

MINUTES FOR THE BOARD OF ADJUSTMENT MEETING

April 11, 2022

- I. **CALL TO ORDER** – Chair Glover called the meeting to order at 1:30 p.m. in the Council Chamber, 200 E. Main St., Lexington, KY 40507.
- II. **ATTENDANCE** - Members present were: Raquel Carter, Harry Clarke, Thomas Glover, Branden Gross, Chad Needham, Chad Walker and Joan Whitman. Others present were: Tracy Jones, Department of Law and Josh Dezarn, Division of Engineering. Planning staff members present were: Autumn Goderwis, Hal Baillie, Daniel Crum, Meghan Jennings and Donna Lewis
- III. **APPROVAL OF MINUTES** – Mr. Glover announced that the minutes from the March 14, 2022 meeting were not available for approval at this time and would be considered for approval at the May 9, 2022 meeting.

IV. PUBLIC HEARING ON ZONING APPEALS

- A. **Swearing of Witnesses** – Mr. Glover announced that any applicant or objector to any appeal before the Board who wished to speak, would be sworn in at this time. The oath was administered to the individuals in the audience and staff who were planning to speak.
- B. **Sounding the Agenda** - In order to expedite completion of agenda items, Mr. Glover sounded the agenda with regard to any postponements, withdrawals, and items requiring no discussion.

There were no postponements or withdrawals.

C. Variance Appeals

1. **PLN-BOA-22-00008: ANITA KAY SEXTON**– requested a variance to reduce the required front yard setback from 65' to 25' in order to construct an addition to an existing single family dwelling unit in a Single Family Residential (R-1A) zone, on property located at 1843 Parkers Mill Rd. (Council District 10)

The Staff Recommended: Approval, for the following reasons:

- Granting the variance should not adversely affect the public health, safety, or welfare of the general vicinity, nor alter the character of the general vicinity. The proposed addition should have little visual impact along the public right-of-way due to the abundant foliage and topography surrounding the subject property.
- The topography of the site is a special circumstance that is unique to the subject property and justifies the need for the variance.
- Strict application of the Zoning Ordinance would create an unnecessary hardship for the applicant due to the high costs associated with constructing an addition on steep slopes. Additionally, strict application would require an addition to be offset from the existing front wall plane, which would likely create design challenges in constructing a functional addition related to the existing interior configuration of the house.
- The granting of this variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the applicant has applied for the necessary variance as soon as it was determined that it was needed, and prior to beginning construction.

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

- Construction shall be in accordance with the submitted application materials and site plan, except for necessary changes to the proposed paving.
- All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction.

Representation – Mr. Peter Ecabert, attorney, was present on behalf of the applicant, and he explained the applicant's request for the variance. The applicant, Ms. Anita Kay Sexton, was also present.

Board comments and questions - Mr. Glover had questions about the irregularity of the property lines. Mr. Ecabert and Ms. Sexton agreed that the property lines are irregular and added that they had hired a surveyor to determine the accuracy of property lines prior to beginning the proposed project. There was some discussion.

Action – A motion was made by Mr. Needham, seconded by Ms. Whitman and carried 7-0 to **approve PLN-BOA-22-00008: ANITA KAY SEXTON** – request for a variance to reduce the required front yard setback from 65' to 25' in order to construct an addition to an existing single family dwelling unit in a Single Family Residential (R-1A) zone, on property located at 1843 Parkers Mill Rd., based on staff's recommendation and subject to the two conditions as listed.

2. **PLN-BOA-22-00007: KAREN E. AND MICHAEL PRUITT** – requested a variance to reduce the required front yard setback from 150' to 107' in order to construct a new single-family dwelling unit in an Agricultural Rural (A-R) zone, on property located at 351 Canebrake Dr. (Council District 12)

The Staff Recommended: 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. While the creek does limit the ability of the applicant to use portions of the property for the proposed single-family use, there is sufficient buildable area northeast of the creek to accommodate the home as proposed without the need for a variance.
- The requested variance could have an impact on future development in the immediate vicinity by altering the existing and planned character of the general vicinity as there are several undeveloped lots remaining along this portion of Canebrake Drive and Canebrake Court with 150-foot platted building lines.
- 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. The proposed single-family residence could be constructed without a variance by shifting its location to the northern portion of the property.

