

**MINUTES FOR THE BOARD  
OF ADJUSTMENT MEETING**

March 10, 2025

- I. **CALL TO ORDER** - Chair Carter called the meeting to order at 1:30 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, Linda Tucker, and Chad Walker; James Persley was absent. Planning Staff members present were Traci Wade, Daniel Crum, Dalton Belcher, Patti Haley, and Paula Schumacher. Others present were Brittany Smith, Department of Law; Joseph Edmiston, Division of Traffic Engineering and Josh Dezarn, Division of Engineering.

III. **APPROVAL OF MINUTES**

Mr. Gross made a motion, and seconded by Mr. Clarke, and carried 6-0 (Persley absent) to approve the November 4, 2024 and December 9, 2024 minutes.

IV. **PUBLIC HEARING ON ZONING APPEALS**

- A. **Swearing of Witnesses** - Chair Carter announced that any applicant or objector, or anyone in the audience who plans to speak to any appeal before the Board, please stand to be sworn in at this time. The oath was administered to several members of the audience at this time.

- B. **Sounding of Agenda** – In order to expedite completion of agenda items, Chair Carter sounded the agenda regarding any postponements, withdrawals, and items requiring no discussion.

C. **Withdrawal**

1. **PLN-BOA-24-00222: MASTER PLAN HOUSE PLANS** – requests a variance to increase the allowable size of an accessory structure from 50% to 87% in a Single Family Residential (R-1C) zone, on property located at 884 Lynn Road. (Council District 11)

Chairman Carter explained that this case was being withdrawn and would be removed from the agenda.

D. **Abbreviated Variances**

1. **PLN-BOA-25-00016: GIBSON TAYLOR THOMPSON** – requests a variance to reduce the required side street side yard setback of a corner lot from thirty (30) feet to sixteen (16) feet, and six (6) inches in a Single Family Residential (R-1C) zone, on property located at 1501 Richmond Road. (Council District 5)

The Staff Recommends: Approval, for the following reasons:

- a. Granting the variance should not adversely affect public health, safety, or welfare, nor alter the character of the general vicinity. The proposed addition will maintain the existing non-conforming setback along Bassett Avenue.

- b The proposed side yard is in keeping with the character of the area, where many homes are non-conforming with respect to required side yards due to the age of the structures.

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

1. Construction shall be in accordance with the submitted application materials.
2. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction.

Application Representation – Mr. Baron Gibson was present on behalf of Gibson, Taylor and Thompson. Chair Carter stated that the Staff had recommended approval with two conditions. Mr. Gibson stated that the conditions were acceptable.

Action – A motion was made by Mr. Gross, seconded by Mr. Walker and carried 5 - 0 (Persley absent, Tucker recused) to approve **PLN-BOA-25-00016: GIBSON TAYLOR THOMPSON** – request for a variance to reduce the required side street side yard setback of a corner lot from thirty (30) feet to sixteen (16) feet, and six (6) inches in a Single Family Residential (R-1C) zone, on property located at 1501 Richmond Road, based on Staff's recommendations and subject to the two conditions as listed.

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)

*Note: This application was postponed from the February 10, 2025.*

The Staff Recommends: Approval, for the following reasons:

- a. Approval of the proposed conditional use should not adversely affect the subject or adjoining/nearby properties, provided that all necessary permits and approvals are made. The area surrounding the property is commercial in nature and this use is similar in terms of hours of operation and activity levels to existing uses on adjacent lots. Additionally, the required stacking for the proposed drive-through facilities can be accommodated wholly on the subject property without impacting adjacent lots, the public right-of-way of Newtown Pike, nor the use of the Legacy Trail.
- b. All necessary public services and facilities are or will be available and adequate for the proposed use. The property will have adequate parking and drive-through lanes for the proposed use.

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

1. The property shall be developed and operated in accordance with the submitted application materials and site plan, subject to any alterations required throughout the permitting process and as amended by the Planning Commission on the final development plan.
2. All necessary permits and/or approvals shall be obtained from the Divisions of Planning, Building Inspection, and Engineering, as well as necessary state and federal agencies, prior to construction (if necessary) and occupancy.

