

**AGENDA FOR THE BOARD OF ADJUSTMENT  
MEETING**

July 8, 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 May 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-24-00079: 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)

**Note – The Board voted to continue this item from the June 10, 2024 Board of Adjustment meeting.**

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.

2. **PLN-BOA-24-00082: JAMES BAKER** – requests a variance to reduce the required side yard setback from 25' to 3' in order to construct a dwelling unit on each of the referenced properties in a Planned Neighborhood Residential (R-3) zone, on properties located at 753 Lucille Dr., 2731 and 2738 Rockaway Pl. and 2556 Spring Leaf Ct. (Council District 2)

The Staff Recommends: **Approval for three lots, and a lesser variance to 7.5' for the fourth lot,** for the following reasons:

- a. Granting the variances should not adversely affect the public health, safety, or welfare, nor alter the character of the general vicinity by allowing four non-buildable lots to be developed as single family dwellings.
- b. The development of the adjoining property as a public school, which will allow for urban development of a property with Agricultural Urban (A-U) zoning without necessitating a zone change is a special circumstance that is unique to the subject properties and justifies the need for side yard variances.

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

1. Construction shall be in accordance with the submitted application materials.
2. No wall, air-conditioning unit, structure, or other obstruction shall be located within the 3-foot side yard. Any fence located in the 3-foot side yard must be entirely to the rear of the principal structure on the lot.
3. The townhome constructed at 2556 Spring Leaf Court shall maintain a 7.5' setback to avoid a conflict with an existing stormwater easement along the side property line.
4. A minor subdivision plat shall be submitted and recorded to document the modified building line and remove the restrictive note in accordance with the Land Subdivision Regulations.
5. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction and occupancy.

3. **PLN-BOA-24-00083: SHAWN AND TAMI WILLHITE** – request a variance to reduce the front yard setback from 20' to 16' in order to construct a new detached garage in a Planned Neighborhood Residential (R-3) zone, on property located at 2652 Kearney Creek Ln. (Council District 2)

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, provided that the driveway leading into the proposed garage does not obstruct the stormwater curb inlet on the northwest portion of the property.
- b. The unique shape of the lot and the orientation of the existing house are special circumstances that justifies the need for the variance, as they limit the areas in which an accessory structure can be constructed. Granting the variance will allow the applicant to more fully utilize their property.
- c. The granting of the requested variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance as the variance is generally reasonable as only a portion of the structure will encroach into the 20-foot front yard.

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

1. All necessary permits and approvals shall be obtained from the Division of Building Inspection prior to finishing construction.
2. The driveway for the new garage shall not interfere with or obstruct the stormwater curb inlet.
3. A minor subdivision plat shall be submitted and recorded to document the modified building line in accordance with the Land Subdivision Regulations.

4. **PLN-BOA-24-00084: MADDEN FAMILY LLC NO 21** – requests a variance to increase the maximum allowable parking from 28 spaces to 56 spaces in a Commercial Center (B-6P) zone, on property located at 1863 Plaudit Pl. (Council District 6)

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

- a. The variance request was based on the requirements for a shopping center not located on a transit route. However, this commercial center is located on an established transit route (LexTran Route 18), so the variance request should be a request to increase the maximum allowable parking from 22 spaces to 56 spaces. Because this is a greater variance than was advertised, the applicant will need to provide an updated notice mailing.
- b. The applicant has not provided sufficient justification to meet the requirements of Article 7 of the Zoning Ordinance or KRS 100.243. They have not provided specific operational details related to the need for additional parking spaces.

- c. In order to comply with the requirements of Articles 18 and 20, parking spaces may need to be removed or other variances may be necessary.

5. **PLN-BOA-24-00085: ROBERT MILAM** – requests variances to 1) increase the allowable height of an accessory structure from 17' to 20'; 2) increase the allowable lot coverage of an accessory structure from 1,034 square feet to 1,100 square feet; and 3) increase the allowable size of an accessory structure from 650 square feet to 1,870 square feet in order to bring an existing non-conforming structure into compliance to allow for the conversion of existing finished space into an accessory dwelling unit in a Single Family Residential (R-1C) zone, on property located at 655 Graviss Ct. (Council District 9)

**Note** – This application has been withdrawn.

6. **PLN-BOA-24-00088: IAN COLE** – requests a variance to increase the allowable width of a driveway from 10' to 12.5' within the defined Infill and Redevelopment Area in a Single Family Residential (R-1C) zone, on property located at 114 Paris Ave. (Council District 1)

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

- Granting the variances should not adversely affect the public health, safety, or welfare of the general vicinity as the driveway is an appropriate width to allow appropriate access to the attached one-car garage.
- The granting of the variance will not alter the essential character of the general vicinity. A slightly wider driveway is generally reasonable in this location as there are other similar driveways in the immediate vicinity.

