

MINUTES FOR THE BOARD OF ADJUSTMENT MEETING

October 12, 2020

I. CALL TO ORDER – Chair Branden Gross called 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.

II. ATTENDANCE – Members present via video teleconference were: Branden Gross, Thomas Glover, Joan Whitman, Raquel Carter, Harry Clarke, Chad Needham and Chad Walker. Others present via video teleconference were: Tracy Jones, Department of Law and Steve Parker, Traffic Engineering. Staff members in attendance were: Traci Wade, Autumn Goderwis, Hal Baillie, Stephanie Cunningham and Donna Lewis.

III. APPROVAL OF MINUTES – Chair Gross announced that the minutes of the September 14, 2020 meeting would be considered at this time.

Action – A motion was made by Mr. Glover seconded by Mr. Clarke and carried 7-0 to approve the minutes of the September 14, 2020 meeting.

IV. PUBLIC HEARING ON ZONING APPEALS

A. Swearing of Witnesses - Chair Gross asked each person who wished to speak or offer testimony via video teleconference to raise their right hand, and also raise their hand on their electronic device, to be sworn in. The oath was administered to several staff members and others present via video teleconference at this time.

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

There were no postponements or withdrawals.

C. Abbreviated Hearings

1. **PLN-BOA-20-00044: MANOJ R. SHAHI** – requested a variance to increase the allowable height of a fence in the front yard from 4' to 6' in a Planned Neighborhood Residential (R-3) zone, on property located at 3870 Boston Road. (Council District 9)

The Staff Recommended: Approval, for the following reasons:

- a. While it is disconcerting that the work was not completed in accordance with the permit, granting the variance should not adversely affect the public health, safety, or welfare. The fence is setback nearly 7' from the edge of the sidewalk and connects to an existing 6-foot tall fence.
- b. Granting the variance should not have much effect on the character of the general vicinity. The subject property is oddly shaped, particularly the portion where the fence is located. Additionally, there are several lots in the immediate vicinity which are through lots with houses backing up to Boston Road, which could have fences up to 8' in height by right along that street frontage.

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

1. The applicant shall submit corrected drawings showing the work as completed in order to obtain an after-the-fact fence permit from the Division of Building Inspection within 30 days of Board action.

Representation – Mr. Manoj R. Shahi, applicant and property owner, was present via video teleconference and presented his application for a variance to increase the allowable height of a fence on his property.

Board comments and questions – Chair Gross asked Mr. Shahi if he had seen the recommendations from staff and the condition subject to the approval of his application. Mr. Shahi affirmed that he had seen it. Chair Gross asked Mr. Shahi if he would agree to fulfil the condition. Mr. Shahi agreed to submit a corrected drawing of the

completed work and obtain an after-the-fact fence permit from the Division of Building Inspection within 30 days of Board action.

Mr. Glover had a question about setting a precedent if this case was approved. Ms. Goderwis explained the unique circumstances surrounding this lot, which were taken into consideration in staff's recommendation for approval of this application. She stated that due to the uniqueness of the property and other considerations, it would not set a precedence for future applications.

Mr. Clarke asked if the existing fences that Mr. Shahi is connecting to are six-foot tall fences. Ms. Goderwis confirmed that to be true, stating the existing fencing on the adjacent HOA property and along much of Mr. Shahi's frontage is a six-foot tall black metal fence and he is connecting onto that with a six-foot tall wood fence.

Ms. Jones, Law Department, elaborated on the uniqueness of this property and the other properties in this particular development. She also stated she did not feel that granting this particular variance would set a precedence. Chair Gross asked Ms. Goderwis to show an aerial photo of the property, which she did using her shared screen. She directed the Board's attention to other photos of the project that had been submitted by Mr. Shahi and further explained his request for this variance.

Action – A motion was made by Mr. Clarke, seconded by Ms. Whitman and carried 7-0 to **approve PLN-BOA-20-00044: MANOJ R. SHAHI** – request for a variance to increase the allowable height of a fence in the front yard from 4' to 6' in a Planned Neighborhood Residential (R-3) zone, on property located at 3870 Boston Road, based on staff's recommendation and subject to the condition as listed.

