

AGENDA FOR THE BOARD OF ADJUSTMENT
MEETING

June 10, 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 March 2024 and April 2024 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-24-00012: JEROMIE R. KIRK** – requests a variance to increase the allowable width of a driveway from 10' to 20' within the defined Infill and Redevelopment area in a Historic District Overlay (H-1) zone in a Planned Neighborhood Residential (R-3) zone, on property located at 612 N. Broadway. (Council District 1)

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, nor alter the character of the general vicinity as there are several similar vehicular use areas along Spence Alley.
- b. 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 paving the driveway.

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, subject to modifications during the permitting process.
 2. All necessary permits and/or approvals shall be obtained from the Divisions of Building Inspection and Traffic Engineering prior to construction.
 3. The driveway shall be a maximum of 20' wide except for where a flare at the alley to accommodate the apron is necessary, with such dimension to be determined by the Division of Traffic Engineering during the permitting process.
2. **PLN-BOA-24-00063: BARBARA AND HENRY HINKLE** – request a variance to reduce the side street side yard setback for an accessory structure from 30' to 6' in a Historic District Overlay (H-1) zone and Mixed Low Density Residential (R-2) zone, on property located at 141 S. Hanover Ave. (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, nor alter the character of the general vicinity. There are varying setbacks along this portion of Fincastle Road and a carport in this location will not have much, if any, impact on the appearance of the house from S. Hanover Avenue. Additionally, the architectural design of the structure is subject to review

and approval by the Board of Architectural Review to ensure compatibility with the Historic District Design Guidelines.

- b. The variance request is generally reasonable, as the location of the proposed carport is already used for parking vehicles and there is no other feasible location to place such a structure on the subject property.
- c. The granting of the 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.

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 Divisions of Building Inspection, Planning, and the Historic Preservation Office prior to construction and occupancy.

3. **PLN-BOA-24-00067: DEMARCUS LEWIS** – requests 1) a variance to reduce the required side street side yard setback from 30' to 23', 2) a variance to increase the maximum height of an accessory structure from 14' to 18', 3) a variance to increase the total allowable size of all buildings accessory to the dwelling unit from 841 square feet to 3,135 square-feet, and 4) a variance to increase the allowable lot coverage (building footprint) for accessory buildings from 1,682 square feet to 3,135 square feet in order to allow existing accessory structures to remain as constructed in a Single Family Residential (R-1B) zone, on property located at 2376 Liberty Rd. (Council District 6)

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

- a. The applicant has not provided 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. The subject property is of a regular shape and its size is substantially similar to other lots in the immediate vicinity.
 - b. Granting the requested variance would alter the character of the general vicinity as the size, height, and number of accessory structures are significantly greater than that of other accessory structures in the area.
 - c. The granting of these variances would allow an unreasonable circumvention of the requirements of the Zoning Ordinance as the applicant constructed the two metal buildings without the necessary permits.
4. **PLN-BOA-24-00071: JESSICA SUCIK AND TARA STANFIELD** – request a variance to reduce the required side yard setback from 8' to 5' in order to construct an addition in a Single Family Residential (R-1C) zone, on property located at 575 Longview 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. 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 1949.
- b. The granting of the variance will not alter the essential character of the general vicinity as the addition will be located in the rear portion of the property where it will be adequately screened from view.
- 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. All necessary permits and approvals shall be obtained from the Division of Building Inspection prior to construction.