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

- The driveway shall be permitted in accordance with the submitted application materials and site plan.
- All necessary permits and approvals shall be obtained from the Division of Building Inspection.

**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 August 12, 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 August 12, 2024 meeting.**

3. **PLN-BOA-24-00073: FRANCOIS MUNYAKAZI** – requests a conditional use permit for an un-hosted short term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 613 Skyview Ln. (Council District 2)

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

- 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.
- The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- No short term rentals in the area have been cited as a nuisance and there are no other short-term rentals in the area.
- There is no record of short term rental compliance issues with the applicant.
- 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 8 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.

1. **PLN-BOA-24-00079: DIANE JAMES** - requests a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment Area in a Mixed Low Density Residential (R-2) zone, on property located at 912 Cramer 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 users. Additionally, the applicant is uniquely suited to manage the property as a short term rental given the immediate proximity of their permanent residence.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- c. Staff is unaware of any 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. While the applicant had begun operation of the short term rental without appropriate approvals, they have applied for the necessary approvals in a timely manner following notice from the Division of Revenue.
- 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. The conditional use permit shall become null and void if the applicant no longer occupies the property at 55 Mentelle Park as their primary residence.

6. **PLN-BOA-24-00080: INNOCENT GAMA** – requests a conditional use permit to establish a Type II childcare center in a Planned Neighborhood Residential (R-3) zone, on property located at 2684 Rockaway Pl. (Council District 2)

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

- a. Granting the requested conditional use should not adversely affect the subject or surrounding properties. The applicant's proposed hours of operation should be compatible with the residential neighborhood.
- b. The applicant has already been operating a Family Childcare Home in the neighborhood, so the expansion of the use from a maximum of ten (10) children to a maximum of twelve (12) children should not have an adverse influence the residential structure or the existing neighborhood.
- 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. Childcare for up to 12 children, including children related to the licensee, shall be provided in accordance with the submitted application materials and site plan.
2. The total number of employees on the property shall be limited to two (2) in accordance with the submitted application materials.
3. During hours of operation, visitors to the property shall be limited to residents of the dwelling, employees, and individuals picking up or dropping off children.

4. The outdoor play area will be fully fenced and contain at least 300 square feet.
  5. All necessary permits, including a Zoning Compliance Permit and a fence permit, shall be obtained from the Divisions of Planning and Building Inspection prior to initiation of the childcare use.
  6. The use shall at all times operate in compliance with the regulations of the Kentucky Cabinet for Health and Family Services.
  7. The conditional use shall become null and void should the applicant no longer reside at this location.
7. **PLN-BOA-24-00087: CLAYS MILL RD BAPTIST CHURCH BOARD OF TRUSTEES** – request a conditional use for a childcare center accessory to a place of religious assembly in a Single Family Residential (R-1B) zone, on property located at 3000 Clays Mill Rd. (Council District 10)

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

- a. Granting the requested conditional uses should not adversely affect the subject or surrounding properties. The proposed childcare and preschool will utilize an existing structure and the new playground will be fully fenced and screened in addition to the six (6') foot wood privacy fence that surrounds much of the property.
- b. The applicant is proposing to construct a new playground of 3,150 square feet in size, which will exceed the minimum square footage by 100 square feet.
- c. The requested conditional uses should not have a negative impact on traffic in the general vicinity, as adequate parking is present to accommodate the uses.
- d. All necessary public facilities and services are available and adequate for the proposed uses.

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

1. The uses shall be operated in accordance with the submitted application materials and the amended site plan dated June 26, 2024.
2. All necessary permits, including a zoning compliance permit and a fence permit shall be obtained from the Divisions of Planning and Building Inspection prior to commencement of the use.
3. The applicant shall comply with all requirements of the State of Kentucky's Cabinet for Health and Family Services.

IV. **BOARD ITEMS** – The Chair will announce that any items a Board member wishes to present will be heard at this time.

A. **Appointment of new member to the Landscape Review Committee**

The Lexington Tree Board has recommended their newly appointed chair, Mr. Michael Potapov, for appointment to the Landscape Review Committee, to fill the position vacated by Mr. Dan Stever.

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 August 12, 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](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.