Application Representation – Mr. Rory Kahly, with EA Partners, was present on behalf of the applicant. Chair Carter stated that the Staff had recommended approval with two conditions and asked if he was agreeable to them. Mr. Kahly stated that the conditions were acceptable.

Action – A motion was made by Mr. Clarke, seconded by Mr. Sturdivant and carried 5 - 0 (Persley absent, Gross recused) to approve **PLN-BOA-25-00008: NEWTOWN SPRINGS LLC** – request 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, based on the Staff's recommendations and subject to the two conditions as listed.

#### **E. Variance Appeals**

1. **PLN-BOA-24-00211: ODD JOBS – FENCING & HANDYMAN SERVICES LLC** – requests a variance to increase the allowable height of a fence within the front yard from four-foot to six-foot in a Professional Office (P-1) zone, on properties located at 1169 Winburn Drive, 1184 Winburn Drive, & 1804 Gerald Drive. (Council District 1)

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. Four-foot-tall fences in the front yard are typical across business and office zones.
- b. The applicant has not provided sufficient information to determine that strict enforcement of the Zoning Ordinance will result in unnecessary hardship or deprive the applicant of the reasonable use of their land. The applicant could reduce the height of the fence to four feet to create a physical barrier along the edge of the parking lot without a variance.
- c. Approval of the requested variance could have a negative impact on the transit access and walkability of immediate vicinity, as the property is in an area featuring a mixture of uses including residential uses and neighborhood serving businesses.

Application Representation – Contractor Dwight Brown, for the Community Action Center and John Cantron on behalf of the Community Action Center, were present on behalf of the applicant.

Staff Presentation – Mr. Crum directed the Board's attention to the overhead screen on which he displayed an aerial view and a street view of the property. He briefly explained the particulars of this application and why the Staff had recommended disapproval. Mr. Crum noted that the applicant could construct a six-foot tall fence in the side and rear yard of the property but that the Zoning Ordinance does not permit six-foot fences in front yards. Mr. Crum noted that the applicant did not provide 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 property that do not apply to general land in the vicinity or the same zone that justify the need for a variance. The applicant did not provide sufficient information to determine that strict enforcement of the Zoning Ordinance would provide an unnecessary hardship or deprive the applicant of the reasonable use of their land. Furthermore, approval of the variance could negatively impact transit access and walkability of the immediate vicinity.

Board Comments and Questions - Mr. Sturdivant asked if the main difference in the proposed four-foot fence vs six-foot fence is an issue mainly of security. Mr. Crum stated that the applicants felt it offered extra security. Mr. Sturdivant asked for confirmation that the fence would not interfere with or include any of the public sidewalk. Mr. Crum confirmed that it would not. Ms. Tucker asked if the variance would be transferable in the event of a sale of the property. Mr. Crum confirmed that it would. Mr. Clarke asked for confirmation that there would be gates. Mr. Crum confirmed there would be gates secured after hours. Mr. Clarke asked how trash collection would be handled inside of gates. Mr. Crum said that he did not know.

Applicant Rebuttal – Mr. Brown and Mr. Cantron opined that the difference between four-foot and six-foot fencing would increase safety for children in the buildings during the day.

Additional comments were made by the Board members that they have made the conscious decision to stay as close to the regulations currently in effect as possible. Mr. Brown and Mr. Cantron stated that the trash is picked up twice during business hours and would not pose an issue.

Action – Mr. Gross made a motion, seconded by Mr. Walker, and failed 3 – 3 (Clarke, Sturdivant and Tucker opposed, Persley absent) to disapprove **PLN-BOA-24-00211: ODD JOBS – FENCING & HANDYMAN SERVICES LLC** – requesting a variance to increase the allowable height of a fence within the front yard from four (4) feet to six (6) feet in a Professional Office (P-1) zone, on properties located at 1169 Winburn Drive, 1184 Winburn Drive, & 1804 Gerald Drive.

