

AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

August 8, 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, June 28, 2022 and July 11, 2022 meetings 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-22-00031: DISTINCTIVE DESIGN REMODELING** – requests a variance to reduce the rear yard setback from twenty (20) feet to eight (8) feet in order to construct additions to a single-family residence in a Residential Planned Unit Development (PUD-1) zone, on property located at 1712 Kenning Place. (Council District 9)

The Staff Recommends: **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 to the surrounding properties as the proposed addition will involve the conversion of an existing sunroom to livable square footage.
- The restrictive size of the lot, the platted building lines, and twelve (12) foot sanitary sewer easement on the subject property are special circumstances that justify the need for the variance, as the property's buildable envelope is limited.
- The granting of this variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance as the applicant has applied for the variance as soon as it was determined that it was needed during the permit process, and prior to beginning construction.

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

- The addition shall be constructed in accordance with the submitted application materials and modified site plan.
- All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction.

2. **PLN-BOA-22-00032: AARON AND MEGHANN BIDARIAN** – request a variance to reduce the side yard setback from twenty-five (25) feet to ten (10) feet in order to construct a single-family residence in an Agricultural Rural (A-R) zone, on property located at 1440 Deer Haven Ln. (Council District 12)

The Staff Recommends: **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 reduced side yard setback will not visually impact the surrounding properties as the closest neighboring principal structures are located over one-hundred and fifty (150) feet from the proposed residence.
- The non-conforming size of the lot in an Agricultural Rural (A-R) zone 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 required setbacks being more restrictive on the subject property than other lots in the same zone. Additionally, if urban zoning standards were applied to the subject property, the lot would meet the standards for a Single-Family Residential (R-1A) zone, which only requires ten (10) foot side yards, as well as the recommended Expansion Area Residential 1 (EAR-1) zone, which only requires five (5) foot side yards.
- 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 is made subject to the following conditions:

1. The front-facing garage shown on the submitted site plan shall be relocated to the side or rear of the structure in order to allow the two garages to share one driveway, and no additional paving for vehicular use area shall be permitted in front of the front wall-plane of the house.
 2. Construction shall be in accordance with the submitted application materials and a modified site plan reflecting condition #1.
 3. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction.
3. **PLN-BOA-22-00034: PALMER ENGINEERING** – requests a variance to increase the allowable height of a fence in the front yard from four (4) feet to six (6) feet, within the defined Infill and Redevelopment Area in a Highway Service Business (B-3) zone, on property located at 1001 and 1003 Winchester Rd. (Council District 1)

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.
 - 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 is permitted within the rear yard and side yard, up to the front wall plane of the structure 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. The applicant's proposal is out of character for this area, as no other properties along Winchester Road in this vicinity have any form of front yard fencing.
4. **PLN-BOA-22-00036: BURR OAK CAPITAL** – requests a variance to reduce the side yard setback from three (3) feet to zero (0) feet, in order to construct additions to an existing, legally non-conforming structure within the defined Infill and Redevelopment Area in a Planned Neighborhood Residential (R-3) zone, on property located at 407 E. Fifth St. (Council District 1)

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 as it will allow the applicant to modernize an existing dwelling unit within the defined Infill & Redevelopment Area.
- b. Granting the requested variance should not have an adverse effect on the surrounding area. The construction is in keeping with other residential structures in the general vicinity. The general vicinity is characterized by similar lots and the requested setback will be similar to other setbacks in the area.
- c. The size of the lot and the existing configuration of the structure on the property are special circumstances that justify the need for the variance. Granting the variance will permit the applicant to increase the livable square footage of the existing structure on a lot of constricting size.
- d. 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 Area 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.

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

1. The additions shall be permitted 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 the completion of construction.

D. Conditional Use Appeals

1. **PLN-BOA-22-00035: CARMAN LEWIS** – requests a conditional use permit in order to operate a home-based beauty salon within the defined Infill and Redevelopment Area in a Planned Neighborhood Residential (R-3) zone, on property located at 240 Race St. (Council District 1)

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

- a. Granting the requested conditional use should not adversely affect the subject or surrounding properties, as it should not create disturbing levels of traffic, noise, or odors. Adequate off-street parking is available to serve the limited number of customers to the home on a daily and weekly basis.
- b. All necessary public facilities and services are available and adequate for the proposed use.

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

1. The home-based hair salon business shall be operated in accordance with the submitted application materials and site plan, with appointments only on an individual basis.
2. The use shall operate in accordance with the requirements of the Kentucky Board of Cosmetology.

3. All necessary permits including a Zoning Compliance Permit and a Certificate of Occupancy shall be obtained from the Divisions of Planning and Building Inspection prior to initiation of the use.
4. The conditional use shall become null and void should the applicant no longer reside at this address.

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.

A. **Presentation of Resolution to Retiring Board Member/Chair Thomas Glover**

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.

VI. **NEXT MEETING DATE** - The Chair will announce that the next meeting date will be September 12, 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.