

**AGENDA FOR THE BOARD OF ADJUSTMENT  
MEETING**

December 12, 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 November 14, 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-22-00051: JOE KANE** – requests a variance to reduce the side yard setback from eight (8) feet to six (6) inches in order to construct an attached carport to a single-family residence in a Single Family Residential (R-1C) zone, on property located at 479 Hollyhill Dr. (Council District 10)

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. A detached carport has existed in this location for years and the proposed attached carport will enhance the appearance of the property. The proposed attached carport should not adversely affect adjoining properties as the closest residential structure is located over 100 feet away.
- b. The restrictive configuration of the lot is a special circumstance that justifies the need for the variance, as the available buildable area for additional covered parking is limited based on the width of the side yard and existing mature trees.
- c. 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 and prior to 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. The carport shall include a water runoff collection system to eliminate runoff onto the adjoining property.
3. The carport may not be enclosed and otherwise become a garage without prior Board of Adjustment approval.
4. All necessary permits and approvals shall be obtained from the Division of Building Inspection prior to construction.

2. **PLN-BOA-22-00063: TERRENCE HICKS** - requests variances to 1) reduce the front yard setback from thirty (30) feet to seven (7) feet; 2) reduce the side street side yard from thirty (30) feet to six (6) feet; 3) reduce the side yard setback from six (6) feet to three (3) feet and 4) to reduce the rear yard setback from twenty (20) feet to ten (10) feet in order to construct a duplex within the defined Infill and Redevelopment Area in a Planned Neighborhood Residential (R-3) zone, on property located at 701 N. Upper Street. (Council District 1)

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

- a. The applicant has not provided enough information on the site plan for the Planning Staff to adequately review and evaluate the requested variances. Until the applicant provides such information, the staff cannot make an educated recommendation.

3. **PLN-BOA-22-00064: BO REYNOLDS** – requests a variance to reduce the required rear yard setback from twenty-three feet and eight inches (23' 8") to eighteen feet and nine inches (18' 9") in order to construct a deck with a floor level greater than three (3) feet above established grade to a duplex within a Historic District Overlay (H-1) in a Two-Family Residential (R-2) zone, on property located at 1012 and 1014 Fincastle Road. (Council District 5)

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 request has received approval from the Board of Architectural Review and the proposed deck should have little visual impact on the surrounding properties as it is located on the rear of the structure and is located a significant distance from adjoining structures.
- b. The existing slope is a special circumstance that justifies the need for the variance, as the deck must be higher than three feet above grade level in order to be in-keeping with the main level of the residential structure, removing it from qualifying as a projection.
- 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 construction.

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

1. The deck shall be constructed in accordance with the submitted application materials and site plan.
2. All necessary permits and approvals shall be obtained from the Division of Building Inspection prior to completion of construction.

#### **D. Conditional Use Appeals**

1. **PLN-BOA-22-00060: ALLEN CARTER** – requests conditional use permits in order to operate a small farm Micro-Distillery and special events accessory to an existing small farm winery in an Agricultural Rural (A-R) zone, on property located at 3710 and 3780 Leestown Road. (Council District 12)

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

- a. The subject property contains an existing active agricultural use (small farm winery). The distilling of brandy and bourbon on the property will support the continued agricultural use of the property by utilizing agricultural resources grown on the subject property. At the small scale proposed by the applicant, the incorporation of distilling activity into the operations of the existing small farm winery should have little to no impact on adjoining properties. In addition, the requested special event use will be incidental and subordinate to the operation of the existing small farm winery, and with appropriate conditions of approval, should not adversely affect the subject or surrounding properties.
- b. The subject property is an appropriate site for agritourism and cultural tourism activities in accordance with the Rural Land Management Plan. The subject property is the site of a historic distillery that operated prior to Prohibition and is an active horse farm and existing small farm winery. The requested conditional use permit will support the recommendations of the RLMP related to agritourism by allowing guests to visit the agribusiness operations for education and enjoyment.
- c. No new structures are proposed to accommodate the special events and small farm Micro-Distillery uses and adequate parking will be provided.
- d. All necessary public services and facilities will be available and adequate for the proposed use.

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 approvals shall be obtained from the Divisions of Planning and Building Inspection prior to occupancy.
3. The applicant shall provide handicap-accessible parking adjacent to all buildings associated with the distillery use that are open to the public, and all parking areas shall be reviewed and approved by the Division of Traffic Engineering.

4. The distillery use shall operate in accordance with state and federal law, and shall obtain all necessary and appropriate licenses.
  5. The hours of operation for the small farm Micro-Distillery and special events shall be 10:00 A.M. to 10:00 P.M., daily.
  6. Special events shall be limited to a maximum of 50 participants and shall occur no more than two times per month.
  7. Any outdoor lighting associated with the small farm Micro-Distillery and special events shall be directed away from adjoining properties.
  8. Temporary structures, such as tents, shall be permitted for up to 180 days, provided approval is obtained from the Division of Building Inspection.
  9. Approval for the septic system and/or any portable toilets, as well as for any food services offered, shall be obtained from the Fayette County Health Department.
2. **PLN-BOA-22-00062: 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: **Approval**, for the following reasons:

- a. The proposed additional educational building should not adversely affect the subject or surrounding properties as the recommended limit of 29 faculty and 180 students should limit nuisances associated with traffic as well as limit the school's operations to its current users.
- 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.
- c. Establishing a shared parking agreement will alleviate on-street parking issues associated with the school's special events.
- d. All necessary public facilities and services are available and adequate for the proposed additional building.

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, or as modified by the amended Final Development Plan.
2. Action of the Board shall be reflected on the Final Development Plan for the property.
3. All necessary permits shall be obtained from the Divisions of Planning, Engineering, and Building Inspection prior to construction and occupancy.
4. Student enrollment shall be limited to 185 students and faculty employment shall be limited to 29 employees.
5. A shared parking agreement shall be established with adjoining properties for use by parents and guests for the school's special events.
6. The parking lot shall be paved, with spaces delineated, and landscaped/screened according to the provisions of Article 16 and 18 of the Zoning Ordinance.
7. Fire and Emergency access to the proposed building shall be established in accordance with Division of Fire and Emergency Services requirements.

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 January 9, 2023 at 1:30 p.m. in Council Chambers, 2<sup>nd</sup> 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://fucg.granicus.com/MediaPlayer.php?publish\\_id=12](http://fucg.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.