

**AGENDA FOR THE BOARD OF ADJUSTMENT
MEETING**

October 10, 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 September 12, 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-22-00048: TRAVIS ISON** – requests a variance to reduce the required front yard setback from three hundred (300) feet to one hundred and fifty (150) feet in order to construct a single-family home in an Agricultural Rural (A-R) zone, on property located at 5501 Haley Downs Dr. (Council District 12)

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 reduced front yard setback is in keeping with the average setbacks of the other residential structures along Haley Downs Drive.
 - b. While there do not appear to be special circumstances that justify the need for the variance and the proposed structure could be constructed at the required 300-foot setback without creating a hardship for the applicant, the request is generally reasonable as it will allow for similar construction to the existing residential structures nearby on Haley Downs Drive.
 - c. 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. Construction shall be in accordance with the submitted application materials and site plan.
 2. An Administrative Action Minor Subdivision Plat to amend the setback shall be filed with the Division of Planning and recorded prior to a building permit being issued.
 3. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction.
 2. **PLN-BOA-22-00049: ISAAC BLANFORD** – requests a variance to reduce the required front yard setback from three hundred (300) feet to two hundred and thirty (230) feet in order to construct a single-family home in an Agricultural Rural (A-R) zone, on property located at 5867 Athens Walnut Hill Pike. (Council District 12)

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. This area was subdivided prior to the adoption

of the current Zoning Ordinance; consequently, numerous properties in the vicinity are legally nonconforming with respect to current lot sizes or have front building setbacks that are significantly closer to the Athens Walnut Hill Pike than the proposed residence.

- b. Due to the property's non-conforming size and the large portions of wooded area to the rear of the property, the applicant is limited in where they can place the home and establish their proposed agricultural use.
- c. Placing the home at the proposed setback would allow it to be the primary visual focal point of the property, not the existing accessory barn.
- d. 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. 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.

D. Conditional Use Appeals

1. **PLN-BOA-22-00033: KENTUCKY EPSILON PHI DELTA THETA HOUSE CORPORATION** – requests a conditional use permit for an eighteen (18) bed fraternity house within the defined Infill and Redevelopment Area in a High Density Apartment (R-4) zone, on property located at 236 Lexington Ave. (Council District 3)

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

- a. The proposed use would likely have adverse effects on the subject and adjoining/nearby properties. The proposed use would increase the intensity of use and density of the property, and likely create a nuisance for the neighborhood. There are several other fraternity houses in the general vicinity, and the concentration of this type of use has resulted in enforcement issues. The events associated with a fraternity house are not suitable for the proposed location as there is an existing concentration of dense multi-family housing immediately adjacent to the subject property.
2. **PLN-BOA-22-00045: INDEPENDENCE BANK** – requests a conditional use to establish drive-through facilities for a proposed bank within the defined Infill and Redevelopment Area in a Downtown Business (B-2) zone, on property located at 366, 370, and 376 E. Main St. (Council District 3)

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

- a. The applicant has not provided sufficient evidence that the proposed use will not have an adverse influence on the subject property or the surrounding neighborhood. Drive-through facilities are not appropriate for the subject property due to adversely affecting vehicular traffic and pedestrian safety along the Main Street and Water Street frontages and the recently constructed Town Branch Commons.
 - b. Drive-through facilities are no longer appropriate in this location due to the change in development context of the general vicinity and a significant increase in pedestrian and multi-modal users immediately adjacent to the subject property.
 - c. The subject property is unique in shape, access, and location, and drive-through facilities cannot be properly integrated into the downtown community at this location.
3. **PLN-BOA-22-00046: LAUREN GILBERT** – requests a conditional use permit in order to operate a home-based concierge medical consulting business in a Two-Family Residential (R-2) zone, on property located at 165 Walton Ave. (Council District 3)

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. The proposed use is more accurately described as an administrative office, rather than a medical office. Consultations will be by appointment only and will include a limited scope of services. Adequate off-street parking is available to serve the limited number of clients 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 medical consulting business shall be operated in accordance with the submitted application materials and site plan, with appointments only on an individual basis.
 2. The operation of the administrative office shall be confined to within the home and limited to 300 square feet of the residence.
 3. Activities conducted during client visits to the residence should be limited to those also available via telemedicine visits. This may include monitoring of existing health conditions, prescription (but not administering) of medication, evaluation of lab results from diagnostic testing conducted elsewhere, etc. The use of some small medical devices such as weight scales, pulse oximeters, blood glucose meters, and blood pressure monitors may be appropriate. No physical examinations requiring special equipment or diagnostic testing requiring lab confirmation or that produces infectious or hazardous medical waste shall be conducted in the residence.
 4. 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.
 5. The conditional use shall become null and void should the applicant no longer reside at this address.
4. **PLN-BOA-22-00047: KIM BRAGG** – requests a conditional use to establish drive-through facilities accessory to a gas station in a Neighborhood Business (B-1) zone, on property located at 2312 Versailles Rd. (Council District 11)

The Staff Recommends: Postponement, for the following reasons:

- a. While a drive-through may be appropriate in this location, the applicant has not provided sufficient evidence that the proposed use will not have an adverse influence on the subject property or the surrounding neighborhood. Staff has concerns that, as currently depicted, the proposed drive-through facility may adversely affect traffic and internal circulation at this location. Inclusion of a physical delineation for the drive-through lane would lessen potential stacking conflicts.
 - b. The proposed configuration of the drive-through relative to the existing refueling connections will likely create a conflict between fuel trucks and drive-through users. There does not appear to be sufficient space for fuel trucks to access the refueling connections, especially with a physically delineated drive-through lane.
 - c. The proposed plan does not meet screening and landscaping requirements as listed in Article 18 of the Zoning Ordinance.
5. **PLN-BOA-22-00050: REDWOOD COOPERATIVE SCHOOL, INC.** – requests to amend an existing conditional use for a school for academic instruction in order to construct and occupy an additional educational building in a Single Family Residential (R-1C) zone, on property located at 166 Crestwood Drive. (Council District 3)

The Staff Recommends: Postponement, for the following reasons:

- a. The proposed site plan does not meet current parking requirements. The applicant will need to address alternative solutions for providing their required parking.
- b. Existing and proposed landscaping elements are not clearly defined on the submitted site plan. Due to the proposed increase in intensity of the school's use along the northern property line, staff recommends that additional buffering be provided between the proposed building and the adjacent R-1C zoned lots.

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.

VI. **NEXT MEETING DATE** - The Chair will announce that the next meeting date will be November 14, 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.

The media and public may view the hearing on LexTV Spectrum channel 185, MetroNet channel 3, or via live stream at the following link: http://lfucg.granicus.com/MediaPlayer.php?publish_id=12

For further information on these matters, or for persons with a disability who may need assistance in order to participate in the above meeting, please contact the Division of Planning, 101 E. Vine St., Lexington, KY, at 859-258-3160.

