

**MINUTES FOR THE BOARD OF
ADJUSTMENT MEETING**

February 10, 2025

- I. **CALL TO ORDER** - Chair Carter called the meeting to order at 1:34 p.m. in the Council Chambers, 200 East Main Street, Lexington, Kentucky.
- II. **ATTENDANCE** - Board members present were Raquel Carter, Harry Clarke, Branden Gross, Bob Sturdivant, James Persley, Linda Tucker, and Chad Walker. Others present were Brittany Smith, Department of Law; Joseph Edmiston, Division of Traffic Engineering. Planning Staff members present were Traci Wade, Dalton Belcher, James Mills, and Bill Sheehy.

III. **APPROVAL OF MINUTES**

None at this time.

IV. **PUBLIC HEARING ON ZONING APPEALS**

A. **Postponements and Withdrawals**

1. **PLN-BOA-24-00219: MAZUNA 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 147 Londonderry Dr. (Council District 11)

Commission Comments – Ms. Raquel Carter indicated that the applicant wished to withdraw this application.

2. **PLN-BOA-25-00008: NEWTOWN SPRINGS LLC** – requests a conditional use permit for a drive-through facilities for the sale of goods in a Neighborhood Business (B-1) zone, on a property located at 1425 Newtown Center Way. (Council District 1)

Commission Comments – Ms. Raquel Carter stated that the applicant wanted to postpone this application to the March 10, 2025 meeting and that she would entertain a motion.

Action – Mr. Clarke made a motion, seconded by Ms. Tucker, and carried 5-0-1 (Gross abstained), to postpone **PLN-BOA-25-00008: NEWTOWN SPRINGS LLC** to the March 10, 2025 meeting.

- B. **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.
- C. **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.

D. **Abbreviated Hearing**

1. **PLN-BOA-25-00002: RED DRAW LIBERTY LLC** – requests a conditional use permit for the following uses: 1) assisted living facilities and 2) a medical clinic in a Medium Density Residential (R-4) zone, on properties located at 2156-2184 Liberty Road (even addresses only) & 766 Paradise Lane. (Council Districts 6 & 7)

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

2. **PLN-BOA-25-00004: DIOCESE OF LEXINGTON TR** – requests a conditional use permit for a childcare center accessory to a place of religious assembly in a Single Family Residential (R-1A) zone, on property located at 1891 Parkers Mill Road. (Council District 10)

The Staff Recommends: Approval, for the following reasons:

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. All facilities are in place, including the required outdoor play area, to accommodate a childcare center for up to 12 children. Adequate parking is available in the church parking lot for pick-up and drop-off of students.
- b. 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 childcare center shall be established in accordance with the submitted application and site plan.
2. An occupancy permit shall be obtained from the Division of Building Inspection prior to opening the childcare center.
3. Enrollment at the childcare center shall be limited to no more than twelve (12) children, or as further limited based on occupancy restrictions set by the Kentucky Cabinet for Health and Family Services and/or the Division of Fire and Emergency Services.
4. The outdoor play area of 1,312 square feet shall be fenced and screened.
5. The childcare center shall at all times operate in compliance with the regulations of the Kentucky Cabinet for Health and Family Services.

Applicant Representation – Councilperson Dave Sevigny, representing the applicant, gave a brief introduction to the project stating that St. Raphael Episcopal Church was seeking to use their property during the week as a daycare. Mr. Sevigny stated that they only had one issue with Staff's recommendation and requested that the enrollment not be limited to 12 children and instead limit the number by maximum amount allowed by the Fire Code.

Board Comments and Questions – Mr. Gross asked if Staff was comfortable with striking the language or increasing the number allowed. Ms. Traci Wade stated they would be more comfortable increasing the number and that Staff had only looked at the application with a 12 person limit. Ms. Wade noted that a daycare had been disapproved at this site in 2010 and that application had a limit of 32 children and Staff would not be open to anything that exceeds that number.

Ms. Carter stated that if they wanted to amend their application to increase the number, Staff would need to have a number that they wished to propose to determine if they would continue to recommend approval.

Mr. James Mills stated that there is a requirement of 25 square feet per child of fenced outdoor play area. Doing the math, Mr. Mills indicated that would be about 52 children allowed.

Mr. Sevigny stated that his request would be for 52 children. Additionally, Mr. Sevigny stated that he thought the State of Kentucky managed that type of requirement. Ms. Wade indicated that the Zoning Ordinance also requires the square footage in the specific zone and that the previous denial was due to concerns with traffic on Parkers Mill Road. Mr. Sevigny stated that he would disagree that traffic would be a huge problem here.

Mr. Clarke asked what Staff's recommendation would be at this juncture given the new information. Ms. Wade stated that either a postponement or a continuance would be Staff's recommendation.

Given that information, Mr. Sevigny requested a continuance.

Public Comments – Dr. Jennifer Jackson, 1289 Standish Way, stated her opposition due to traffic concerns and with the noise that is generated from a daycare facility.