2. **PLN-BOA-20-00048: SHARON VROLIJK** – requested a variance to reduce the required front setback for additional paved parking from 6' to 0' and an administrative appeal to allow greater than 50% of the required front yard to be paved in order to allow an existing driveway expansion to remain in a Planned Neighborhood Residential (R-3) zone, on property located at 809 Statesman Way. (Council District 5)

The Staff Recommended: Approval, for the following reasons:

- a. Granting the variance and administrative appeal should not adversely affect the public health, safety, or welfare. Instead, it should have a positive safety impact, as the expanded parking area will allow a safe alternative to a hazardous on-street parking situation.
- b. There are special circumstances that justify the need for this variance and administrative appeal. While staff typically encourages on-street parking, in this particular location, the configuration of the subject property relative to the intersection, creates an unsafe site for on-street parking.

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

1. The applicant shall submit drawings showing the work as completed in order to obtain an after-the-fact paving permit from the Division of Building Inspection within 30 days of Board action.
2. The applicant shall install additional railing along the front porch for a minimum of 4' beyond the existing railing in order to prevent vehicles from breaching the pedestrian area directly in front of the house.

Representation – Sharon Vrolijk, applicant and property owner, was present via video teleconference and explained her request for a variance to reduce the required front setback for additional paved parking and an administrative appeal to allow greater than 50% of the required front yard to be paved.

Board comments and questions – Ms. Carter questioned why staff recommended approval for this case and did not do so for others similar to it, which have come before the Board in the past. Ms. Goderwis explained that the location of this property relative to the intersection is the special circumstance that justifies the need for the variance. She mentioned several accidents that have occurred at the intersection in front of Ms. Vrolijk's property, as well as drivers running the stop sign and hitting the tree in Ms. Vrolijk's front yard. Discussion continued.

Mr. Glover shared his concern about setting a precedent. Chair Gross asked Ms. Goderwis to display the aerial photos of Ms. Vrolijk's property and to explain staff's recommendation for approval of this application. Ms. Goderwis shared her screen and directed the Board's attention to the photos of the subject property and the surrounding vicinity. She explained the unique circumstances of this property and staff's justification for recommending approval of this variance. Ms. Goderwis also explained the conditions recommended by staff.

Ms. Carter referred to applications in the past in which the Board had been less accommodating to applicants who were requesting just one parking spot. She questioned the applicant's request for more parking as she already had a one car garage and driveway, allowing her two parking spots. Ms. Goderwis explained that in some of those instances, those houses were located in areas where they had access to on street parking in addition to

whatever on-site parking was available. However, staff did not feel that the available on-street parking was appropriate or safe in this particular location. There was further discussion.

Rebuttal – Ms. Vrolijk addressed the previous comments and questions by the Board, and presented a short presentation. In her presentation, Ms. Vrolijk noted that it is dangerous in her neighborhood based on the numerous traffic violations that occur. She stated there is frequent traffic from Statesman Way to Lindy Lane because it is used as a cut through from Winchester Road to Henry Clay Boulevard.

Staff comments – Steve Parker, Traffic Engineering, was asked if that division had any input on this request. Mr. Parker informed the Board that his division commonly gets requests to provide pavement markings or curb markings in situations very similar to this one. He stated Traffic Engineering does not encourage parking in an intersection. Mr. Parker said that based on the aerials shown, Traffic Engineering would most likely mark the area in front of Mr. Vrolijk's property as a no parking zone, and would also mark the area in front of the mail boxes as such.

Chair Gross asked Mr. Parker if he would recommend that those areas not be used for parking. Mr. Parker replied that he would recommend that the area in front of Ms. Vrolijk's home, the area in front of the mailboxes and the area at least 30 feet back from the stop sign on Loudon Avenue all be no parking zones.

Note – The Board took a recess from 2:41 p.m. to 2:52 p.m.

Action – A motion was made by Ms. Carter and seconded by Mr. Glover to **disapprove PLN-BOA-20-00048: SHARON VROLIJK** – request for a variance to reduce the required front setback for additional paved parking from 6' to 0' and an administrative appeal to allow greater than 50% of the required front yard to be paved in order to allow an existing driveway expansion to remain in a Planned Neighborhood Residential (R-3) zone, on property located at 809 Statesman Way, based on the finding that there are no special circumstances that justify the need for this variance as there is already adequate on-site parking both in the existing driveway and garage.

Discussion on the motion – Prior to calling for the vote, Chair Gross opened the floor for discussion by the Board. He stated he planned to vote against the motion, as it was his opinion that there were circumstances as shown by the staff's report and by the evidence presented to make this distinguishable from other cases. Chair Gross opined that based on where the applicant's property is in relation to the intersection, it makes it difficult to park on the street.

