

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

June 14, 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 State of Emergency, this meeting is being held via live video teleconference pursuant to 2020 Senate Bill 150, and in accordance with KRS 61.826.

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

<https://zoom.us/j/98399578016?pwd=Wi9uRC85L3dWcmNPb1ZVOW93SkZCUT09>

Webinar ID: 983 9957 8016

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://fucg.granicus.com/MediaPlayer.php?publish_id=12

- II. **APPROVAL OF MINUTES** – The Chair will announce that the minutes from the May 10, 2021 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-21-00021: HOMESTEAD DEVELOPMENT** – requests a variance to reduce the amount of roof surface covered by 4:12 pitched roof from 75% to 12% 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: Approval of a lesser variance to reduce the amount of roof surface covered by a 4:12 pitched roof from 75% to 25%, for the following reasons:

- a. Granting the lesser variance should not 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 and the new structure will appear to have a pitched roof from all sides.

- b. A lesser variance is generally reasonable because providing a pitched roof around the perimeter of the building will provide adequate screening for 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.
- c. Strict application of the Zoning Ordinance could create an unnecessary hardship as it would prevent the needed mechanical units from being located on the roof and would likely result in a reduction in usable open space at the ground level.

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

- 1. Construction shall be in accordance with an amended site plan demonstrating that 25% of the roof surface will be covered by a 4:12 pitched roof.
- 2. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction and occupancy.
- 3. Action of the Board shall be noted on the Final Development Plan.

2. **PLN-BOA-21-00022: BALL HOMES LLC** – requests variances to reduce the required setback for free-standing identification signs from 10' to 8' for two signs and from 10' to 6' for one sign, and from 10' to 4' for one sign 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 of the variance requests for Signs 1, 3, and 4**, for the following reasons:

- a. 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
- b. Strict application of the Zoning Ordinance would not deprive the applicant of the reasonable use of their land. This is a new development and the constraints on the site outlined in the justification statement are largely the result of the applicant's overall proposal for the land. There appear to be other options regarding signage including reducing the size of the monument structures and/or choosing different locations for the proposed signage.

The Staff Recommends: **Approval of the variance request for Sign 2**, for the following reasons:

- a. The variance request in this location is generally reasonable as the sign will be located at a primary entrance into the Group Residential Project. This location is constrained by the proposed parking areas and stormwater infrastructure.

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

- 1. Construction of Sign 2 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.
- 3. Signage shall not be located within the sight triangle or otherwise impede visibility for vehicles entering or exiting the apartment complex.

3. **PLN-BOA-21-00028: ANTHONY AND DENISE PATRICK** – request a variance to reduce the required side yard from 8' to 5' in order to construct an addition to an existing house in a Single Family Residential (R-1C) zone, on property located at 4998 Tynebrae Road. (Council District 12)

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

- a. Granting the variance should not have a significant impact on the character of the general vicinity. The deeper front yard setback of this house is a unique circumstance and allowing the variance to the side yard will maintain the existing front and side street side yard setbacks, preserving the character of the existing farm house.
- b. Strict application of the Zoning Ordinance could create an unnecessary hardship as it could require the reconfiguration of the existing driveway, curb cut, and interior floorplan.
- c. Approval of the variance will allow for the preservation of the existing large tree located in the side street side yard, between the house and Hartland Parkway.
- d. 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 building setback along the Hartland Parkway frontage shall be maintained in order to allow for

- preservation of the large tree located within the side street side yard.
3. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction and occupancy.
 4. **PLN-BOA-21-00029: RANDY AND LINDA DEITRICH** – request a variance to reduce the required rear yard from 10' to 5' in order to construct an addition to an existing house in a single family residential (R-1D) zone, on property located at 193 Manitoba Lane. (Council District 9)

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

- a. Granting the requested variance should not have a significant impact on the character of the general vicinity. The new addition will be the same size and constructed in the same location as a screened-in porch, which has existed on the property for at least thirty five years.
- 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. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction and occupancy.

D. Conditional Use Appeals

1. **PLN-BOA-21-00025: DUNKIN'** – requests 1) a conditional use for drive-through facilities and 2) modifications to the existing conditional use for parking within the R-3 portion on split-zoned property located within the defined Infill & Redevelopment Area in Neighborhood Business (B-1)/Planned Neighborhood Residential (R-3) zones, on property located at 507 S. Limestone. (Council District 3)

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

- a. The proposed design of the restaurant and drive-through facilities do not meet the intent of the Infill and Redevelopment area, B-1 zone, or the recently adopted Imagine Nicholasville Road Corridor Plan, which all call for more urban types of development in this location, with considerations for pedestrian access. The proposed use, as presented, would likely result in adverse impacts to the public health, safety, and welfare. Adequate pedestrian facilities are not shown and the restaurant is completed surrounded by vehicular use areas. The proposed drive-through layout could create a hazardous traffic situation, as vehicles utilizing the drive-through would likely enter the stacking area from both the S. Limestone access as well as the first Colfax Street access. This creates an additional point of conflict and increases the likelihood that traffic could back up onto S. Limestone. However, redesigned drive-through facilities which take into account pedestrian access and neighborhood integration could be appropriate in this location.

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.

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 July 12, 2021, at 1:30 p.m. via teleconference.

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