Due to a split vote, the Board took no action on the requested variance.

2. **PLN-BOA-25-00014: JOE AND AMANDA WINGFIELD** – request variances to 1) reduce the required front yard setback from thirty-feet to zero-feet and 2) increase the maximum driveway width from twenty-four (24) feet to thirty-nine (39) feet in a Single Family Residential (R-1C) zone, on property located at 3493 Aldershot Drive. (Council District 9)

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 property is similar in size, shape, and character to other properties in the vicinity. The neighborhood is largely characterized with standard driveways and do not feature paved front yard areas.
- b. The applicant has not provided sufficient information to determine that strict enforcement of the Zoning Ordinance will result in unnecessary hardship or deprive the applicant of the reasonable use of their land. The property's existing rear pad and driveway configuration provides enough room for multiple vehicles.
- c. The granting of this variance could allow an unreasonable circumvention of the requirements of the Zoning Ordinance as the applicant expanded their driveway without securing the proper paving permits and approvals.

Application Representation – Amanda and Joe Wingfield were present

Staff Presentation - Mr. Crum presented overhead photos of the property, showing that the applicants essentially eliminated all green space in front of their house and expanded the driveway width from 24 feet in width to 39 feet without permits or approval by the BOA. Applicants received a violation letter requesting that they remove the pavement in the additional parking area and replace the grass. Upon receiving the notice, they filed for a variance. In their justification letter, they posed their concerns that they did not feel safe parking in the street or backing out of their driveway without the driveway expansion. Staff found that they did not prove any special circumstances, as similar properties found similar parking adequate. Further, reinforcing the requirements would not pose an unnecessary hardship, and paving without a permit circumvented the approval process to complete this change. Mr. Crum said that the Staff recommend disapproval.

Applicant Rebuttal – Ms. Wingfield provided photos, letters from neighbors, and addresses of other properties with similar driveways in their neighborhood. She stated that they did not realize they needed a permit to make changes to their driveway, and she did not answer variance questions correctly due to recent stressful circumstances. She stated that they normally have three large trailers and heavy equipment behind their house, which leaves them no space to park their two full-size trucks there. She provided pictures of her street

with multiple cars parked in the street in front of and across from her home. She also presented photos of other neighbors with larger driveways in poor condition. Chair Carter asked the applicants if they poured the concrete; Mr. Wingfield stated that he put in the rock base and hired a contractor to pour the concrete. Chair Carter asked the Staff if the percentage of lot covered caused a violation. Mr. Crum stated that it did not but violated the driveway width and setback in the front yard. Mr. Crum also referenced the comments Ms. Wingfield made that fell outside of the request for variance, stating that the business vehicles mentioned (heavy duty vehicles and 3 trailers) are not permitted in residential areas.

Board Comments and Questions – Mr. Gross stated that he did not feel that there were any special circumstances and would be voting against. Mr. Clarke stated that it seemed that applicants were using property as a business instead of a residence and he was not in favor of a variance, especially to accommodate a business in a residential area. Ms. Wade clarified the comment made by Mr. Crum, stating that no earth-moving vehicles and only one trailer were allowed on a residential property.

Action - Mr. Gross made a motion, seconded by Mr. Clarke, and carried 6-0 (Persley absent) to disapprove **PLN-BOA-25-00014: JOE AND AMANDA WINGFIELD** – requesting variances to 1) reduce the required front yard setback from thirty (30) feet to zero (0) feet and 2) increase the maximum driveway width from twenty-four (24) feet to thirty-nine (39) feet in a Single Family Residential (R-1C) zone, on property located at 3493 Aldershot Drive based on the Staff recommendations.

3. **PLN-BOA-25-00001: GOSPEL COLLECTIVE CHURCH INC** – requests to amend an existing conditional use permit for a place of religious assembly to expand the parking area and construct an addition to the principal structure in a Single Family Residential (R-1C) zone, on property located at 2601 Clays Mill Road. (Council District 10)

The Staff Recommends: Approval, for the following reasons:

- a. Approval of the proposed conditional use should not adversely affect the subject or adjoining/nearby properties, provided that all necessary permits and approvals are made. The parking lot will provide the necessary parking spaces for the church within their existing site. The parking lot will be required by the Zoning Ordinance to provide landscaping and screening to create a buffer between the vehicular use area and the public street, as well as the residential neighborhoods. The building addition will serve the future needs of the existing congregation.
- b. All necessary public services and facilities are or will be available and adequate for the proposed use.