Ms. Carter mentioned that one of the deciding factors for her was that the neighboring house has no street parking. She said while she appreciated the concern to give additional off-street parking to the applicant, her neighbor does not have any.

Mr. Glover asked Ms. Jones if the justification for the motion was adequate to sustain any kind of appeal. Ms. Jones replied that she did feel it was sufficient, as the justification was based on the discussion had by the Board during the course of the meeting and that is what the justification had to be based on.

Mr. Clarke stated he felt there were special concerns at this location and he will be voting against the motion.

Mr. Needham commented that although he felt the applicant's property was in a unique location, she does have two parking spaces available. He said the options mentioned by Mr. Parker of Traffic Engineering to limit the parking in front would be best.

Action – The motion of **disapproval** carried 5-2 (Gross and Clarke opposed).

3. **PLN-BOA-20-00049: TIMOTHY AND OPA JOHNSON** - requested a variance to reduce the required front yard setback from 300' to 87' in order to construct a new house in an Agricultural Rural (A-R) zone, on property located at 6701 Jacks Creek Pike. (Council District 12)

The Staff Recommended: Approval, for the following reasons:

- a. Granting the variance should not adversely affect the public health, safety, or welfare, nor alter the character of the general vicinity, as most of the houses in the immediate vicinity have similar setbacks.
- b. The topography of the property is a special circumstance that is unique to the subject property and justifies the need for the variance.
- c. Strict application of the Zoning Ordinance would create an unnecessary hardship for the applicants due to the high costs associated with constructing a house and designing a septic system on steep slopes.
- d. The variance request does not attempt to circumvent the provisions of the Zoning Ordinance. The applicants

have 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:

1. Construction shall be in accordance with the submitted application materials and site plan.
2. The proposed septic system shall be reviewed and approved by the Fayette County Board of Health prior to construction and occupancy.
3. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction and occupancy.

Staff comments – Ms. Goderwis mentioned one letter in support of this application had been received and that letter had been made available to the Board for their review.

Representation - Timothy and Opa Johnson, applicants and property owners, were present via video teleconference to present their application for this variance.

Mr. James Monroe, builder, was also present via video teleconference. He asked for clarification of the first condition. He asked if the house had to be in the exact location or just 87 feet from the road. Ms. Goderwis replied that it would be acceptable if they go back beyond 87 feet, but they had to go back at least 87 feet and in that general location as shown on the site plan. Mr. Monroe stated the applicant agreed to that condition.

Board question – Mr. Glover asked the applicant if there were currently neighbors on the same side of the street as the Johnsons' property. The applicants confirmed that they did currently have neighbors on the same side of Jacks Creek Pike.

Mr. Needham asked how many acres there were in the Johnsons' property. Mr. Johnson responded their property consisted of 11.12 acres.

Action – A motion was made by Mr. Glover, seconded by Mr. Needham and carried 7-0 to **approve PLN-BOA-20-00049: TIMOTHY AND OPA JOHNSON** – request for a variance to reduce the required front yard setback from 300' to 87' in order to construct a new house in an Agricultural Rural (A-R) zone, on property located at 6701 Jacks Creek Pike, based on staff's recommendation and subject to the three conditions as stated.

4. **PLN-BOA-20-00050: PATRICK AND SHEILA WILKINSON** – requested a variance to reduce the required side yard setbacks from 25' to 10' in order to construct an addition in an Agricultural Rural (A-R) zone, on property located at 1180 Centerville Lane. (Council District 12)

The Staff Recommended: Approval, for the following reasons:

- a. Granting the variance should not adversely affect the public health, safety, or welfare, nor alter the character of the general vicinity, as the proposed addition is relatively small and will be located at the rear of the house. Additionally, the side yard setbacks will be greater than those for the existing house and the addition will not be visible from the street.
- b. The variance request does not attempt to circumvent the provisions of the Zoning Ordinance. This request is supported by the recommendations of the 2018 Comprehensive Plan and the Rural Land Management Plan, as it will allow the applicants to construct a modest addition to provide additional living space for their family, while maintaining a small, legally non-conforming lot within a Rural Settlement. .

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

1. Construction shall be in accordance with the submitted application materials and site plan.
2. The septic system shall be reviewed and approved, as necessary, by the Fayette County Board of Health prior to construction and occupancy.
3. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction and occupancy.

Representation – Patrick Wilkinson, applicant and property owner, was present via video teleconference on behalf of his application for a variance. He agreed to the conditions recommended by the staff.

