

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

November 8, 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 October 11, 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-21-00057: HILLS PROPERTIES** – requests a variance to increase the maximum number of parking spaces allowed from 230 spaces to 236 spaces for a multi-family residential development in a Commercial Center (B-6P) zone, on property located at 3151 Mapleleaf Drive. (Council District 7).

The Staff Recommends: Disapproval, for the following reasons:

- The requested variance does not arise from special circumstances that do not generally apply to land in the general vicinity, or in the same zone. The applicant has not provided specific reasons that justify the need for the additional six requested parking spaces.
- The strict application of the Zoning Ordinance will not deprive the applicant of the reasonable use of the land or create an unnecessary hardship. The applicant is taking advantage of the provisions allowing for unlimited structured parking by providing 188 garage parking spaces in addition to the maximum allowable surface parking. Without the requested variance, 418 parking spaces will be provided, which is 1.8 parking spaces per unit dwelling. Additionally, public transit is available in the immediate vicinity with the nearest Lextran bus stop being located approximately one-tenth of a mile from the subject property.

2. **PLN-BOA-21-00060: NEW LEXINGTON CLINIC PSC** – requests a variance to increase the allowable height of a free-standing sign from 10' to 10'8" in a Professional Office (P-1) zone, on property located at 1221 S. Broadway. (Council District 11)

The Staff Recommends: Disapproval, for the following reasons:

- The applicant has not provided a sufficient justification to meet the requirements of Article 7 of the Zoning Ordinance or KRS 100.243. There do not appear to be special circumstances that are unique to the subject property that do not generally apply to land in the general vicinity, or in the same zone that justify the need for the variance.
- The applicant has not provided sufficient information to determine that strict enforcement of the Zoning Ordinance will result in an unnecessary hardship or deprive the applicant of the reasonable use of their land. It appears that the height of the sign could be modified to meet the requirements of the Zoning Ordinance without resulting in a significant change in visibility.

3. **PLN-BOA-21-00064: LFUC HOUSING AUTHORITY** – requests 1) variances to reduce the required front yards from 30' to 20' for lots 1-26 and 2) variances to reduce the required side street side yards from 30' to 20' for lots 5 and 22 in order to construct 26 new duplexes in a Two-Family Residential (R-2) zone, on property located at 1604 Versailles Rd. (Council District 11)

The Staff Recommends: Disapproval, for the following reasons:

- There do not appear to be any special circumstances that are unique to the subject property and do not generally apply to land in the general vicinity, or in the same zone. The subject property is a regular shape and there appear to be no topographic reasons that would necessitate the variances.

- b. Strict application of the Zoning Ordinance would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant. There is sufficient space to construct the proposed dwelling units without the desired variances.
- c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the portion of the property that the applicant is proposing for duplexes is largely undeveloped, and there appear to be options for other configurations.

D. Conditional Use Appeals

1. **PLN-BOA-21-00059: THE CHURCH IN LEXINGTON INC** – requests a conditional use for a place of religious assembly in order to construct a church in Agricultural Urban (A-U)/Single Family Residential (R-1C) zones, on property located at 1220 and 1250 Higbee Mill Rd. (Council District 9)

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

- d. Approval of the proposed conditional use should not adversely affect the subject or adjoining/nearby properties, provided that all necessary permits and approvals, including a stormwater management plan are secured prior to construction and occupancy.
- e. While there are several churches in the immediate vicinity, the applicant is proposing a church for a relatively modest congregation. Although they plan to increase their number of participants over time, it is unlikely that the proposed church would create traffic issues in the neighborhood.
- f. 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 property shall be developed and operated in accordance with the submitted application materials and site plan, subject to any alterations required throughout the permitting process.
2. All necessary permits and/or approvals shall be obtained from the Divisions of Planning, Building Inspection, and Engineering, as well as necessary state and federal agencies, prior to construction and occupancy.
3. The final configuration of the parking areas shall be subject to approval by the Division of Traffic Engineering.
4. The parking areas shall be paved, with spaces delineated, and landscaped/screened in accordance with the requirements of Article 16 and 18 of the Zoning Ordinance.
5. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
6. 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.

2. **PLN-BOA-21-00061: BOARD OF TRUSTEES OF FIRST UNITED METHODIST CHURCH** - requests a conditional use to expand the existing place of religious assembly in order to construct an open-air pavilion in an Agricultural Rural (A-R) zone, on property located at 3801 Polo Club Blvd. (Council District 12)

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

- g. Approval of the expansion of a conditional use in order to construct an outdoor pavilion should not adversely affect the subject or adjoining/nearby properties. The proposed structure is well within the size limitation for such structures, will meet all setback requirements, and will be located outside of utility easements.
- h. Approval of the request will not result in an increase in traffic on the site and adequate parking exists.
- i. 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:

7. The pavilion shall be constructed and operated in accordance with the submitted application materials and site plan.
8. All necessary permits and/or approvals shall be obtained from the Divisions of Planning and Building Inspection prior to construction and use of the pavilion.

3. **PLN-BOA-21-00062: MOM MOM'S LAVENDER** – requests a conditional use for agritourism activities in order to establish a farm gift shop in an Agricultural Rural (A-R) zone, on property located at 1061 S. Cleveland Rd. (Council District 12)

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

- a. Approval of the proposed conditional use should not adversely affect the subject or adjoining/nearby properties. The use will provide additional revenue for a small farm and allow members of the public a means to experience the Rural Service Area.
- b. The proposed use should not generate a significant amount of traffic and will likely be a complement to other agritourism activities (wineries) in the vicinity.
- c. 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 property shall be developed and operated in accordance with the submitted application materials and an amended site plan.
 2. The proposed barn/gift shop building shall have a front setback at or greater than the existing dwelling unit's front yard setback.
 9. The septic system shall be reviewed and approved, as necessary, by the Fayette County Board of Health.
 10. All parking areas shall be designed in accordance with the recommendations of the Division of Traffic Engineering.
 11. All necessary permits and/or approvals shall be obtained from the Divisions of Planning and Building Inspection prior to construction and occupancy.
4. **PLN-BOA-21-00063: CHENAULT INTERESTS LTD** – requests a conditional use for drive-through facilities and a variance to increase the maximum allowable front yard setback from 20' to 54' in order to construct a new restaurant in a Neighborhood Business (B-1) zone, on property located at 2191 Nicholasville Rd. (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 B-1 zone, nor the recommendations of the Imagine Nicholasville Road corridor study. However, redesigned facilities, which take into account pedestrian access, neighborhood integration, and the recommendations of the Imagine Nicholasville Road corridor study could be appropriate in this location.

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

A. Consideration of the 2022 Board of Adjustment Meeting and Filing Schedule.

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 December 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.