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

1. The property shall be developed and operated in accordance with the submitted application materials and site plan, subject to any alterations required throughout the permitting process.
2. All necessary permits and/or approvals shall be obtained from the Divisions of Planning, Building Inspection, and Engineering, as well as necessary state and federal agencies, prior to construction and occupancy.
3. All outdoor lighting shall conform to the requirements under Article 30. A sidewalk minimum of five (5) feet in width shall be provided from the Hill N Dale Road right-of-way to the building

Applicant Presentation - Pastor Joey Fink was present to represent the applicant. Pastor Fink stated that the church has been on property for three years. Pastor Fink stated that the church has grown, and they need additional parking. Pastor Fink stated that they have

an annual festival like Mary Queen of Martyr Church, across the street, on a much smaller scale. Pastor Fink stated that the drainage issue is addressed in the plans to meet code.

Board Comments and Questions – Mr. Clarke questioned the Staff on the impact of losing the playground. Mr. Belcher explained that the church is not pursuing a day care at this time. Pastor Fink agreed and noted if they expanded the children's program, they may add some playground equipment.

Citizen Comments

Dani Arnold, 2429 Yuma Court, submitted a petition for the Board's consideration for the Board's consideration. She stated that it was signed by all neighbors, except those who were not home, in opposition to the project. Ms. Arnold stated that neighbors believe that the Church is growing too fast. Ms. Arnold also expressed concern about removing greenspace and mature trees for the additional blacktop which may cause flooding, and the proximity of the proposed blacktop which may cause to neighbors' fence – inhibiting outdoor entertaining.

Luralyn Calitri, 2420 Yuma Court, stated concerns that property values will drop, rainwater will cause flooding and mature trees will be removed, which will affect water run-off negatively.

Applicant Rebuttal – Pastor Fink stated that to complete the project, they will have to eliminate some trees. He stated that the city will require the addition of 40 trees. Mr. Walker stated that he felt that churches often got a pass as this case was like the previous case with the disapproval of a residential property expanding a driveway. Mr. Gross stated that existing use allows additional parking. Mr. Walker asked if the church could make do with current parking. Pastor Fink stated that they could not. Mr. Walker also inquired about noise levels that were mentioned by citizens. Pastor Fink said his church would be happy to comply with the city noise Ordinance. Ms. Tucker requested that they try to keep as many mature trees as possible.

Action – Mr. Gross made a motion, seconded Mr. Sturdivant, and carried 6 - 0 (Persley absent) for approval of **PLN-BOA-25-00001: GOSPEL COLLECTIVE CHURCH INC** – request to amend an existing conditional use permit for a place of religious assembly to expand the parking area and construct an addition to the principal structure in a Single Family Residential (R-1C) zone, on property located at 2601 Clays Mill Road. based on the Staff recommendations, subject to four conditions plus a fifth condition that the church add a six-foot fence around the parking area and along the eight-foot wide landscape buffer between property and residential property. The applicant agreed to this condition.

4. **PLN-BOA-25-00004: DIOCESE OF LEXINGTON INC** – 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)

Note: This application was continued from the February 10, 2025 meeting. The applicant submitted revised application materials for further consideration by the Board.

The Staff Recommends: Approval of a childcare center with a lesser capacity, for the following reasons:

- a. A childcare center for no more than twenty-four (24) children should not adversely affect the subject or surrounding properties. The space used will be located within the existing building or site, and an outdoor play area is available. Church properties are typically not

- used throughout the week, so they are generally well-suited for this type of use.
- b. Adequate parking is available in the church parking lot for student pick-up and drop-off.
  - c. Parkers Mill Road is a rural, two-lane roadway with no turn lanes or emergency shoulder; therefore, limited capacity is appropriate until roadway improvements are constructed in the vicinity of the subject property. All necessary public facilities and services are available and adequate for the use with a limited capacity. is appropriate until roadway improvements are constructed in the vicinity of the subject property.
  - d. All necessary public facilities and services are available and adequate for the use with a limited capacity.