Action – A motion was made by Mr. Clarke, seconded by Ms. Whitman and carried 7-0 to **approve PLN-BOA-20-00050: PATRICK AND SHEILA WILKINSON** – request for a variance to reduce the required side yard setbacks from 25' to 10' in order to construct an addition in an Agricultural Rural (A-R) zone, on property located at 1180 Centerville Lane, based on staff's recommendation and subject to the three conditions as listed.

5. **PLN-BOA-20-00046: LITTLE CHAMPS ACADEMY** – requested a conditional use to establish a childcare facility in a Light Industrial (I-1) zone, on property located at 297 Ruccio Way. (Council District 9)

The Staff Recommended: Approval, for the following reasons:

- The proposed use should not adversely affect the subject or adjoining/nearby properties. The property has been used for activities primarily for children and families in this location since the early 2000s. This use will provide a useful service for the surrounding neighbors and broader community.
- More than adequate parking exists and is available on the subject property.
- All necessary public services and facilities are available and adequate for the proposed use.

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

- The child care use shall be conducted in accordance with the submitted application materials and site plan.
- All necessary permits, including a Zoning Compliance Permit and a Certificate of Occupancy, shall be obtained prior to the commencement of this use.
- The facility shall be fully licensed and comply with requirements of the Kentucky Cabinet for Health and Family Services, Division of Regulated Child Care.

Representation – Mr. Nick Champa, applicant and property owner, was present via video teleconference to present his application for a conditional use to establish a childcare facility. He agreed to the conditions recommended by the staff.

Board question – Mr. Glover asked Mr. Champa who he needed to get a license from in order to operate a childcare facility. Mr. Champa responded that it would be the Kentucky Cabinet for Health and Family Services.

Action – A motion was made by Mr. Glover, seconded by Ms. Carter and carried 7-0 to **approve PLN-BOA-20-00046: LITTLE CHAMPS ACADEMY** – request for a conditional use to establish a childcare facility in a Light Industrial (I-1) zone, on property located at 297 Ruccio Way, based on staff's recommendation and subject to the three conditions as listed.

6. **PLN-BOA-20-00045: NEWTOWN SPRINGS, LLC** - requested an administrative appeal to transfer 22 square feet of signage from one allowable free-standing sign to another in order to construct a 72 square-foot free-standing sign on split-zoned property in Neighborhood Business (B-1)/Agricultural Urban (A-U) zones, on property located at 1445 Newtown Center Way. (Council District 1)

The Staff Recommended: Approval for the following reasons:

- Granting the request will not circumvent the Zoning Ordinance as the proposed signage will comply with the limitations outlined in Article 17-8(a). The combined total size of all business signs on the subject property will not exceed that allowed by Article 17. The number of signs allowed on the property will not be increased.
- Approval of the request will not adversely affect the public health, safety, or welfare, nor alter the character of the vicinity. The proposed signage increase in this location is relatively modest and the applicant will forgo an additional sign in order to have a slightly larger sign in an area they feel will be most beneficial to their business.

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

- The proposed signage shall be established in accordance with the submitted application materials and the revised site plan dated 9/24/2020 with regard to size and location. The sign should be lit in accordance with Article 17 of the Zoning Ordinance, and no digital signage shall be allowed.
- All necessary permits for signage shall be obtained from the Division of Building Inspection.

Board comment – Chair Gross mentioned that an email and a letter, both in opposition to the appeal, had been received and distributed to the Board for their review.

Representation – Ms. Brittany Newsome, Integrated Sign and Graphics, was present via video teleconference on behalf of the applicant. She agreed to the conditions recommended by the staff.

Board question – Mr. Clarke had a question about the height of the sign. Ms. Newsome responded that the sign will be 20 feet tall.

Action – A motion was made by Ms. Carter, seconded by Ms. Whitman and carried 7-0 to **approve PLN-BOA-20-00045: NEWTOWN SPRINGS, LLC** – request for an administrative appeal to transfer 22 square feet of signage from one allowable free-standing sign to another in order to construct a 72 square-foot free-standing sign on split-zoned property in Neighborhood Business (B-1)/Agricultural Urban (A-U) zones, on property located at 1445 Newtown Center Way, based on staff's recommendation and subject to the two conditions as listed.

