

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

May 10, 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/99135513412?pwd=UnhtdHBWTGMzUnYvbHU2WVR3OUVRUT09>

Webinar ID: 991 3551 3412

Password: 263895

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 from the March 8, 2021 and the April 12, 2021 meetings 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-21-00019: JEREMY AND AMBER BACH** – request a variance to reduce the required front yard setback from 300' to 200' in order to construct a new house in an Agricultural Rural (A-R) zone, on property located at 3601 Lemons Mill Pike. (Council District 12)

The Staff Recommends: 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 a number of the houses in the immediate vicinity have setbacks less than 300 feet.
- b. The topography of the property is a special circumstance that is unique to the subject property and justifies the need for the variance. Placing the house at the 300-foot setback line could make the structure susceptible to flooding.
- 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 on steep slopes and potential drainage issues.
- 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 is 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 and the Rural Land Management Board prior to construction and occupancy.
2. **PLN-BOA-21-00021: HOMESTEAD DEVELOPMENT** – requests a variance to reduce the amount of roof surface covered by 4:12 pitched roof from 75% to 0% in order to allow for a flat roof for one proposed multi-family residential structure within the defined Infill and Redevelopment Area in a High Rise Apartment (R-5) zone, on property located at 840 Angliana Ave. (Council District 3)

The Staff Recommends: Postponement, for the following reasons:

- a. Granting the variance as requested could have a negative impact on the character of the general vicinity, as residential development within the defined Infill and Redevelopment Area (including other new apartment buildings in the immediate vicinity) is characterized by pitched roofs. Additionally, the applicant has not provided any information regarding screening of the 200 mechanical units proposed to be located on the roof. Without appropriate screening, these units could also have a negative impact on the character of the general vicinity.
 - b. Staff has expressed some support of a lesser variance in order to allow for an area of less than 75% but greater than 0% to be covered by a 4:12 pitched roof. A lesser variance would likely allow the applicant to maintain enough space on the roof to accommodate the mechanical units while also providing necessary screening for those units and maintaining the architectural character of the immediate vicinity. Without further input from the applicant, staff is not prepared to recommend approval of a specific reduction, so a one-month postponement is recommended.
3. **PLN-BOA-21-00022: BALL HOMES LLC** – requests variances to reduce the required setback for free-standing identification signs from 10' to 6' for three signs and from 10' to 2' for two signs at property in a Planned Neighborhood Residential (R-3) and High Density Apartment (R-4) zones, on property located at 299 Squires Circle and 480 Squires Road. (Council District 7)

The Staff Recommends: Disapproval, for the following reasons:

- a. Granting the variances could have an adverse impact on the public health, safety, or welfare. Locating 8-foot tall monument type signs only 2' from the pedestrian zone creates potential safety issues for cyclists and pedestrians utilizing the multi-use trails and sidewalks. The close proximity between the trail/sidewalks and proposed signs could also create site maintenance issues.
- b. There do not appear to be special circumstances that justify the need for the variances. The applicant has not provided a sufficient justification to meet the requirements of Article 7 of the Zoning Ordinance or KRS 100.243

D. Conditional Use Appeals

1. **PLN-BOA-21-00024: KENTUCKY TRAINING CENTER, LLC** – requests 1) a conditional use to expand the training facility and 2) a variance to reduce the required front yard setback from 222' to 174' in an Agricultural Rural (A-R) zone, on property located at 3380 Paris Pike. (Council District 12)

The Staff Recommends: Approval, for the following reasons:

- a. Granting the conditional use and variance to allow expansion of the training facility should not adversely affect either the subject property or surrounding properties. The Kentucky Training Center has operated in this location for many years and the proposed barns and changes to the parking area will improve the operation of the facility and increase its efficiency.
- b. The requested variance is generally reasonable as it will allow for the construction of 6 modernized barns with adequate space between each barn. Strict application of the Zoning Ordinance would create an unnecessary hardship as it would result in the loss of an additional 40 stalls.
- c. 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 is made subject to the following conditions:

1. Construction shall be in accordance with the submitted application materials and site plan.
2. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction and occupancy.
3. Any new and/or modified parking areas shall be paved and landscaped in accordance with Articles 16 and 18 of the Zoning Ordinance.

2. **PLN-BOA-21-00013: ANDY'S FROZEN CUSTARD** – requests a conditional use for drive-through facilities within the defined Infill and Redevelopment Area in a Neighborhood Business (B-1) zone, on property located at 1200 S. Broadway. (Council District 3)

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

- a. The proposed drive-through facilities should not have an adverse influence on existing or future development of the subject property or its surrounding neighborhood. The proposed design of the restaurant and drive-through facilities meet the intent of the Neighborhood Business (B-1) zone and the stacking requirements of Article 16-9, and is appropriate in this location. All necessary public facilities and services that will be needed are, or will be, adequate to serve the proposed use.

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

1. Construction and operation of the restaurant and drive-through facilities shall be in accordance with the submitted **amended** application materials and site plan, dated April 23, 2021.
2. All necessary permits and/or approvals shall be obtained from the Divisions of Building Inspection and Traffic Engineering prior to construction and occupancy.

E. Administrative Appeals

1. **PLN-BOA-21-00020: RODALE PROPERTIES LLC** – requests an administrative appeal to increase the allowable size of an accessory structure from 834 square feet to 2,400 square feet in order to allow a recently constructed accessory structure to remain as constructed in a Single Family Residential (R-1B) zone, on property located at 523 Kingston Rd. (Council District 6)

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

- a. Approval of the administrative appeal would represent a circumvention of the provisions of the Zoning Ordinance. The subject property is a non-conforming lot, containing non-conforming structures and a non-conforming use. Allowing the construction of an additional accessory structure on this property would be in opposition to the requirements of Article 4, which relates to the regulation of non-conforming uses, structures, and lots, particularly the intent statement in Article 4-2.

2. **PLN-BOA-21-00023: NEST A LEXINGTON LLC** – requests an administrative appeal to allow construction of an addition to a legally non-conforming single-family house within the defined Infill and Redevelopment Area in a Wholesale and Warehouse Business (B-4) zone, on property located at 862 Angliana Ave. (Council District 3)

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

- a. Approval of the administrative appeal would represent a circumvention of the provisions of the Zoning Ordinance. The subject property contains a non-conforming use (single family dwelling unit). Allowing the construction of a dormer, resulting in additional floor area to include an additional bedroom and bathroom on this property would represent an expansion of the scope of the non-conforming use. Such an expansion would be in opposition to the requirements of Article 4 which relates to the regulation of non-conforming uses, structures, and lots, particularly the intent statement in Article 4-2 and Article 4-3(a) and (g) related to the regulation of non-conforming uses.
- b. Encouraging the survival of a non-conforming single family dwelling unit is not appropriate in this location. While there have been changes in the general vicinity resulting in an increase in residential use along Angliana Avenue, this portion of the street is still largely characterized by industrial and warehousing uses.

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.

AGENDA 05/10/2021

VI. **NEXT MEETING DATE** - The Chair will announce that the next meeting date will be June 14, 2021, at 1:30 p.m. via teleconference.

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