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 twenty-four (24) 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 – Rev. Helen Van Koevinger, Rector of St. Raphael, Dave Sevigny, Council District 10 representative, and Beth Scott, owner of Dream Care Learning Center was present to represent the applicant.

Staff Presentations – Mr. Belcher recapped the prior plan and changes made. The number of children and space where children would be inside the structure had been changed. The number of children has been amended to 52 and the hours of operation have changed. The Staff recommends a maximum of 24 children. Chair Carter requested the capacity requested in the past that has been denied. Mr. Belcher stated that in 1977, the request was for 45 children, in 2010 32 children were requested, and currently, the revised number requested is 52 children. Both previous requests in 1977 and 2010 were denied by the Board

Applicant Presentation - Rev. Van Koevinger stated that they were not making any changes to the layout, and there are not a lot of childcare centers in the area. The applicant stated that there are 15 acres of vacant land next to the lot and there is about 400 feet between the building and the neighbors. Additionally, security has been updated so that key fobs are required to enter the buildings and that several day care providers have approached the church to use their building

David Sevigny, Council Member for District 10, and a member of St. Raphael for 25 years, stated that churches can be underutilized, and there is a real need for childcare, especially after the Covid pandemic. He stated that he thought capacity of 52 was on the low side for this project. He asserted that churches could meet the need for local childcare, while charging cheaper rent to interested childcare providers.

Beth Scott, owner of Dream Care Learning Center, stated that they were at capacity and were interested in the church property for a new location. She stated that it would be very difficult to keep capacity at 24, partly due to the cost of running the business, while keeping rates affordable for families. Mr. Sturdivant asked Ms. Scott what number of children would be allowed to make this business financially feasible. She stated that 52 children would be

feasible. Mr. Clarke asked Ms. Scott if the facilities would meet the childcares' needs. She stated that the rooms and toilets/restroom would meet the requirements of the state licensing board.

Board Questions and Comments - Mr. Gross asked Rev Van Koevering if she was still asking for 52 children capacity, and she stated that number was based on the square footage available. Mr. Gross asked if she would be amenable to the 24-child capacity, which was part of the Staff recommendations. Rev. Van Koevering looked to her other representative to respond to this question. Mr. Sevigny stated that he felt 52 children was a reasonable number; and they could probably accommodate over 70. He stated that they will accept whatever capacity the Board approves, but that would limit their options.

Citizen Comments – Stephen Webb, a neighbor of the church for 23 years, stated he and other neighbors felt that home values and the traffic in the neighborhood will be negatively impacted if this plan is approved. Mr. Webb stated that the parking lot is a larger concern, as the childcare center will bring many cars in and out of the parking lot, and he believes that this will create more noise. He provided a site plan showing the church's proximity to his home and four nearby neighbors that object to the project.

Darrell Phelps, a parishioner who lives nearby, stated that there was already a lot of traffic on Parkers Mill, and stressed that denying the application will negatively affect many families, children and the church. He encouraged the Board to approve the plan for their daycare.

Applicant Rebuttal – Rev. Van Koevering thanked Mr. Webb for donating the fencing between his house and the church property. She stated that noise should not be an issue, as kids will be indoors other than breaks, and noise levels will be monitored. She also mentioned that she was aware that there is talk of nearby development that could create more traffic on Parkers Mill; however, it was her understanding that it was not for 5 – 10 years.

