

**AGENDA FOR THE BOARD OF ADJUSTMENT
MEETING**

June 12, 2023

- 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 April 10, 2023 and May 8, 2023 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, or anyone in the audience who plans to speak to any appeal before the Board, please stand in order to 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-23-00037: GLENDALE FARM, LLC** – requests a variance to reduce the required front yard setback from three hundred feet (300') to one hundred and fifty-one feet (151') in order to construct an accessory structure (gatehouse) in an Agricultural Rural (A-R) zone, on property located at 884-886 Iron Works 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. Gatehouses are common structures associated with large agricultural properties and are often located in close proximity to the right-of-way.
- b. The efficient operations and security purposes of a gatehouse justify the need for the variance.
- 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 amended site plan reflecting condition #2.
 2. All new vehicular use area shall be landscaped and screened in accordance with Article 18 of the Zoning Ordinance.
 3. All necessary permits and approvals shall be obtained from the Divisions of Planning, Building Inspection, and Environmental Services prior to construction.
 4. The septic tank shall be installed in accordance with the requirements of Lexington-Fayette County's Health Department.
 5. The applicant shall confirm the property boundaries for the subject property prior to construction.
2. **PLN-BOA-23-00038: JAMES AND ANNA ZHURKO** – request 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-1D) zone, on property located at 2944 Waco Road. (Council District 10)

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

- a. Granting a variance to allow a 6-foot tall fence in the front yard of this property should not have a negative impact on the character of the general vicinity, as 6-foot tall fencing exists along the border

of their front yard. As the fencing will be set back at least 10 feet from the sidewalk, it will not negatively impact the pedestrian experience in this area.

- b. There are special circumstances that justify the need for a variance because the property is somewhat irregular in shape; narrowing significantly from one end to the other and having a rather shallow rear yard. These circumstances result in available outdoor space for private use by the applicant being significantly limited.

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

1. The fencing shall be installed in accordance with the submitted application materials and site plan, except the fence shall be set back at least 10 feet from the front property line.
2. A fence permit shall be obtained from the Division of Building Inspection, prior to construction.
3. No fencing exceeding 4 feet in height shall be installed in the front yard areas to the south of the existing driveway.

3. **PLN-BOA-23-00039: VAN METER PETTIT** – requests a variance to reduce the required front yard setback from twenty feet (20') to nine feet (9') in order to construct an addition of a covered front porch to an existing single family residence within the defined Infill and Redevelopment area in a Planned Neighborhood Residential (R-3) zone, on property located at 242 Rand Avenue. (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, nor alter the character of the general vicinity. The proposed covered porch should have little visual impact on the surrounding properties as it is consistent with the development of the general vicinity and does not create sight-triangle issues at the intersection of Rand Avenue and Engman Avenue.
- b. The existing slope of the front yard is a special circumstance that justifies the need for the variance, as the covered porch is higher than three feet above grade level, 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. Construction shall be 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 construction.

4. **PLN-BOA-23-00041: OFF SEASON, LLC** – requests a variance to increase the allowable height of a fence in the front yard from four feet (4') to six feet (6') in a Planned Neighborhood Residential (R-3) zone, on property located at 3013 Bates Creek Road #115. (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, including all components, such as columns and gates are typical across all 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. Columns and gates with a maximum height of four feet could be installed in this location and would provide a similar aesthetic value and level of security.

5. **PLN-BOA-23-00043: 545 EUCLID, LLC** – requests variances to 1) reduce the required front yard setback from twenty feet (20') to ten feet, nine inches (10' 9"), 2) reduce the western side yard setback from twelve feet (12') to ten feet and seven inches (10' 7"), 3) reduce the eastern side yard setback from twelve feet (12') to one foot (1'), and 4) increase the allowable building height to twenty three feet and six inches (23' 6") in order to construct additions to an existing non-conforming structure so that a dwelling unit may be provided on the proposed second floor within the defined Infill and Redevelopment Area in a Professional Office (P-1) zone, on property located at 545 Euclid Ave. (Council District 3)

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 as it will allow the applicant to provide a dwelling unit within the defined Infill & Redevelopment Area.
- b. Granting the requested variances should not have an adverse effect on the surrounding area. The construction is in keeping with other structures in the general vicinity, which feature two-story configurations.
- 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 variances. Granting the variances will permit the applicant to provide a dwelling unit, an allowable use, while utilizing the existing structure on a lot of constricting size. Complying with the required setbacks would create a hardship for the applicant, as the allowable buildable area would not provide a reasonably functional building addition.
- d. The granting of these variances 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 constructed in accordance with the submitted application materials and amended site plan reflecting condition #2.
 2. The site plan shall be amended to provide open space in accordance with Article 20 of the Zoning Ordinance.
 3. The vehicular use area to the rear of the structure be reviewed and approved by the Division of Traffic Engineering.
 4. All necessary permits and approvals shall be obtained from the Division of Building Inspection prior to construction.
6. **PLN-BOA-23-00044: AARON SIMMERMAN** – requests a variance to reduce the required front yard setback from three hundred feet (300') to one hundred, thirty-eight feet (138') in order to construct a single family home in an Agricultural Rural (A-R) zone, on property located at 1156 Gentry Road. (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 subject property is located at the end of a long extension of Gentry Road that is solely used and maintained by the applicant, and the proposed structure is located over 500 feet from the neighboring residence, where it will be screened by existing vegetation.
- b. Due to the property's non-conforming size and the large portions of wooded area and a floodplain to the rear of the property, the applicant is limited in where they can place the home.
- 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. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction.

D. Conditional Use Appeal

1. **PLN-BOA-23-00042: CHRIS PRATT** – requests a conditional use permit to establish an outdoor recreational facility (riding stable) in a Single Family Residential (R-1B) zone, on property located at 166 Swigert Avenue. (Council District 12)

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

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood. The immediate vicinity is characterized by a mix of residential and agricultural uses,

horses have been present on this property prior to this application, and the applicant is proposing methods to manage waste, dust, and visual nuisances associated with a riding stable and arena.

- b. The proposed use should not have a negative impact on traffic, as the applicant will be managing the transportation of the horses on-site. The applicant is also proposing to expand on-site paving in order to accommodate the parking, and turning around, of horse trailers in order to avoid backing out on to Swigert Avenue.
- 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 riding stable shall be established in accordance with the submitted application materials and amended site plan showing the paved parking area for horse trailers.
2. A paved parking area for horse trailers shall be provided between the garage and stable. The paved driveway shall be extended to this new paved parking area.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Planning and Building Inspection prior to operation.

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 July 10, 2023 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.