7. **PLN-BOA-20-00047: LEXINGTON HOUSING FOR THE HANDICAPPED, DBA THE BOB BROWN HOUSE** – requested an administrative appeal to change one legal non-conforming use (nursing home) to another (assisted living facility) in an Agricultural Rural (A-R) zone, on property located at 3057 N. Cleveland Road. (Council District 12)

The Staff Recommended: Approval, for the following reasons:

- a. Granting the requested change in non-conforming use from a nursing home to an assisted living facility should not adversely affect either the subject or surrounding properties. This change in use should be a positive change, resulting in less traffic.
- b. The proposed assisted living facility land use is first allowable in the same zoning category as the existing use and no structural changes will be made to the exterior of the building. Therefore, the non-conforming use will be equally non-conforming and qualifies for approval per Article 4-3(e).

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

1. The change in use to an assisted living facility 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 – Ms. Amy Brown, Director of the Bob Brown House, was present via video teleconference to present their application for an administrative appeal to change one legal non-conforming use (nursing home) to another (assisted living facility).

Board comment – Chair Gross mentioned that there were members of the public present via teleconference who were in support of this application. However, given the fact that staff recommended approval, it may not be necessary to hear from those in support.

Mr. Glover noted that Article 7-6(c) mentions two findings, which should be listed if the Board approved this type of appeal. Mr. Glover said that he did not see either of those findings listed in staff's reasons for recommending approval. Ms. Goderwis stated she felt those two items were addressed within the staff report. There was further discussion. Ms. Jones confirmed Ms. Goderwis' opinion that the items were sufficiently addressed within the staff report and within the proposed findings.

Action – A motion was made by Mr. Glover, seconded by Mr. Clarke and carried 7-0 to **approve PLN-BOA-20-00047: LEXINGTON HOUSING FOR THE HANDICAPPED, DBA THE BOB BROWN HOUSE** – request for an administrative appeal to change one legal non-conforming use (nursing home) to another (assisted living facility) in an Agricultural Rural (A-R) zone, on property located at 3057 N. Cleveland Road, based on staff's recommendation and subject to the two conditions as listed.

Note – Chair Gross called for a short break at 3:27 p.m. The Board reconvened at 3:34 p.m.

D. Discussion Items

1. **PLN-BOA-20-00051: SARA AND MATTHEW CAMPBELL** – requested a variance to decrease the minimum required side yard setback from 8' to 2' in order to allow a detached accessory structure to remain as constructed within the defined Infill & Redevelopment Area in Single Family Residential (R-1C)/Historic District Overlay (H-1) zones, on property located at 1623 Nicholasville Road. (Council District 3)

The Staff Recommended: Disapproval, for the following reasons:

- a. Granting the variance could have adverse effects on the public health, safety, or welfare, as the shed is located very close to the lot line, with an angled roof that directs water runoff onto the adjacent property's fence.
- b. There are not special circumstances that justify the requested variance. While another shed was previously located in this location, that shed was shorter and had a significantly smaller footprint, resulting in less potential for negative impacts on the adjacent property.
- c. Strict application of the Zoning Ordinance would not deprive the applicant of the reasonable use of their land, as there is sufficient space in the rear yard to relocate the shed.

Staff presentation – Ms. Goderwis directed the Board's attention to aerial photos and pictures of the property on her screen which she shared, and explained the applicant's request for this variance and staff's recommendation.

Representation – Mr. Matt Campbell, applicant and property owner, was present via video teleconference and presented his application, explaining his request for a variance to decrease the minimum required side yard setback from 8' to 2'.

Staff Question – Mr. Glover asked Mr. Campbell how far the existing shed was from the property line. Mr. Campbell replied that the body of the shed is exactly 2' but he wasn't sure about where the gutter is currently. He guessed that it was about one and one-half feet from the fence line.

Mr. Glover said it appeared that the applicant had cut back the overhang from the previous pictures seen by the Board and installed a gutter system. Mr. Campbell confirmed that to be true. Mr. Glover asked if the gutter caught all of the water that ran off the roof into the side yard. Mr. Campbell replied he was confident that it had been installed correctly and was doing its job as designed.

Mr. Glover asked the applicant if he had any images or pictures of the pre-existing shed. Mr. Campbell replied that the best pictures he had seen were those that the staff had shared. Ms. Goderwis displayed the aerial photo of the original structure.

Mr. Glover asked what had happened to the original shed. Mr. Campbell explained that he originally had intended to refurbish it but it turned out to be too dilapidated. He said they incorporated the footers into the new shed, but most of the materials from the old shed became trash.

Mr. Campbell asked if it would be acceptable if the shed were on the other side of the utility pole, in the exact same location, whether that would be considered back yard at that point. Ms. Goderwis responded that the shed would have to be entirely behind the rear wall plane of the house.