Board Questions and Comments - Chair Carter asked the Staff if allowing the church to lease out space was acceptable. Ms. Wade stated that they normally approved of this type of use, if the church was sponsoring the entity. Mr. Gross inquired whether the Staff were basing the 24-child capacity on past board decisions, or any other significant reason. Ms. Wade stated that it was the existing infrastructure and that there have been no improvements since this was proposed and disapproved of in the past. Mr. Walker asked where cars would enter to drop off children. Rev. Van Koevering stated that if the kids were in the basement, they would drop off in the back. Mr. Sturdivant questioned the source of the number of kids that the Staff recommended. Ms. Wade explained that applicants asked for 12 children originally, so the Staff suggested 24 to stay below previous disapprovals. Mr. Gross pointed out that these disapprovals were in 1977 and 2010; he stated that he was in support of the request, including the 52-child capacity. Mr. Clarke agreed.

Action – Mr. Clarke made a motion, seconded by Mr. Gross, and carried 6 - 0 to approve (Persley absent) **PLN-BOA-25-00004: DIOCESE OF LEXINGTON INC** – request for 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. with an adjustment finding A and condition #3 by the Staff, increasing it to no more than fifty-two (52) children.

Note: A five-minute break was taken, during which time Ms. Carter excused herself and Mr. Gross stepped in to act as Chair.

**E. Short Term Rentals**

1. **PLN-BOA-25-00003: HOME 2 U PROPERTIES** – requests a conditional use permit for an un-hosted short-term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 3441 Laredo Drive, Unit 7 (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.
- 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 0%.
- 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.  
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.

Application Representation – Tom Cravens, owner/applicant, was present to represent the application.

Board Questions and Comments – Ms. Tucker stated that she has concerns about parking – she noted that there was one letter in opposition. She said that she had driven by the site and saw that parking was very limited. Mr. Cravens stated that there was usually parking available in front of their property, as well as their neighbors' properties, and they also had an additional covered spot available. Ms. Tucker asked if they would have any issues with the number of vehicles six occupants could drive. Mr. Cravens said most cars had multiple occupants each and they have never had any issues with parking.

Action – Mr. Clarke made a motion, seconded by Mr. Sturdivant and carried 3 -1 (Carter, Walker and Persley absent) to approve **PLN-BOA-25-00003: HOME 2 U PROPERTIES** – requests a conditional use permit for an un-hosted short-term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 3441 Laredo Drive, Unit 7, based on the findings presented by the Staff, subject to the four conditions.

2. **PLN-BOA-25-00010: WINGSPAN RENTALS** – requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1C) zone, on property located at 3502 Willowood Road. (Council District 8)

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 0%.
- 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 five (5) 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.

Applicant Representation – Amy Sohner (she did not sign in, but she was sworn in by Chair Gross prior to speaking) was present to represent the application. Ms. Sohner agreed to all conditions proposed by the Staff.

Action - After applicant agreed to all conditions from the Staff, Mr. Clarke made a motion, seconded by Mr. Sturdivant. Motion carried 4 – 0 (Walker recused, Persley and Carter absent) for approval of **PLN-BOA-25-00010: WINGSPAN RENTALS** a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1C) zone, on property located at 3502 Willowood Road, and all its conditions.

3. **PLN-BOA-25-00023: J & H HOMES LLC** – requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1D) zone, on property located at 1216 Telluride Circle. (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.
- 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 within 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 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.

Applicant Representation – Heather Grable was present to represent the application.

Actions – Mr. Walker made a motion, Mr. Clarke seconded, motion carried 5 – 0 (Persley and Carter absent) to approve **PLN-BOA-25-00023: J & H HOMES LLC** – requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1D) zone, on property located at 1216 Telluride Circle, subject to the four conditions.

Staff presentation - Prior to hearing the following applications for short-term rentals, Mr. Belcher reviewed the short-term rental regulations which had been adopted by Council on July 11, 2023. Applications submitted through 12/12/2024 are subject to these regulations.

4. **PLN-BOA-23-00086: PHILLIP PETRIE (RENEW HOLDINGS, LLC)** – requests a conditional use permit for an un-hosted short-term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 316 Nelson Avenue. (Council District 1).

