

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

January 11, 2021

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/j/97734596932?pwd=QUFWaEFnaVVKQlFBRW8xcEFxZmZ0Zz09>

Webinar ID: 977 3459 6932

Password: 966484

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 December 14, 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-20-00066: SPEEDWAY, LLC** – requests a variance to increase the allowable front yard from 20' to 39' in order to construct a new fueling station in a Neighborhood Business (B-1) zone, on property located at 1318 and 1320 Versailles Rd. (Council District 11)

The Staff Recommends: Disapproval, for the following reasons:

- a. While granting the variance would result in construction that is similar to what exists in the general vicinity, this particular property has been identified for its potential for redevelopment by the Cardinal Valley Small Area Plan and presents an opportunity to improve the aesthetics and functionality of this gateway to the city. In the Neighborhood Business (B-1) zone, pedestrian experience and integration into the neighborhood are especially important. Automobile-centric uses in this zone should be thoughtfully designed, and may require creative solutions.
- b. While there are other lots in the general vicinity with a similar setback, there are no special circumstances unique to this property that justify the variance; nor will strict application of the Zoning Ordinance deprive the

applicant of a reasonable use of the land. The size and shape of the property would allow for alternate arrangements of the proposed convenience store, fueling canopy, associated parking, and drive aisles.

2. **PLN-BOA-20-00068: CHACEY AND ROMAIN MALHOITRE** - request a variance to reduce the required side street side yard setback from 30' to 20' in order to construct an addition to a house in a Single Family Residential (R-1C) zone, on property located at 2003 Hart Rd. (Council District 5)

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

- a. Granting a relatively minor variance of only 10' should not have a significant impact on the character of the general vicinity. While there are no other structures along Wallace Way with a setback of less than 30', there are only 4 houses along that street, each of which front on other streets. This pattern in the neighborhood lotting is a unique circumstance that reduces the impact of a variance to the side street side yard in this particular location.
- b. The variance request does not represent an attempt to circumvent the provisions of the Zoning Ordinance. 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:

1. Construction shall be in accordance with the submitted application materials and site plan.
2. The existing driveway shall be removed upon construction of the proposed driveway and replaced with grass and/or other vegetative groundcover.

3. **PLN-BOA-20-00070: OPPORTUNITY LEARNING CENTER, LLC** – requests 1) a variance to reduce the required side yard setbacks from 5' to 0'; and 2) a variance to reduce the required rear yard from 10' to 0' in order to construct an addition to the existing legally non-conforming structure; and 3) a variance to reduce the required number of parking spaces by 50% within the Defined Infill and Redevelopment Area in a High Density Apartment (R-4) zone, on property located at 236 Lexington Ave. (Council District 3)

The Staff Recommends: **Disapproval of the requested variances to reduce the side yard from 5' to 0' along the southern property line and to reduce the required rear yard setback from 10' to 0'**, for the following reasons:

- a. Allowing the expansion and conversion of the existing detached garage to dwelling units would represent an intensification of the activities occurring on the subject property by increasing density directly on two property lines and in very close proximity to other existing multi-family structures, which could have a negative impact on the public health, safety, and welfare of those living in the structures.
- b. Strict application of the Zoning Ordinance will not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant. If the applicant were to demolish the existing detached accessory structure, there appears to be adequate space to construct an addition that could meet the required setbacks and allow the applicant to provide the desired additional units.

The Staff Recommends: **Approval of the requested variance to reduce the side yard from 5' to 0' along the northern property line**, for the following reasons:

- a. Approval of the variance should not adversely affect the public health, safety, or welfare, nor alter the essential character of the general vicinity. Two and three-story structures are characteristic of much of the buildings stock along Lexington Avenue. The existing structure has existed on the property line for many years as a fraternity house. An increase in the height of the structure along this property line should have little impact on the general vicinity. The structure immediately adjacent is two stories and approximately 30' from the property line, and should not be negatively impacted by the increased height.
- b. The variance is generally reasonable because a modest increase in height, which meets the maximum height limitation of the Zoning Ordinance, will allow the applicant to reuse an existing building by converting it into units that are more desirable in the current market.

The Staff Recommends: **Approval of the requested variance to reduce the number of required parking spaces by 50%**, for the following reasons:

- a. Approval of the variance should not adversely affect the public health, safety, or welfare, nor should it create a hazard or nuisance to the public. This property has a Walk Score rating of 93, which is considered very walkable and a Bike Score of 89, which is considered very bikeable.
- b. Other parking is available in the area, including metered on-street parking and on-street parking for those with residential permits, which may be acquired through LexPark for residents of the street.
- c. The close proximity to the University of Kentucky, downtown major employers, and the transit center are special circumstances that increase the likelihood that residents who choose to live in this location will be less car dependent than average.

These recommendations of approval are made subject to the following conditions:

1. Construction of the third story shall be done in accordance with the submitted application materials, as well as other portions of the Zoning Ordinance, and a revised site plan which does not include a connection between the principal structure and detached accessory structure.
2. No dwelling units shall be provided in the detached accessory structure.
3. Parking shall be installed in accordance with the submitted application materials and a revised site plan, subject to approval by the Division of Traffic Engineering.
4. The parking lot shall be paved, with spaces delineated, and landscaped/screened in accordance with the requirements of Article 16 and 18 of the Zoning Ordinance.
5. All necessary permits and approvals shall be obtained from the Divisions of Planning, Building Inspection, and Traffic Engineering prior to construction and occupancy.

D. Conditional Use Appeals

1. **PLN-BOA-20-00067: CHRIST THE KING SCHOOL** – requests a conditional use to expand a school for academic instruction in a Single Family Residential (R-1C) zone, on property located at 299 Colony Blvd. (Council District 5)

The Staff Recommends: Approval, for the following reasons:

- a. The proposed construction should not adversely affect the subject or adjoining/nearby properties. The addition will be relatively modest in size and will not result in an increase in the intensity of the use on the property.
- b. More than adequate parking exists and is available on the subject property, and the proposed addition will not increase the need for parking spaces.
- 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. Construction of the proposed addition shall be 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 construction and use of the addition.

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

A. Appoint a new member to the Landscape Review Committee.

The Tree Board has submitted a recommendation to appoint member Dan Stevers to the Landscape Review Committee.

B. Election of Officers – The Board's By-Laws state that officers shall be elected at the first regular meeting in January of each year. The Board shall elect a Chairperson, a Vice-Chairperson and a Secretary.

The current officers are:

Chairperson – Branden Gross

Vice-Chairperson – Thomas Glover

Secretary – Joan Whitman

C. Delegation of Secretary's Duties – In the past, the duties of the Secretary have been delegated to the Planning Services Manager and staff member(s) appointed by the Manager. The Chair will request action on this item.

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 February 8, 2021, at 1:30 p.m.

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