

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

July 12, 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/98080571715?pwd=bWhYUDd3MFNQRfJ5UzYxT2tdEhGdz09>

Webinar ID: 980 8057 1715

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 May 10, 2021 and June 14, 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-21-00022: BALL HOMES LLC** - requests variances to reduce the required setback for free-standing identification signs from 10' to 8' for two signs, from 10' to 6' for one sign, and from 10' to 4' for one sign at property in 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 reason:

- 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.

2. **PLN-BOA-21-00030: DAN LARROW** – requests a variance to reduce the required rear yard setback for a projection from 8' to 4' in order to construct an addition to an existing deck on property within the defined Infill & Redevelopment Area in Single Family Residential (R-1C)/Historic District Overlay (H-1) zones, on property located at 108 Lackawanna Rd. (Council District 3)

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, nor should it negatively affect the public health, safety, or welfare. The new addition to the deck will extend only 30 inches further than the existing deck and will still be at least 100 feet from the residential structures to the south and west.
- 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 Divisions of Building Inspection and Historic Preservation prior to construction and occupancy.

3. **PLN-BOA-21-00031: ROBERT CURTSINGER** – requests a variance to reduce the required front yard setback from 300' to 129' in order to construct an addition to an existing house in an Agricultural Rural (A-R) zone, on property located at 5199 Whites Ln. (Council District 12)

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 as there are other houses in the vicinity with similar setbacks.
- b. There are special circumstances that are unique to the subject property and justify the need for the variance. The subject property is located at the end of the street and has very little street frontage, reducing the visual impact of the proposed construction. Additionally, there are other existing structures, including a swimming pool and detached garage that prevent expansion in other locations on the property.
- c. 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.

4. **PLN-BOA-21-00032: EVELYN ALVARADO CRUZ** – requests a variance to reduce the required rear yard setback from 10' to 0' in order to construct an addition to an existing house in a Single Family Residential (R-1D) zone, on property located at 3848 Niagara Dr. (Council District 8)

The Staff Recommends: **Approval of a lesser variance to reduce the required rear yard setback from 10' to 3'**, for the following reasons:

- a. Granting a lesser variance should not have a significant impact on the character of the general vicinity. The

new addition will be located at the rear corner of the house and should have very little impact on the streetscape.

- b. There are special circumstances that justify the need for a variance as the house is situated on a corner lot with narrow side and rear yards, significantly limiting opportunities for expansion.
- c. Approval of a lesser variance is generally reasonable as it will allow for the addition of a second bathroom, which will meet the accessibility needs of the residents of the home. The recommended lesser variance will allow for this construction to occur without requiring significant alterations to the existing house due to the existing interior configuration of the house.

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

- 1. Construction shall be in accordance with the submitted application materials and a revised site plan depicting a rear yard setback of 3 feet.
- 2. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction and occupancy.

5. **PLN-BOA-21-00033: LESLIE AND JOHN WAINSCOTT** – request a variance to reduce the required setback for a projection into a required front yard from 10' to 3' in an Expansion Area Residential (EAR-1) zone, on property located at 4133 Tradition Way. (Council District 7)

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

- a. Granting the requested variance should not impact the character of the general vicinity. The pergola will be of similar construction and configuration to others in the vicinity.
- b. Granting the requested variance should not have a negative impact on the public health, safety, or welfare. The pergola will be located 13 feet from the edge of pavement and will be open and unenclosed. Therefore, its construction and use should not have a negative impact on pedestrians or vehicles utilizing the access easement.
- c. 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 pergola shall remain open and unenclosed.
- 3. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction and occupancy.

6. **PLN-BOA-21-00034: ANTHONY CHAPMAN** - requests a variance to reduce the required front yard setback from 50' to 12' in order to construct an addition to an existing house in an Agricultural Rural (A-R) zone, on property located at 7015 Old Richmond Rd. (Council District 12)

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

- a. Approval of the requested variance 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 expansion the house, to connect it to the garage, without resolving the issue of the non-conforming use would represent an expansion of the non-conformity of the use and would be in opposition to the requirements of Article 5, which relates to the regulation of non-conforming uses, structures, and lots, particularly the intent statement in Article 4-2.

7. **PLN-BOA-21-00035: NICK MORROW** – requests a variance to reduce the required side yard setback from 8' to 3' in order to construct an addition to an existing house in a Single Family Residential (R-1C) zone, on property located at 1182 Indian Mound Rd. (Council District 5)

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, nor should it have a negative impact on the public health, safety, or welfare. The new addition will be constructed in the same architectural style as the existing house and will be located in an area which is already used for vehicular access. The total side yard will significantly exceed the average required side yard.
- b. Granting the requested variance is generally reasonable as it will provide a safe and accessible parking space and storage area that is more convenient to the entrance to the house than the parking area provided in the garage.
- c. 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 carport area shall remain unenclosed (except for installation of a gate) at the front and rear.
3. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction and occupancy.

8. **PLN-BOA-21-00036: COMPASS CAPITAL, LLC** – requests a variance to reduce the required setback from the floodplain from 25' to 0' in order to construct a covered patio in a Commercial Center (B-6P) zone, on property located at 4379 Old Harrodsburg Rd. (Council District 10)

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

- a. Granting the requested variance should not have a negative impact on the public health, safety, or welfare as the structure will not extend into the floodplain and should not result in an increase in water run-off.
- 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, except as amended by the Planning Commission on a final development plan.
2. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction and occupancy.

- 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 August 9, 2021, at 1:30 p.m. in the Council Chamber at 200 E. Main St.

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