

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

August 9, 2021

I. **CALL TO ORDER** - The Chair will call the meeting to order at 1:30 p.m. in the Council Chambers, 200 East Main Street, Lexington, Kentucky.

II. **APPROVAL OF MINUTES** – The Chair will announce that the minutes from the July 12, 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-21-00034: 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: Approval, for the following reasons:

- a. Granting the requested variance will not adversely affect the public health, safety, or welfare as the front yard setback will not be further reduced.
- b. Granting the requested variance should not have an adverse effect on existing or future development of the subject property or the surrounding area. It will result in construction that will improve the character of the property by giving the structure a more residential style appearance, in keeping with other houses in the general vicinity.
- 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 construction of the addition.

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

1. The additions shall be constructed in accordance with the submitted application materials and site plan.
2. The eastern house shall be used as a farm employee dwelling unit maintained exclusively for the occupancy of employees and their families or the owner's immediate family, in connection with an agricultural use on the property.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Building Inspection prior to occupancy.

2. **PLN-BOA-21-00037: WENDY JO HOMES LLC** – requests a variance to reduce the required front yard setback from 30' to 10' in order to enclose the existing porch within the defined Infill and Redevelopment Area in a Single Family Residential (R-1D) zone, on property located at 860 E. Loudon Ave. (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 negatively affect the public health, safety, or welfare. Enclosing the porch will result in additional living space for the residents, and the requested variance is generally reasonable since it will not require the existing footprint or roof to be extended.
- b. The reduction in front yard that occurred in the mid-2000s due to the widening of E. Loudon Avenue is a special circumstance that is unique to the subject property and justifies the need for the variance.

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. **PLN-BOA-21-00038: CORSER THOROUGHBREDS LLC** – requests a variance to reduce the required side yard setback from 300' to 60' in order to place a mobile home in an Agricultural Rural (A-R) zone, on property located 4422 Bryan Station Rd. (Council District 12)

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

- a. The proposed placement of the mobile home should not have an adverse influence on the subject property or the surrounding neighborhood. The proposed mobile home will be located more than 2,000 feet away from any existing residential use on other property.
- b. The variance is generally reasonable as it will allow for placement of a mobile home to be used as a farm employee dwelling unit in a location where the existing driveway can be utilized and operations of the farm will not be disrupted.
- c. The FEMA floodplain that exists on the subject property associated with the Avon Branch of the North Elkhorn Creek is a special circumstance that justifies the need for a variance in this location.
- 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 placement of the mobile home.

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

1. The mobile home shall be placed in accordance with the submitted application materials and site plan.
2. The mobile home shall be used as a farm employee dwelling unit only, maintained exclusively for the occupancy of employees and their families or the owner's immediate family, in connection with an agricultural use on the property.
3. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to occupancy.
4. The septic system shall be reviewed and approved, as necessary, by the Fayette County Board of Health.

D. Conditional Use Appeals

1. **PLN-BOA-21-00039: THE ARCADIA COMPANY LLC** – requests conditional uses to establish a school for academic instruction and an accessory nursery school in an Agricultural Rural (A-R) zone, on property located at 5768 Bates Creek Rd. (Council District 12)

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

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood. Traffic impacts should be relatively minor and the school will operate during normal business hours throughout the week.
- b. All necessary public services and facilities are or will be available and adequate for the proposed use.

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

1. The school and accessory nursery school shall be established and operated in accordance with the submitted application materials and a revised site plan, demonstrating that the parking lot will be provided behind the proposed school, unless such a configuration will conflict with the septic system.
 2. All parking areas shall be designed in accordance with the recommendations of the Division of traffic Engineering.
 3. The septic system shall be reviewed and approved, as necessary, by the Fayette County Board of Health.
 4. All necessary permits and/or approvals shall be obtained from the Divisions of Building Inspection prior to occupancy.
2. **PLN-BOA-21-00042: BLEED BLUE INK LLC** - requests a conditional use to establish a tattoo parlor within the defined Infill and Redevelopment area in a Lexington Center Business (B-2B) zone, on property located at 102 W. High St. (Council District 3)

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

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood. The immediate vicinity is characterized by a mix of uses, several of which have similar (or longer) hours to those being proposed.
- b. The proposed use should not have a negative impact on traffic, as only 4-8 customers are expected per day.
- 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. The tattoo parlor use shall be established 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 prior to occupancy.
3. **PLN-BOA-21-00043: ANDERSON VILLAGE AT GREAT ACRES, LLC** – requests a conditional use to establish a parking area accessory to a commercial use in an adjoining business zone on property in a Planned Neighborhood Residential (R-3) zone, on property located at 2731 Leestown Rd. (Council District 2)

The Staff Recommends: Approval, for the following reasons:

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood. The proposed parking area and immediate vicinity are part of the overall development of this 50-acre property, which will be a mixed-use development including residential and commercial uses. The proposed use should not impact any existing neighbors.
- b. The parking lot will be designed to appear as a part of the commercial area and there will not be a direct vehicular connection between this parking area and the parking area for the adjoining residential uses, so the use of the parking lot should not have a negative impact on future residents of the proposed apartments.
- c. The requirements of Article 16-3 for parking areas as a conditional use in the R-3 zone will be met.
- d. 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. The parking lot shall be established in accordance with the submitted application materials and site plan, subject to any alterations required during the Final Development Plan and permitting processes.
2. All necessary permits and/or approvals shall be obtained from the Divisions of Building Inspection, Planning, and Engineering prior to paving and use of the parking area.
3. The final configuration of the parking lot shall be designed in accordance with the recommendations of, and subject to approval by the Division of Traffic Engineering.
4. Approval by the Board shall be noted on the Final Development Plan.
5. The proposed parking area shall be limited to 40 parking spaces within the R-3 zone to the north of Building H.
6. 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.
7. Any pole lighting for the parking lot shall be of a shoebox (or similar) design, with light directed downward to avoid disturbing any adjoining residential properties.

E. Administrative Appeals

1. **PLN-BOA-21-00041: FARMERS FEED MILL INC** – requests an administrative appeal to determine whether solar arrays are a principal use under Article 8-22(b)(4) "Other industrial and manufacturing uses" in a Light Industrial (I-1) zone, on property located at 251 W. Loudon Ave. (Council District 1)

The Staff Recommends: Approval, for the following reasons:

- a. Solar arrays are a low impact form of power generation, which generally do not create significant hazards that could impact public health, safety, or welfare. They do not involve a potential nuisance in terms of smoke, noise, odor, vibration, heat, light, or industrial waste. Solar arrays that are installed to generate electricity beyond what is needed for private use, to serve a commercial purpose, are an industrial use and are not appropriate in non-industrial zones. This use best fits into the category of "other industrial and manufacturing uses" as listed in Article 8-22(b)(4) and should first be allowable in the Light Industrial (I-1) zone. Solar arrays which only generate electricity to serve the principal use of the property on which they are installed are allowable as an accessory use in other zones.

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 September 13, 2021, at 1:30 p.m. in the Council Chambers at 200 E. Main St.

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