Staff Presentation – Mr. Daniel Crum directed the Board's attention to the overhead screen on which he displayed aerial views of the subject property. Copies were distributed to the Board members. He gave an overview of the location of the property and briefly explained its topography. Mr. Crum explained staff's reasons for recommending disapproval of this application for a variance. He explained that staff had proposed an alternate location for the proposed building site and listed the reasons why this location would be more appropriate per the Zoning Ordinance.

Board comments and questions - Mr. Needham asked if the alternative location was determined by staff. Mr. Crum replied that it was and that the applicant would be able to obtain a building permit for that location with no variance at all.

Representation - Mr. Chase Jones, builder, was present on behalf of the applicant and explained the various reasons that the applicant did not wish to build on the location recommended by staff. He added that at some point, the applicant wished to build a pool and wished for more privacy than the alternative location would allow. Mr. Glover asked Mr. Jones if there was any reason why they could not build at the alternate location, other than the fact that they did not want to build there. Mr. Jones replied that there was nothing limiting the applicant to their desired location; just the potential future development of the property, with a potential pool and not being so close to the neighboring property. There was further discussion on an alternate location for the prospective building, as well as how close the proposed building site and the alternate building site would be to the creek on the property. Mr. Clarke asked if there was any documentation as to whether there was flooding on the property. Mr. Jones stated there is no such documentation.

Ms. Carter stated she would like to confer with the Law Department to discuss findings for a motion of approval.

*Note - The Board took a short break at 2:06 p.m. and reconvened at 2:17 p.m.

Action – A motion was made by Ms. Carter, seconded by Mr. Clarke and carried 5-2 (Glover and Whitman were opposed), to **approve PLN-BOA-22-00007: KAREN E. AND MICHAEL PRUITT** – request for a variance to reduce the required front yard setback from 150' to 107' in order to construct a new single-family dwelling unit in an Agricultural Rural (A-R) zone, on property located at 351 Canebrake Dr., based on the testimonies heard and the following findings:

- The variance request is generally reasonable because a 50' vegetative buffer is required along the creek.
- The property is bisected by a creek which significantly limits the buildable area of the property as compared to other lots in the vicinity.
- The requested variance does not represent a circumvention of the Zoning Ordinance because the applicant has sought the necessary variance prior to applying for a building permit.

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

- Construction shall be in accordance with the submitted application materials and site plan.

2. All necessary permits and approvals from the Division of Building Inspection shall be secured prior to construction.

D. Conditional Use Appeals

There were no Conditional Use Appeals for consideration at this time.

E. Administrative Appeals

There were no Administrative Appeals for consideration at this time.

IV. BOARD ITEMS – Mr. Glover announced that any items a Board member wished to present would be heard at this time.

Mr. Glover mentioned that there is a vacancy on the Landscape Review Committee. Ms. Jennings added that the vacancy is for a Horticulturalist or a Nurseryman. Mr. Glover asked if that was an appointment by the Board. Ms. Jennings replied that it was. Mr. Glover said he knew of someone that may be interested in filling the vacancy.

V. STAFF ITEMS – Mr. Glover announced that Hal Baillie, Senior Planner and Autumn Goderwis, Administrative Officer with the Division of Planning would be making presentations to the Board at this time.

Staff Presentations – Mr. Baillie gave an overview of the Zoning Ordinance and Lexington's future. He informed the Board members that as this was considered a training exercise, this time could be counted towards their Continuing Education credits. He also gave an explanation of Lexington's Comprehensive Plan and how it and the Zoning Ordinance relate to one another. Mr. Baillie explained the meaning of the Infill and Redevelopment Area, which is referred to quite often in applications that come before the Board. He also gave an overview of Zoning Ordinance Text Amendments (ZOTA's).

Ms. Goderwis presented an update on relevant Zoning Ordinance Text Amendments and explained some of the updates to the Zoning Ordinance as called for by the 2018 Comprehensive Plan's action items. She listed the ZOTA's that the Planning Commission and Urban County Council have approved since 2019, and explained the six most relevant to the Board of Adjustment. Ms. Goderwis answered questions from the Board regarding these ZOTA's.

VI. NEXT MEETING DATE – Mr. Glover announced that the next meeting date would be May 9, 2022 at 1:30 p.m. in Council Chambers, 2nd Floor, 200 E. Main St., Lexington, KY 40507.

VII. ADJOURNMENT – As there was no further business, Mr. Glover declared the meeting adjourned at 3:15 p.m.

Thomas Glover, Chair

Raquel Carter, Secretary