5. **PLN-BOA-24-00074: LOPEZ CONSTRUCTION** - requests 1) a variance to reduce the required rear yard setback from 31' to 30', 2) a variance to reduce the required side yard from 8' to 5' and 3) a variance to increase the allowable driveway width from 10' to 20' in order to construct an addition with an attached garage within the defined Infill and Redevelopment Area in a Single Family Residential (R-1C) zone, on property located at 1319 N. Limestone. (Council District 1)

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. 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 1924. A wider driveway is generally reasonable in this location as there is not sufficient space for a 10-foot driveway to flare to a wider width in order to access a two-car garage.
- b. The granting of the variance will not alter the essential character of the general vicinity as the addition will allow for an increase in usable area for the resident and will not result in a structure that is significantly larger than other houses in the area.
- 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 an amended site plan.
2. The attached garage shall be located at the same side yard setback as the remaining portion of the house (5 feet) and the depth of the garage shall be reduced to allow for an 18-foot deep driveway.
3. The existing curb cut and paving located near the rear lot line shall be removed.
4. All necessary permits and approvals shall be obtained from the Division of Building Inspection prior to construction.

6. **PLN-BOA-24-00075: LEONA GREER ESTATE** - requests 1) a variance to reduce the required side yard setback from 5' to 0' on the eastern side of the property, 2) a variance to reduce the required side yard setback from 30' to 3' on the western side of the property, and 3) a variance to increase the allowable height from 0' to 28' in order to construct a new multi-family residential building within the defined Infill and Redevelopment Area in a Medium Density Residential (R-4) zone, on property located 522 Merino St. (Council District 11)

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. The applicant's proposal features side yard setbacks to those in the surrounding area. The height variance will allow for construction of a two-story structure with is generally in keeping with the character of the area.
- b. The size of the lot is a special circumstance that justifies the need for the variances. Without any variances, the maximum width of the building would be only eight (8) feet. Granting the variances will allow the applicant to utilize a currently vacant lot within the defined Infill and Redevelopment Area for needed housing.
- c. The granting of the requested variances will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance as the applicant has applied for the variances as soon as it was determined that they were needed and prior to construction. Additionally, 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. Construction shall be in accordance with the submitted application materials and a revised site plan providing access to the second floor unit from the front or back of the structure rather than the side.
2. All necessary permits and approvals shall be obtained from the Division of Building Inspection prior to construction.

7. **PLN-BOA-24-00076: BOOKER GROUP INVESTMENTS LLC** – requests 1) a variance to reduce the required front yard setback from 30' to 10', 2) a variance to reduce the required side yard setbacks from 6' to 5', and 3) a variance to reduce the required rear yard setback from 10' to 7' in order to construct a new two-family dwelling within the defined Infill and Redevelopment area in a Planned Neighborhood Residential (R-3) zone, on property located at 348 Campsie Ct. (Council District 1)

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. The applicant's proposal features similar front and side yard setbacks to those in the surrounding area.
- b. The size of the lot is a special circumstance that justifies the need for the variances. Without any variances, the maximum building footprint would be only 296 square feet. Granting the variances will allow the applicant to utilize a currently vacant lot within the defined Infill and Redevelopment Area for needed housing.
- c. The granting of the requested variances will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance as the applicant has applied for the variances as soon as it was determined that they were needed and prior to construction. Additionally, 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. Construction shall be in accordance with the submitted application materials and a revised site plan removing the proposed driveway.
2. All necessary permits and approvals shall be obtained from the Division of Building Inspection prior to construction.
3. An administrative action minor subdivision plan shall be submitted and recorded denoting the reduced front yard setback.

D. Conditional Use Appeals

1. **PLN-BOA-24-00036: DUSTIN AND LAUREN GAGE** – request a conditional use permit for a bed and breakfast in an Agricultural Rural (A-R) zone, on property located at 875 S. Cleveland Rd. (Council District 12)

The applicant has informed Staff that they wish to postpone their application to the July 8, 2024 meeting.

2. **PLN-BOA-24-00039: LEXINGTON ISLAMIC CENTER INC** – requests a conditional use permit to amend an existing conditional use for a place of religious assembly in order to construct an addition and new parking areas in an Agricultural Urban (A-U) zone on property located at 1240 Armstrong Mill Rd. (Council District 8)

The applicant has informed Staff that they wish to postpone their application to the July 8, 2024 meeting.