Ms. Whitman had a question about the drainage of the downspout in the new gutter system. Mr. Campbell explained. There was further discussion.

Opposition – Mr. Virgil Randall Barrett, president of Coachlight Woods Homeowners' Association, was present via teleconference and expressed his concerns and the concerns of those he represented. He stated he appreciated the efforts Mr. Campbell had made concerning the stormwater run-off, but there was still concern over the footer and foundation system on Mr. Campbell's property, stating that property is about 18 inches lower than the HOA property. Mr. Barrett noted that a licensed surveyor did not do the site plan and information they were presented with, therefore they had no way of knowing exactly where the building was located relative to the property line. He continued by saying their homeowner's association board did meet and they want to be certain that Mr. Campbell's building is not on HOA property and that Mr. Campbell takes care of the stormwater run-off. Mr. Barrett stated that as long as Mr. Campbell assures them of those two things, they are in agreement with the shed remaining where constructed.

Board question – Mr. Glover asked Mr. Barrett where his property was with regard to the fence in question. Mr. Barrett replied he was not sure; he just owns one of the condominiums in the complex. There was further discussion between the Board, Mr. Campbell and Mr. Barrett

Note – Chair Gross called for a short recess at 4:09 p.m. The Board reconvened at 4:30 p.m.

Action – A motion was made by Mr. Glover, seconded by Mr. Clarke and carried 6-1 (Gross opposed), to **approve PLN-BOA-20-00051: SARA AND MATTHEW CAMPBELL** – request for a variance to decrease the minimum required side yard setback from 8' to 4' to allow the 10' by 19' accessory structure to be relocated within the side yard, within the defined Infill & Redevelopment Area in Single Family Residential (R-1C)/Historic District Overlay (H-1) zones, on property located at 1623 Nicholasville Road, based on the following reasons:

- a. That a relocated shed won't adversely affect public health, safety or welfare if it is further from the lot line and proper stormwater run-off controls are in place.
- b. That relocation will allow the applicant to work around the existing utility pole in the yard and still maintain the shed.

And based on the following conditions:

1. The applicant shall submit a site plan to the Division of Planning reflecting changes.
2. The applicant shall consult with the Division of Building Inspection to determine and comply with any building codes or ordinances.
3. The applicant shall implement proper water controls so that there is no stormwater run-off to adjacent properties.

2. **PLN-BOA-20-00042: DOUG VESCIO** – continuation of the public hearing to request 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 Road. (Council District 7)

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

- a. Expanding the existing use to allow for construction of a 6,360 square-foot structure 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 the majority of 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 was 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, the existing shed, and the proposed 6,360 square-foot storage building. 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. A 5' 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 as listed in the Planting Manual, plus a 6' high fence.

Representation – Mr. Doug Vescio, applicant and property owner was present via video teleconference to present his application for a conditional use for a plant nursery in order to construct a new building at an existing plant nursery. Mr. Vescio asked for clarification of the third condition.

Ms. Goderwis clarified the third condition in the revised approval recommendation regarding the fencing for Mr. Vescio. There was further discussion. Following the discussion Mr. Vescio indicated his agreement to the revised conditions on the recommendation of approval.

Action – A motion was made by Mr. Clarke, seconded by Ms. Whitman and carried 7-0 to **approve PLN-BOA-20-00042: DOUG VESCIO** – continuation of the public hearing to request 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 Road, based on staff's recommendation and subject to the three conditions as listed.

- IV. **BOARD ITEMS** - The Chair announced that any items a Board member wished to present would be heard at this time.

A. **Adoption of the 2021 Board of Adjustment schedule**

Action – A motion was made by Ms. Carter, seconded by Ms. Whitman and carried 7-0 to **approve** the 2021 Board of Adjustment Meeting and Filing schedule.

- V. **STAFF ITEMS** - The Chair announced that any items a Staff member wished to present would be heard at this time.

Mr. Baillie informed the Board of upcoming training offered by David Pike on October 23, 2020. This training will be held via video teleconference. Board members can also attend the training in person on the third floor of the Phoenix Building, following CDC guidelines.

- VI. **NEXT MEETING DATE** - The Chair announced that the next meeting date will be November 9, 2020, at 1:30 p.m.

- VII. **ADJOURNMENT** – There being no further business, the Chair declared the meeting adjourned at 4:45 p.m.

Branden Gross, Chair

Joan Whitman, Secretary

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