

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

June 13, 2022

- 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 May 9, 2022 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-22-00021: KEITH JONES** – requests a variance to reduce the required front yard setback from thirty feet (30') to twenty feet (20') in order to construct a single-family residence on property located within the defined Infill and Redevelopment Area in a Two-Family Residential (R-2) zone, on property located at 765 Whitney Ave. (Council District 2)

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

- a. 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 variance will result in construction that is consistent with the existing neighborhood character as other homes in the general vicinity have similar front yard setbacks.
- b. The granting of this variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance. The intent of the Infill and Redevelopment regulations is to allow new construction that is compatible with existing development patterns in older, established neighborhoods. The Zoning Ordinance specifically states that BOA action may sometimes be required in order to facilitate appropriate development without creating an unusual hardship or development that is incompatible with the existing pattern of the neighborhood. Additionally, 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 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.
2. **PLN-BOA-22-00022: HARPER WOODS** – requests a variance to reduce the required building setback from a floodplain, from twenty-five feet (25') to five feet (5') in order to build single-family homes on property located in a Planned Neighborhood Residential (R-3) zone, on property located at 3509, 3513, 3573, 3577 Harper Woods Ln. and 2311 Armstrong Mill Rd. (Council District 8)

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

- a. 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 floodplain does limit the ability of the applicant to build in the rear portion of the properties, the applicant was aware of the floodplain setback at the time of the initial rezoning and preliminary subdivision plan, and has the flexibility to mitigate its impact.
- b. 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. By altering the lot pattern or structure size, the applicant could utilize the subject properties for the intended single family residential development.

3. **PLN-BOA-22-00025: OSCAR AND JULIE VARGAS** – request variances to a) reduce the rear yard setback from twenty-five feet and two inches (25'-2") to one foot and six inches (1'-6"); b) reduce the side street side yard setback from thirty feet (30') to nineteen feet and six inches (19'-6"); and c) reduce the side yard setback for a deep building from eight feet and four inches (8'-4") to six feet (6') in order to construct additions on property located in a Two-Family Residential (R-2) zone, on property located at 255 Irvine Rd. (Council District 5)

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

- a. Granting the variances should not adversely affect the public health, safety, or welfare of the general vicinity, nor alter the character of the general vicinity. The proposed construction that will improve the character of the property and will be in keeping with other residential structures in the general vicinity and along Irvine Road and Slashes Road.
- b. The restrictive platted building line setbacks as well as the configuration of the existing addition and carport are special circumstances that justify the need for the variances.
- c. The granting of these variances 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 is made subject to the following conditions:

1. The additions shall be constructed 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.

4. **PLN-BOA-22-00027: RLV VENTURES** – requests variances to reduce the front yard setback from twenty feet (20') to thirteen-and-a half feet (13'-6") and reduce the side yard setback for deep buildings from six-feet, five inches (6'-5") to three feet (3') in order to construct single-family homes on properties located within the defined Infill and Redevelopment Area in a High Density Apartment (R-4) zone, on property located at 430, 434, 438, 440, 444, 446, 448 Jefferson St. and 451 Smith St. (Council District 1)

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

- a. There are special circumstances that justify the need for the requested variances. The subject properties are narrow lots that were created prior to the creation of the current development standards.
- b. The requested variances are generally reasonable and their approval will allow the applicant to utilize currently vacant lots within the Infill & Redevelopment Area for needed housing.
- c. Granting the variances will not result in construction that is out of character with the general vicinity. Other homes in the general vicinity are set back a similar distance from the front and side property lines.
- d. The variance request does not attempt to circumvent the provisions of the Zoning Ordinance. The intent of the Infill and Redevelopment regulations is to allow new construction that is compatible with existing development patterns in older, established neighborhoods. The Zoning Ordinance specifically states that BOA action may sometimes be required in order to facilitate appropriate development without creating an unusual hardship or development that is incompatible with the existing pattern of the neighborhood. Additionally, the applicant has applied for the variances as soon as it was determined that they were needed, prior to starting 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-22-00015: LITTLE CAESARS (AMENDED)** – requests a conditional use to establish drive-through facilities in a Neighborhood Business (B-1) zone, on property located at 269 Southland Dr. (aka 271 Southland Dr.) (Council District 10)