3. **PLN-BOA-24-00064: POPPYS FLOWER BAR** – requests a conditional use permit to establish a cocktail lounge and a variance to reduce the required setback between a cocktail lounge and a residential zone from 100' to 0' in a Neighborhood Business (B-1) zone, on property located at 210 Old Mt. Tabor Rd. (Council District 5)

The Staff Recommends: **Approval of the conditional use**, for the following reasons:

- a. The proposed cocktail lounge should not adversely affect the subject or surrounding properties, as the subject property is a significant distance away from residential dwelling units and will not be the sole use of the property.
- b. The proposed use should not have a negative impact on traffic in the general vicinity as the hours of operation do not coincide with the existing high traffic times for the adjoining and nearby places of religious assembly.
- c. All necessary public facilities and services are available and adequate for the proposed use.

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

- a. Granting the variance should not adversely affect the subject or surrounding properties, nor alter the character of the general vicinity, as the area features a mix of commercial, residential, and religious assembly uses.

- b. The portion of the residentially-zoned property within 100 feet of the subject property functions as a religious assembly uses and is a unique circumstance as the closest residentially-zoned dwelling unit is over 100 feet away.
- 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 occupying the space.

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

1. The cocktail lounge shall be operated in accordance with the submitted application materials and site plan.
2. The hours of operation shall occur in accordance to the submitted application material, except that the hours of operation may be increased to allow for operation Monday through Saturday, from 10:00 a.m. to 8:00 p.m.
3. All necessary permits including a Zoning Compliance Permit shall be obtained from the Divisions of Planning and Building Inspection prior to initiation of the use.
4. The conditional use shall become null and void should the applicant no longer operate at this address.

4. **PLN-BOA-24-00065: ARMENTEROS PROPERTY GROUP LLC** - requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 639 Cecil Way. (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.
- c. No short term rentals in the area have been cited as a nuisance and there is not a high concentration of short-term rentals in the vicinity.
- d. There is no record of short term rental compliance issues with the applicant in Lexington.
- 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 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.

5. **PLN-BOA-24-00069: LEITHA PASH-LEWIS** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 253 Hill N Dale Rd. (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.
- c. No short term rentals in the area have been cited as a nuisance.
- d. There is no record of short term rental compliance issues with the applicant.
- 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 6 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-24-00070: PURPLE DOOR MANAGEMENT LLC** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 102 Glass Ave. (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.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- c. No short term rentals in the area have been cited as a nuisance and there is not a high concentration of short-term rentals in the vicinity.
- d. There is no record of short term rental compliance issues with the applicant.
- 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 6 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.

7. **PLN-BOA-24-00072: BLAKE HENDRICKS** – requests a conditional use permit for an un-hosted short rental in a Single Family Residential (R-1D) zone, on property located at 3532 Camelot Dr. (Council District 4)

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.
- c. No short term rentals in the area have been cited as a nuisance and there is not a high concentration of short-term rentals in the vicinity.
- d. There is no record of short term rental compliance issues in Lexington with the applicant.
- 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 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.

8. **PLN-BOA-24-00077: CHRISTIAN PERRY** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 786 Bravington Way. (Council District 9)

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. Additionally, the subject property will be utilized as the applicant's primary residence and the short term rental operation will be limited to only 90 days per year.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- c. No short term rentals in the area have been cited as a nuisance and there is not a high concentration of short-term rentals in the vicinity.
- d. There is no record of short term rental compliance issues with the applicant.
- 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. The property shall be rented on a short term basis for a maximum of 90 days per calendar year.
3. Occupancy of the short term rental shall be limited to no more than 9 individuals.
4. 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.
5. The applicant shall provide documentation that the dwelling is their primary residence, as defined in Chapter 13 of the Code of Ordinances annually at the time of renewal of their special fee license.
6. The conditional use permit shall become null and void upon change in ownership, if the property is no longer the applicant's primary residence, 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 July 8, 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.