

**AGENDA FOR THE BOARD OF ADJUSTMENT
MEETING**

February 12, 2024

- 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 November 2023 and the December 2023 Board of Adjustment meeting minutes 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-23-00045: RED DRAW DELAWARE, LLC** – requests variances to) reduce the required Vehicular Use Area perimeter buffer width from eight feet (8') to zero feet (0'), 2) reduce the required minimum interior landscape area from ten percent (10%) to eight percent (8%), 3) reduce the required Vehicular Use Area tree canopy from thirty percent (30%) to seventeen percent (17%), 4) reduce the required useable open space from ten percent (10%) to five percent (5%), 5) reduce the required minimum dimension for useable open space from ten feet (10') to five feet (5') and 6) reduce the required vegetative open space from ten percent (10%) to eight percent (8%) in order to construct a warehouse/storage facility within the defined Infill and Redevelopment Area in a Light Industrial (I-1) zone, on property located at 1535 Delaware Ave. (Council District 5)

The Staff Recommends: Approval of Variance #1 to reduce the required Vehicular Use Area perimeter buffer width to zero feet (0') for the following reasons:

- a. Granting the variance should not adversely affect the public health, safety, or welfare of the general vicinity, as the variance will allow for the applicant to develop the site in a manner that does not threaten the structural integrity of the adjoining structure.
- b. Granting the variance should not alter the character of the general vicinity as the proposed vehicular use area should have little visual impact on the surrounding properties as the adjoining structure is immediately on the property line and sufficiently screens adjacent properties.
- c. Granting the variance 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 construction.

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

1. The site shall be developed in accordance with the submitted application materials and a revised site plan.
2. All necessary permits shall be obtained from the Divisions of Building Inspection and Engineering prior to construction.

The Staff Recommends: Disapproval of Variance #2 to reduce the required minimum interior landscape area from ten percent (10%) to eight percent (8%) 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. There is sufficient space on the property to accommodate the required interior landscaping while maintaining a majority of the desired parking spaces and the applicant has already proven that they can meet this requirement within a previously approved landscape plan from June 2023.

- 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.

The Staff Recommends: Approval of Variance #3 to reduce the required Vehicular Use Area tree canopy from thirty percent (30%) to seventeen percent (17%) for the following reasons:

- a. Granting the variance should not adversely affect the public health, safety, or welfare of the general vicinity, nor have a negative impact on the character of the general vicinity as the applicant will be increasing the tree canopy on the subject property.
- b. Granting the variance 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 construction.

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

1. The site shall be developed in accordance with the submitted application materials and a revised site plan.
2. All necessary permits shall be obtained from the Divisions of Building Inspection and Engineering prior to construction.

The Staff Recommends: Approval of a lesser Variance #4 to reduce the required useable open space to six percent (6%), for the following reasons:

- a. Granting the lesser variance should not adversely affect the public health, safety, or welfare of the general vicinity, nor alter the character of the general vicinity, as the variance allows the applicant to develop the site in a manner that provides adequate parking for the proposed use.
- b. Granting the lesser variance 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 construction.

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

1. The site shall be developed in accordance with the submitted application materials and a revised site plan reflecting the provision of 6% useable open space.
2. All necessary permits shall be obtained from the Divisions of Building Inspection and Engineering prior to construction.

The Staff Recommends: Disapproval of Variance #5 to reduce the required minimum dimension for useable open space from 10' to 5' 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.
- 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.
- c. The proposed variance represents an attempt to circumvent the provisions of the Zoning Ordinance by attempting to artificially inflate their total usable open space by also requesting a variance to the definition of usable open space, especially since the applicant did not provide any justification as to why a space with a minimum dimension of 5' would meet the intent of the definition of usable open space to provide an outdoor area intentionally designed for outdoor living and pedestrian access and to accommodate or support use of such space.

The Staff Recommends: Disapproval of Variance #6 to reduce the required vegetated open space from ten percent (10%) to eight percent (8%) 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.

- 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.

2. **PLN-BOA-24-00005: GIBSON, TAYLOR, THOMPSON ARCHITECTURE AND DESIGN** – requests a variance to increase the allowable floor area ratio (FAR) from 0.35 to 0.54 in order to construct a two-story accessory structure within the defined Infill and Redevelopment Planned Area and a Historic District Overlay (H-1) zone in a Planned Neighborhood Residential (R-3) zone, on property located at 148 Woodland Ave. (Council District 3)

Note: The applicant has indicated to Staff that they wish to withdraw their application.

D. Conditional Use Appeals

1. **PLN-BOA-23-00101: SIDNEY BEAVEN** – requests a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment Area in a Historic District Overlay (H-1) zone in a Medium Density Residential (R-4) zone, on property located at 467 W. Second St. (Council District 1)

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, as the structure is large enough to accommodate the proposed number of users and there is a mixture of uses in the immediate vicinity that may result in a higher demand for short term rentals. Additionally, the property historically operated as bed and breakfast facility for a number of years.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate off-street parking is available.
- c. There is no record of short term rental compliance issues with the property owner.
- 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 short term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short term rental shall be limited to no more than 12 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the short term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

2. **PLN-BOA-23-00106: SOUTH CENTRAL BANK, INC.** – requests a conditional use to establish drive-through facilities accessory to a bank within the defined Infill and Redevelopment Area in a Downtown Frame Business (B-2A) zone, on property located at 473 E. Main St. (Council District 3)

Note: The applicant has indicated to Staff that they wish to withdraw their application.

3. **PLN-BOA-23-00107: MIKE ADAMS** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1D) zone, on property located at 1783 Gleneagles Dr. (Council District 6)

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, as the structure is large enough to accommodate the proposed number of users and there is not a concentration of short term rentals in the general vicinity.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate off-street parking is available.
- c. There is no record of short term rental compliance issues with the applicant.
- 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 short term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short term rental shall be limited to no more than 10 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

4. **PLN-BOA-24-00001: LIZ ROGERS** – requests a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment Area in a Single Family Residential (R-1D) zone, on property located at 714 Hambrick Ave. (Council District 3)

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, as the structure is large enough to accommodate the proposed number of guests.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate off-street parking is available.
- c. There have been no complaints or citations regarding the applicant's other short term rental. The applicant acted immediately to remedy the lack of a license for the other short term rental identified by the staff during this application process.
- 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 short term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short term rental shall be limited to no more than 10 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

5. **PLN-BOA-24-00003: KATELYN YACKEY** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 641 Stratford Dr. (Council District 10)

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, as the structure is large enough to accommodate the proposed number of users.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available on-site.
- c. There is no record of short term rental compliance issues with the applicant.
- 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 short term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short term rental shall be limited to no more than 4 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

6. **PLN-BOA-24-00004: AR NICHOLASVILLE RD, LLC** – requests a conditional use permit for an un-hosted short term rental with an occupancy greater than 12 within the defined Infill and Redevelopment Area in a Single Family Residential (R-1C) zone, on property located at 1918 and 1922 Nicholasville Rd. (Council District 3)

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, as the structure is large enough to accommodate the proposed number of guests.
- b. The increased occupancy will not result in overcrowding or create a nuisance as the structure and lot are large enough to accommodate 20 occupants, there is ample existing parking, and the house features eight (8) bedrooms.
- c. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available on-site.
- d. There is no record of zoning compliance complaints for the existing short term rental use.
- e. 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 short term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short term rental shall be limited to no more than 20 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the increase in occupancy, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

- 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 March 11, 2024 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

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.