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

- a. A drive-through facility for a proposed restaurant at this location should not adversely affect the surrounding properties. The subject property has recently operated with a drive-through window, and the drive-through facility will be visually screened from adjacent residential properties by vegetation and fencing to the rear of the site.
- b. The proposed drive-through facility should not have adverse effects on traffic at this location. Adequate vehicular stacking along the rear portions of the structure will be provided to accommodate the Little Caesar's commercial traffic. Furthermore, as the subject property derives access from a service road, the proposed drive-through facility traffic should have a minimal impact on traffic on Southland Drive.
- 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 property shall be operated in accordance with the submitted application materials and site plan, subject to revisions to the site plan as deemed necessary during the permitting process.
 2. All vehicular use areas shall be designed in accordance with the recommendations of the Division of Traffic Engineering.
 3. All necessary permits and/or approvals shall be obtained from the Divisions of Planning, Building Inspection, and Traffic Engineering, as well as necessary state agencies, prior to occupancy.
 4. All exterior lighting shall be directed away from any adjoining residential property.
 5. The applicant shall maintain a 6-foot tall, solid fence at the rear property line.
2. **PLN-BOA-22-00020: NEW LIFE BAPTIST CHURCH** – requests to amend an existing conditional use for a place of religious assembly in order to modify landscaping conditions on property located within a Single-Family Residential (R-1C) zone, on property located at 333 Redding Rd. and 3457 Bellmeade Rd. (Council District 4)

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

- a. Requiring the 3-foot (3') tall privet hedge is in keeping with current minimum VUA perimeter landscaping requirements as well as the previously approved conditional use. The required hedge will provide appropriate screening of the vehicular use area to the neighboring properties. Proper maintenance of the hedge to an average height of 3ft should mitigate visibility issues and safety concerns.
3. **PLN-BOA-22-00026: ANDERSON COMMUNITIES, INC** – requests a conditional use permit for outdoor recreational facilities (soccer fields) on property located in an Agricultural Rural (A-R) zone, on property located at 2501 Russell Cave Rd. (Council District 12)

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

- a. The relationship between the proposed recreational fields and the anticipated commercial stadium needs to be further clarified and the separation between the uses more clearly delineated.
- b. The proposed parking area is out of scale for the size of the proposed use.
- c. Additional screening and landscaping is necessary in order to screen the use and parking areas from adjacent properties.
- d. The applicant should consider reconfiguring the site access to provide a more direct route for emergency services to the use.

E. Administrative Appeals

1. **PLN-BOA-22-00023: WAYNE MICHAEL PROPERTIES, LLC & WALTER P. GLOVER ENTERPRISES** – request a third party appeal to contest the Division of Planning's issuance of a Zoning Compliance Permit for a rehabilitation home based on an existing conditional use permit on property located within the defined Infill and Redevelopment Area in a Planned Neighborhood Residential (R-3) zone, on property located at 866 S. Broadway. (Council District 10)

The Staff will present the details of the appeal at the public hearing without recommendation.

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

A. Appoint a new member to the Landscape Review Committee.

The Division of Environmental Services submitted a recommendation to appoint Todd Kelly to the Landscape Review Committee, to fill the position of Nurseryman Representative, vacated by Louis Hillenmeyer, III on 11/30/2021.

B. Election of Officers –

Since Mr. Glover will be vacating the position of Chair, a new Chair shall be elected.

The current officers are:

Chairperson – Thomas Glover
Vice-Chairperson – Chad Needham
Secretary – Raquel Carter

V. **STAFF ITEMS** - The Chair will announce that any items a Staff member wishes to present will be heard at this time.

A. **Acknowledgement of Retiring Board Members Thomas Glover and Joan Whitman**

Thomas Glover has fulfilled three terms of service with the Board of Adjustment for a total of twelve years, with his final term ending June 30, 2022.

Joan Whitman has fulfilled two terms of service with the Board of Adjustment for a total of eight years, with her second term ending June 30, 2022.

VI. **NEXT MEETING DATE** - The Chair will announce that the next meeting date will be July 11, 2022 at 1:30 p.m. in Council Chambers, 2nd Floor, 200 E. Main St., Lexington, KY 40507.

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