

**AGENDA FOR THE BOARD OF ADJUSTMENT  
MEETING**

August 14, 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 June 12, 2023 and the July 10, 2023 Board of Adjustment 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-23-00048: GIBSON, TAYLOR, THOMPSON ARCHITECTURE & DESIGN** – requests a variance to reduce the required side yard for a deep building from eight feet and eleven inches (8' 11") to five feet (5') in order to build additions to an existing single-family residence within a Neighborhood Design Character Overlay (ND-1) zone in a Single Family Residential (R-1C) zone, on property located at 226 Chenault 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. The applicant's proposal is similar to existing setbacks in the surrounding area and the addition will be set back the same distance as the closest portion of the existing residence that has occupied this site since 1942.
- b. The granting of the variance will not alter the essential character of the general vicinity as the addition will meet the Chevy Chase Neighborhood Character Design (ND-1) standards and is located in the rear portion of the property where it will be adequately screened from view.
- c. The existing non-conforming side yard setback is a special circumstance that justifies the need for the variance.
- d. 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. All necessary permits and approvals shall be obtained from the Division of Building Inspection prior to construction.

2. **PLN-BOA-23-00053: ESTEPP ENERGY** – requests a variance to increase the required front yard setback from twenty feet (20') to forty feet (40') in order to construct a canopy for gasoline pumps in a Neighborhood Business (B-1) zone, on property located at 1445 Newtown Center Way. (Council District 1)

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

- a. Granting the variance should not alter the character of the general vicinity. The applicant's proposal is in keeping with the larger commercial character of the general vicinity, and the second canopy has been previously approved on development plans.

- b. Granting the variance should not adversely affect the public health, safety, or welfare of the general vicinity, as the safety concerns related to circulation and maneuverability of the site for fleet vehicles and large trucks and trailers 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 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. The parking lot shall be paved, with spaces delineated, and landscaped/screened according to the provisions of Articles 16 and 18 of the Zoning Ordinance.
4. All necessary permits and approvals shall be obtained from the Divisions of Building Inspection and Engineering prior to construction.

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

1. **PLN-BOA-23-00051: THE MISSION CHURCH OF LEXINGTON** – requests a conditional use permit to expand an existing place of religious assembly in a Single Family Residential (R-1D) zone, on property located at 3288 Beaver Creek Drive. (Council District 7)

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

- a. Granting the requested conditional use should not adversely affect the subject or surrounding properties. The size of the subject property is large enough to support the proposed sanctuary, and the use will be sufficiently landscaped and screened from neighboring residential uses, as well as Man O War Boulevard.
- b. The requested conditional use should not have a negative impact on traffic in the general vicinity, as adequate parking will be provided to accommodate the expanded use.
- c. 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 use shall be operated in accordance with the submitted application materials and site plan.
2. The vehicular use area shall be landscaped and screened in accordance with Articles 16 and 18 of the Zoning Ordinance.
3. The vehicular use area shall be designed in accordance with the locational and connection standards outlined in Article 16-6(a) of the Zoning Ordinance.
4. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to construction of the use.

2. **PLN-BOA-23-00052: SHEPHERD'S HOUSE**– requests a conditional use permit to establish a rehabilitation home within 500 feet of a residential zone in a Professional Office (P-1) zone, on property located at 2141 Executive Drive. (Council District 6)

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

- a. The proposed rehabilitation home should not adversely affect the subject or nearby properties. The proposed rehabilitation home will utilize existing facilities and is screened from adjacent residential uses by significant vegetation located within the floodplain.
- b. The proposed use should not create adverse traffic impacts as there will be limitations on visitors to the facility. There is adequate parking available on the property and the proposed use should not generate more traffic than the previously approved assisted living facility.
- c. The proposed use will allow the applicant to utilize existing development in order to provide services that will promote the health and welfare of the community by providing a resource to address alcohol and drug addiction and dependency. The existing structure is uniquely suited to this type of use due to the previous use as an assisted living facility.
- d. 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 use shall be operated in accordance with the submitted application materials and site plan.
2. Board approval shall be denoted on the Final Development Plan for the property.
3. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection, as well as state agencies, prior to occupancy.

**E. Administrative Appeals**

1. **PLN-BOA-23-00049: SHADELAND INVESTMENTS, LLC** – requests an administrative appeal to change one non-conforming use (retail) to another non-conforming use (office) within the defined Infill and Redevelopment Area in a Planned Neighborhood Residential (R-3) zone, on property located at 185 Eastern Avenue. (Council District 1).

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

- a. The requested change in non-conforming use from retail to office should not adversely affect the subject or surrounding properties, as the proposed office use should have a lesser impact on the subject and surrounding properties due to a decrease in visitors throughout the day.
- b. There should not be adverse impacts on traffic as sufficient parking is available on site.
- c. No expansion of the building's footprint is proposed, and the change in non-conforming uses should not negatively impact the neighborhood or alter the character of the subject or surrounding properties. Additionally, removal of the installed outdoor refrigeration unit will return the site to its previous condition.
- d. 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 office use shall operate in accordance with the submitted site plan and application materials.
2. The illegally installed structure (outdoor refrigeration unit) to the rear of the building shall be removed.
3. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to occupancy.

**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 September 11, 2023 at 1:30 p.m., Council Chambers, 200 East Main Street, 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](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.