

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

July 11, 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 June 13, 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-22-00022: 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 them of the reasonable use of their land. By altering the lot pattern or building size, the applicant could utilize the subject properties for their intended single family residential development without a variance.

2. **PLN-BOA-22-00024: RICH MAINS** – requests a variance to increase the allowable floor area ratio (FAR) from 0.35 to 0.55 on property located in the Infill and Redevelopment Area and a Historic District Overlay (H-1) in a Two-Family Residential (R-2) zone, on property located at 625 Sayre Avenue. (Council District 3)

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 proposed two-story garage with accessory living quarters will be located to the rear of the property and should have little to no impact on the appearance of the property from the public right-of-way.
- b. The variance request is generally reasonable, as 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. The proposed construction is compatible with the existing neighborhood, as each of the five lots on the northern side of Sayre Avenue between East Bell Court and the 90-degree turn in Sayre Avenue have existing floor area ratios exceeding that allowed by the Zoning Ordinance, with a range from 0.4 to 0.7.
- c. The variance request does not attempt to circumvent the provisions of the Zoning Ordinance because the requested Floor Area Ratio will not result in an increase in density in this location and 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.
 3. The accessory living quarters shall not contain kitchen facilities and shall not be rented.
3. **PLN-BOA-22-00029: HEIDI FRAZIER** – requests a variance to increase the allowable height of a fence in the front yard from four feet (4') to six feet (6') on property located in a Single-Family Residential (R-1C) zone, on property located at 143 E. Lowry Lane. (Council District 3)

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. Four-foot tall fences in the front yard are typical across residential zones.
- 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. Fencing at the applicant's proposed height could be installed within the rear yard and side yard, up to the front wall plane of the home without the need for a variance. Alternatively, the applicant could reduce the height of the fence to four feet where located in front of the primary wall plane in order to enclose the desired area without a variance.
- c. Approval of the requested variance could have a negative impact on the walkability of the immediate vicinity, as the property is located at a transitional point between the residential neighborhood and the neighborhood-serving commercial businesses to the west. Best practices regarding sidewalk design often discourage tall fences adjacent to pedestrian facilities, as pedestrians do not feel comfortable walking directly adjacent to a building wall or a fence.

D. Conditional Use Appeals

1. **PLN-BOA-22-00028: KEENELAND ASSOCIATION** – requests to amend an existing conditional use for a horse race track with accessory facilities in order to expand dining facilities at the Thoroughbred Club in the Agricultural Rural (A-R) zone, on property located at 3555 Rice Road. (Council District 12)

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

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. There are no uses on adjoining or nearby properties that might be adversely impacted by the building expansion or outdoor patio addition, and the proposed improvements will enable Keeneland to provide better service to its patrons and clientele.
- b. The proposed building expansion and patio will be screened from view from the public right of way by existing trees and landscaping to the south.
- c. All necessary public and private services are available and adequate for the proposed use.

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

1. The project shall be completed in accordance with the submitted application materials and site plan.
2. All necessary permits and approvals shall be obtained from the Divisions of Planning, Building Inspection, and Engineering prior to construction.

2. **PLN-BOA-22-00030: CENTRAL BAPTIST CHURCH** – requests a conditional use permit to establish a school for academic instruction (seminary) in conjunction with an existing place of religious assembly on property located in a Planned Neighborhood Residential (R-3) zone, on property located at 110 Wilson Downing Road. (Council District 4)

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

- a. The proposed use should not adversely affect the subject or adjoining/nearby properties. The use will be located in the existing building. Church properties are typically not used throughout the week, so are generally well-suited for this type of use.
- b. More than adequate parking exists and is available on the subject property during the week.
- 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 school for academic instruction (seminary) shall be conducted in accordance with the submitted application materials and site plan.
2. All necessary permits, including a Zoning Compliance Permit and a Certificate of Occupancy, shall be obtained prior to the commencement of this use.
3. The days and hours of operation shall not exceed Monday through Friday, from 7:00 a.m. to 9:00 p.m. without further approval by the Board of Adjustment.

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

A. **Presentation of Resolutions to 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.

V. **NEXT MEETING DATE** - The Chair will announce that the next meeting date will be August 8, 2022 at 1:30 p.m. in Council Chambers, 2nd Floor, 200 E. Main St., Lexington, KY 40507.

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