MINUTES FOR THE BOARD OF ADJUSTMENT MEETING
July 10, 2023

I. CALL TO ORDER - Chair Carter called the meeting to order at 1:30 p.m. in the Council Chambers, 200 East Main Street, Lexington, Kentucky.

II. ATTENDANCE – Board members present were Raquel Carter, Harry Clarke, Chad Walker, Carolyn Plumlee, and Linda Tucker. Others present were: Brittany Smith, Department of Law and Joseph Edmiston, Division of Traffic Engineering. Planning staff members present were: Traci Wade, Autumn Goderwis, Meghan Jennings, and Donna Lewis.

III. APPROVAL OF MINUTES – Ms. Carter announced that the minutes from the June 12, 2023 meeting were not available for consideration at this time.

IV. PUBLIC HEARING ON ZONING APPEALS

A. Swearing of Witnesses - Ms. Carter announced 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.

The oath was administered to several members of the audience who planned to speak.

B. Sounding the Agenda - In order to expedite completion of agenda items, Ms. Carter sounded the agenda with regard to any postponements, withdrawals, and items requiring no discussion.

There were no postponements or withdrawals at this time.

C. Abbreviated Hearings

1. **PLN-BOA-23-00046: NLWS, LLC** – requested variances to 1) reduce the side street side yard setback for a deep building from eleven feet and nine inches (11’ 9”) to three feet (3’), 2) reduce the required Vehicular Use Area buffer width along the southwestern property line from eight feet (8’) to five feet and six inches (5’ 6”), and 3) reduce the required Vehicular Use Area buffer width along the northeastern property line from eight feet (8’) to six feet and six inches (6’ 6”) in order to construct an addition and associated parking within the defined Infill and Redevelopment Area in a Neighborhood Business (B-1) zone, on property located at 573 N. Limestone. (Council District 1)

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

a. Granting the variances 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 within the defined Infill and Redevelopment Area and the existing structure features legally non-conforming setbacks which are in keeping with other structures in the immediate vicinity. The applicant is providing off-street parking in order to alleviate the demand for on-street parking with the future banquet facility use, and has designed the parking area in a way that minimizes the required variances.
b. Due to the existing structure’s shape and form, improvements or additions are limited to the area of the property where the applicant has located their proposed addition.
c. The granting of these variances will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the applicant has applied for the necessary variances as soon as it was determined that they were needed, and prior to beginning construction.

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

1. Construction shall be in accordance with the submitted application materials and site plan showing proposed handicap spaces located in the center of the parking area.

2. The final design of the parking area, including any grading plans, shall be reviewed and approved by the Division of Traffic Engineering.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Building Inspection and Traffic Engineering prior to construction.

Representation – Mr. Fred Eastridge, Vision Engineering, and Jody Hranicky, general contractor for the applicant, were present on behalf of this application.

Board questions – Ms. Tucker asked the applicant how many people typically are in attendance for events at the banquet facility. Mr. Hranicky stated that there are typically no more than 50 and the venue is specifically just for wedding parties.

Action – A motion was made by Mr. Clarke, seconded by Ms. Plumlee and carried 5-0 to **approve PLN-BOA-23-00046: NLWS, LLC** – request for variances to 1) reduce the side street side yard setback for a deep building from eleven feet and nine inches (11’ 9”) to three feet (3’), 2) reduce the required Vehicular Use Area buffer width along the southwestern property line from eight feet (8’) to five feet and six inches (5’ 6”), and 3) reduce the required Vehicular Use Area buffer width along the northeastern property line from eight feet (8’) to six feet and six inches (6’ 6”) in order to construct an addition and associated parking within the defined Infill and Redevelopment Area in a Neighborhood Business (B-1) zone, on property located at 573 N. Limestone, based on Staff’s recommendation and subject to the three conditions as listed.

2. **PLN-BOA-23-00047: CCG VENTURES, LLC** – requested a conditional use permit to establish a personal care facility within a Neighborhood Design Character Overlay (ND-1) zone in a Planned Neighborhood Residential (R-3) zone, on property located at 319 Duke Road. (Council District 5)

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

a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties, as the proposed personal care facility use will utilize the existing building and will be similar in terms of hours and patterns of operation as the assisted living facility that was previously approved at this location.
b. All public facilities and services continue to be available and adequate for the facility.