Stephen Webb, 1879 Parkers Mill Road, stated his opposition to this application due to noise concerns and traffic in the parking lot of the church.

2. **PLN-BOA-25-00009: MB CONSTRUCTION LLC** – requests a conditional use permit for an un-hosted short term rental in a Townhouse Residential (R-1T) zone, on a property located at 485 Larkwood Drive. (Council District 7)

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 are no other short-term rentals within the required 600-foot buffer and the concentration of short-term rentals in 1,000 feet of the subject property is less than 2%.
- e. There is no record of short term rental compliance issues with the applicant.
- f. 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 eight (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.

Chair Carter swore in the applicant at this time.

Applicant Representation – Maria Alfonso, applicant, and her translator, Trinidad Alfonso, stated that she had read the Staff's conditions for approval and he was willing to comply with them.

Board Questions and Comments – Ms. Linda Tucker asked if their property touched the park and if there was only one parking space. Ms. Alfonso stated that the park was close but the property did not touch it and she confirmed there was only one parking space.

Action – Mr. Chad Walker made a motion, seconded by Mr. Sturdivant, and carried 7-0, to approve **PLN-BOA-25-00009: MB CONSTRUCTION LLC** – requests a conditional use permit for an un-hosted short term rental in a Townhouse Residential (R-1T) zone, on a property located at 485 Larkwood Drive, subject to the 4 conditions recommended by the Staff.

3. **PLN-BOA-24-00209: 185 WALTON AVE LLC** – 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 185 Walton Ave. (Council District 3)

Note – This application was postponed from the January 13, 2025 meeting.

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

- a. The four factors listed in Article 3-13(g) of the Zoning Ordinance have been evaluated, in addition to the requirements of Article 7 of the Zoning Ordinance and KRS 100.237.
- b. Review of those factors shows that no STRs in the proximity have been cited as a nuisance, and the applicant has no history of compliance issues.
- c. But based on a review of the number of STRs, a high concentration of short-term rentals is developing within the neighborhood with fourteen (14) operating within 1,000 feet of the subject property, for a concentration of 3.88% of the homes within the vicinity being used for STRs.
- d. The projected occupancy rate of the short-term rental is greater than the City of Lexington's average of 50%, resulting in a higher than average impact because transient guests are coming and going more frequently.

- e. There is no record of short term rental compliance issues with the applicant.
- f. 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 six (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.

5. **PLN-BOA-25-00006: GOODPASTER PROPERTY GROUP L.L.C** – 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-1C) zone, on property located at 137 Garrett Avenue. (Council District 11)

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

- a. The three factors listed in Article 3-13(g) of the Zoning Ordinance have been evaluated, in addition to the requirements of Article 7 of the Zoning Ordinance and KRS 100.237
- b. No other STRs have been cited in the vicinity as a nuisance and the applicant has no history of compliance issues; however, based on a review of the ArcGIS concentration mapping data, there is one (1) short term rental (two, if the applicant's other request on this agenda is approved) operating within the required 600 foot buffer area and a total of two (three, if the applicant's other request on this agenda is approved) STRs operating within 1,000 feet surrounding the property – in total, a concentration of 0.68% of the dwelling units within the 1,000 foot buffer are being used for STRs. The applicant does not meet any of the three provisions for relief set forth in Article 3-13(m) of the Zoning Ordinance.

Staff Presentation – Mr. Dalton Belcher showcased an aerial view of the subject property and indicated that the applicant is requesting a conditional use permit for an un-hosted short term rental at 137 and 139 Garrett Avenue. Mr. Belcher stated that Staff was recommending approval of 139 Garrett Avenue, but disapproval for 137 Garrett Avenue due to the new regulations that state you cannot have multiple short term rentals within a 600 foot radius. Additionally, Mr. Belcher noted that there were other short term rentals at the edge of the 600 foot buffer.

Applicant Representation – Zachary Goodpaster, applicant, thanked Planning Staff for their work and gave a little background on this project. Mr. Goodpaster stated that he had been working with his dad on these houses for two years right after he left the military and has put everything he has into these houses. Mr. Goodpaster stated that these houses are right next to his grandparents and parents houses, that he has installed many safety and security features, and that he has sent in many letters of support from the neighborhood for this project.

Board Questions and Comments – Mr. Gross asked if there was relief written in the Ordinance for situations like Mr. Goodpaster's. Mr. Belcher stated there was relief that applied, but Staff's distinction was that it only applies to one of these properties and once approved, adding another would lead to an overconcentration of short term rentals.

Action – Mr. Branden Gross made a motion, seconded by Mr. Persley, and carried 7-0, to approve **PLN-BOA-25-00005: GOODPASTER PROPERTY GROUP L.L.C**, 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-1C) zone, on property located at 139 Garrett Avenue, subject to the 4 conditions recommended by the Staff.

Board Questions and Comments – Mr. Chad Walker asked hypothetically if two applicants had properties next to each other and both applied for a short term rental, which one would be approved. Mr. Mills indicated that it would be whoever applied first.