following condition:

1. All necessary permits shall be obtained from the Division of Building Inspection prior to construction.

D. Conditional Use Appeals

1. **PLN-BOA-20-00038: DAMON POWELL** – requests a conditional use for a home-based business, (personal training) in a Planned Neighborhood Residential (R-3) zone, on property located at 1121 Parliament Way. (Council District 8)

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

- a. Granting the requested conditional use should not adversely affect the subject or surrounding properties. Providing that the following conditions are observed, it should not create disturbing levels of traffic, noise, or odors.
- b. Training sessions will occur during the typical work day, between 7:00 a.m. and 6:00 p.m., when traffic in the neighborhood is likely lightest. This schedule should reduce the potential impact from traffic and noise on nearby residents.
- 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 home-based business (personal training) shall be operated in accordance with the submitted application materials and site plan.
2. Training sessions shall be limited to a maximum of 2 clients per session, with sessions occurring Monday through Saturday, between 7:00 a.m. and 6:00 p.m.
3. All activity related to the training sessions shall be in compliance with local noise ordinances.
4. All activity related to the training sessions shall be conducted within the garage.
5. 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 use.
6. The conditional use shall become null and void should the applicant no longer reside at this location.

2. **PLN-BOA-20-00040: SOUTHERN HILLS METHODIST CHURCH** - requests a conditional use to increase the number of children in an existing childcare center from 158 to 318 at a split-zoned property in Single Family Residential (R-1C)/Professional Office (P-1) zones, on property located at 2356 Harrodsburg Rd. (Council District 10)

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

- a. The proposed expansion of this use should not adversely affect the subject or adjoining/nearby properties. The use has been conducted in the church for a number of years and the new classrooms will be located in the existing building. Church properties are typically not used throughout the week, so are generally well suited for this type of use. This use will provide a useful service for the surrounding neighbors and broader community.
- b. More than adequate parking exists and is available on the subject property.
- 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 childcare use shall be conducted in accordance with the submitted application materials and site plan.
2. All necessary permits, including a Zoning Compliance Permit and a Certificate of Occupancy, shall be obtained prior to the commencement of this use.
3. The days and hours of operation shall not exceed Monday through Friday, from 7:00 a.m. to 6:00 p.m. without further approval of by the Board of Adjustment.
4. The childcare facility shall be limited to 318 children.
5. A fenced and screened play area, containing a minimum of 25 square feet per child, shall be provided.
6. The facility shall be fully licensed and comply with requirements of the Kentucky Cabinet for Health and Family Services, Division of Regulated Child Care.

3. **PLN-BOA-20-00042: DOUG VESCOIO** – requests a conditional use for a plant nursery in order to construct a new building at an existing plant nursery in an Agricultural Urban (A-U) zone, on property located at 901 Old Todds Rd. (Council District 7)

The Staff Recommends: **Approval** of the Conditional Use, for the following reasons:

- a. Expanding the existing use to allow for an additional 1,020 square of buildings should not adversely affect the subject or surrounding properties. Construction of the proposed building will help to clean up the

property by allowing the applicant to store equipment and materials indoors and to perform vehicle maintenance tasks indoors.

- b. The proposed building will not increase the intensity of the existing use on the property. The number of employees, days and hours of operations, and types of activities occurring will not change.
- 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 use shall be conducted in accordance with the submitted application materials and site plan. Buildings on the property shall be limited to the existing office building and the proposed 6,360 square-foot storage building. Any existing accessory structures shall be removed and the applicant shall return to the Board of Adjustment if any additional structures are desired in the future.
- 2. All necessary permits and a Certificate of Occupancy shall be obtained from the Divisions of Planning and Building Inspection prior to occupying the proposed building.
- 3. All materials and equipment shall be stored inside the proposed storage building or on the concrete storage area shown at the rear of the property. The concrete storage area shall not be expanded beyond its existing footprint.
- 4. A landscape plan shall be submitted for approval by the Divisions of Planning and Environmental Services. A 15' average buffer shall area shall be provided along the side lot lines where adjacent to the proposed storage building, extending to and including the rear lot line. This buffer area shall include 1 tree every 40' of linear boundary, or fraction thereof, from Group A or B, plus 1) a double row of 6' high hedge, or 2) a 6' high fence, wall, or earth mound.

- 4. **PLN-BOA-20-00043: ECTON FARM, LLC** - requests a conditional use to establish a plant nursery in an Agricultural Rural (A-R) zone, on property located at 7524 Old Richmond Rd. (Council District 12)

The Staff Recommends: Approval of the Conditional Use, for the following reasons:

- a. The proposed use should not adversely affect the subject or surrounding properties. There will be no on-site sales and activity on the site is expected to be relatively infrequent.
- b. The small size of the property greatly limits any full-scale agricultural use, and the proximity of both Interstate 75 and Old Richmond Road do not make for a desirable residential use. This type of low-impact agricultural use is well-suited to this challenging lot and will make use of the existing greenhouse structure.
- c. 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. The plant nursery shall be established in accordance with the submitted application materials and site plan.
- 2. All necessary permits and a Certificate of Occupancy shall be obtained from the Divisions of Planning and Building Inspection prior to commencing the approved use.
- 3. Hours of operation shall be limited to Monday through Friday from 7:30 a.m. to 6:00 p.m., Saturdays from 8:00 a.m. to 4:00 p.m. and Sundays from 12:00 p.m. to 4:00 p.m.
- 4. A portion of the driveway shall be paved from the access point on Old Richmond Road to one car length past the turn. Additionally, one parking space shall be paved to meet accessibility requirements and shall include the paving of a sidewalk from that space to the building entrance. The access to Old Richmond Road shall be improved in accordance with recommendations of the Division of Traffic Engineering and with a permit issued by the Kentucky Transportation Cabinet. The remaining required parking spaces shall be graveled or paved.
- 5. The final design of the driveway, circulation and parking layout shall be subject to review and approval by the Division of Traffic Engineering.
- 6. The following landscape elements shall be provided and a landscape plan submitted to and subject to approval by the Divisions of Planning and Environmental Services:
 - a. A cluster of lower growing evergreen trees (such as, but not limited to, Pfitzer Junipers) shall be planted along Old Richmond Road, from the access point to the southern property line.
 - b. Lower growing evergreen trees along Old Richmond Road from the access point to the north, for the length of the greenhouse, shall be planted to fill in gaps left by the existing right-of-way trees to create a visual screen for the adjacent property across Old Richmond Road.
 - c. Evergreen trees shall be planted to the north of the greenhouse in order to screen the parking area.
 - d. Two medium to tall trees shall be planted along the western property line in the gap between the two tall trees that exist along the I-75 frontage to screen the building from the Interstate.
- 7. A stormwater management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
- 8. Any pole lighting for the parking and loading areas, or any other outdoor areas, shall have a maximum height of 12', and shall be of a shoebox (or similar) design, with light shielded and directed downward to avoid disturbing nearby properties.
- 9. Sanitary sewer treatment and garbage pick-up shall be privately provided.

- 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 October 12, 2020, at 1:30 p.m.
- VII. **ADJOURNMENT** - If there is no further business, the Chair will declare the meeting adjourned.