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

1. The property shall be operated in accordance with the submitted application materials and site plan.
2. All necessary permits and/or approvals shall be obtained from the Divisions of Planning and Building Inspection, as well as necessary state agencies, prior to occupancy.

Representation – Matthew Dawson and Liz Koehler, were present on behalf of the applicant, and indicated they were agreeable to the conditions recommended by Staff.

Board questions – Chair Carter stated that there were citizen comments distributed to the Board that mentioned a gas-powered generator at the front of the property. Mr. Dawson stated that they were aware of the neighbor’s concerns and are addressing the problem by putting a fence and landscaping around the generator.

Ms. Tucker asked if there would be a space for emergency vehicles on the property. Mr. Dawson stated that they would look into that, but clarified that because the residents of the facility would not have their own vehicles, there will be more space in the back parking lot to allow for an emergency vehicle.

Ms. Carter asked Staff to differentiate between an assisted living facility and a personal care facility. Ms. Jennings, stated that an assisted living facility was strictly for residents above the age of 55 years old and that a personal care facility does not have that age limit.

Mr. Clarke stated that he had no objections, but inquired about the people the applicant would be taking care of at this facility. Mr. Dawson emphasized the age limit as Ms. Jennings stated, and that some people below the age of 55 years old might have a disability or an illness that required a facility like this.

Action – A motion was made by Mr. Walker, seconded by Ms. Plumlee and carried 5-0 to **approve PLN-BOA-23-00047: CCG VENTURES, LLC** – request for a conditional use permit to establish a personal care facility within a Neighborhood Design Character Overlay (ND-1) zone in a Planned Neighborhood Residential (R-3) zone, on property located at 319 Duke Road, based on Staff's recommendation and subject to the two conditions as listed.

V. <u>BOARD ITEMS</u> – Chair Carter announced that any items a Board member wished to present would be heard at this time.

A. <u>Elect a new Vice-Chair.</u> Chair Carter announced that the Board would now hear nominations for the position of Vice-Chairperson.

<u>Action</u> – A motion was made by Ms. Plumlee, seconded by Ms. Tucker and carried 4-0-1 (Mr. Clarke recused) to elect Mr. Clarke as Vice-Chair.

As Mr. Clarke previously served as Secretary, Chair Carter announced that the Board would now hear nominations for the position of Secretary.

<u>Action</u> – A motion was made by Ms. Plumlee, seconded by Mr. Clarke and carried 4-0-1 (Ms. Tucker recused) to elect Ms. Tucker as Secretary.

B. <u>Appoint a new member to the Landscape Review Committee.</u>

Chair Carter announced that the Board would now vote on a new appointment to the Landscape Review Committee. Chair Carter called Mr. Joseph Browning forward.

<u>Representation</u> **–** Mr. Browning introduced himself to the Board.

<u>Board questions</u> **–** Mr. Clarke, who currently serves on the Landscape Review Committee, asked Mr. Browning if he would attend the Landscape Review Committee meetings. Mr. Browning stated that he would be happy to attend.

Ms. Plumlee asked Staff what the Landscape Review Committee does. Ms. Jennings stated that they are responsible for reviewing variance applications to Article 18 which is related to landscape requirements. Ms. Jennings stated that the variance application heard by the Board today included variances from Article 18 requirements. Ms. Jennings stated that the Landscape Review Committee is presented the requested variance and votes on whether or not they support the requested variance. Their recommendation is incorporated into the Staff Report and considered in Staff's recommendation.

Mr. Browning stated that his professional interactions with Staff regarding open-space and landscape requirements is what lead to his appointment.

<u>Action</u> – A motion was made by Mr. Clarke, seconded by Mr. Walker and carried 5-0 to appoint Mr. Browning to the Landscape Review Committee.

VI. <u>STAFF ITEMS</u> – Chair Carter announced that any items a Staff member wished to present would be heard at this time.

There were no Staff items at this time.

VII. <u>NEXT MEETING DATE</u> – Chair Carter announced that the next meeting date will be August 14, 2023 at 1:30 p.m. in Council Chambers, 2nd Floor, 200 East Main Street, Lexington, KY 40507.

VIII. <u>ADJOURNMENT</u> – As there was no further business, Chair Carter declared the meeting adjourned at 1:56 p.m.

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Raquel Carter, Chair

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Linda Tucker, Secretary