The Staff Recommends: Disapproval, 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. None of the short-term rentals in the area have been cited as a nuisance. But the number of short-term rentals within 1,000 feet of the property (five), together with the occupancy rate of those rentals (44%), indicates that there is a lower demand for short-term rentals in this area. This can be further substantiated by the fact that only one out of the five short-term rentals in the area have renewed their license to continue operating. This suggests that use of the property as a short-term rental is not the highest and best use for the property in this neighborhood.
- c. Further, the proposed use of the property as a short-term rental may have an adverse influence on the subject property and the surrounding neighborhood by removing an existing housing unit from the market that could otherwise be utilized as a primary residence for an owner occupant or long-term tenant within one of the top 10 Census Block Groups identified as a Priority Area, as mapped within the Task Force on Neighborhoods in Transition Report. These priority areas are vulnerable to involuntary displacement, and the proposed use would heighten existing issues with gentrification and displacement.
- d. The applicant has a documented history of compliance issues with the short term regulations, including knowingly operating without proper permitting and licensing in 2024. The applicant has willfully violated the rules and regulations set forth in the Code of Ordinances, Chapter 13, Article 5 and its sub-sections. This documented history of non-compliance provides strong evidence that the operation of this short term rental will cause an adverse influence on the surrounding neighborhood by creating a nuisance.

Applicant Representation – Matthew Henderson, legal representation for the applicant, was present to represent the application. Phillip Petrie, applicant, was present.

Staff presentations and Questions – Mr. Belcher showed an aerial view of property, site map, a map showing the concentration of STRs within 1000-foot buffer from applicants' property. He reiterated the reasons for the Staff's recommendation for disapproval.

Applicant(s) rebuttal – Mr. Henderson stated that the Staff did not apply the four criteria in the requirements for STRs correctly. He stated, more specifically, that he was referencing the third criteria. Mr. Henderson stated that the applicants did not believe that the property is causing an adverse influence on the surrounding area. He also stated that the first criteria was met because there is only one other STR in the vicinity, and the occupancy rate is in line with City numbers. Mr. Henderson stated that there were two weekend stays, and two people stayed on each of these occasions since the application was heard by the BOA. Mr. Henderson stated that the new property manager booked those stays in error. As soon as the owner heard of the issue, he spoke with the property manager immediately and there were no additional bookings after 4/1/2024. Mr. Henderson stated that the owner would like to comply, and he would not violate this policy again. Mr. Petrie, who was sworn in, reiterated the fact that there were only two occurrences when two people stayed for a length of two days. He stated that those stays were made in error by a new property manager.

Board Questions and Comments – Chair Gross asked Mr. Belcher to confirm that there was a violation notice sent to the applicant in November. Mr. Belcher confirmed this and clarified that the fifty percent occupancy rate noted in section b of the requirements was based on the five rentals that were in the area. Chair Gross asked if the licenses of the four rentals expired. Mr. Belcher stated that they had expired. Mr. Gross wanted to know if these properties could become active again. Ms. Wade stated that the properties were notified of the change in policy in December 2024 and the end of January 2025. There was also an additional grace period extended, giving these properties until the end of February 2025 to renew their licenses. Ms. Wade confirmed that none of these properties had responded at the time of the Staff Report was completed. Barring unforeseen situations like returned mail after the deadline, these properties would have to go through the process of getting approval from the BOA for an un-hosted STR.

Applicant Rebuttal – Mr. Henderson stated that since the occupancy rate requirement was set based on five properties, and 4 of those properties did not renew their licenses, it was his opinion that the smaller number of short-term rental properties would mean higher occupancy rates for the remaining two properties.

#### Board Comments and Questions

Ms. Tucker mentioned that the applicants' property is within the same neighborhood as William Wells Brown Elementary School, which provides children with free breakfast and lunch, after-school programs and provides public transportation nearby for caregivers, and there is also a park nearby. Ms. Tucker stated that this supports the Staff recommendation, as the STR would have an adverse effect on the neighborhood. Mr. Clarke asked the Staff if the Board can consider the Task Force Reports. Brittany Smith (Staff Attorney) states that the Board must consider the factors, but the Board can consider the Task Force in reviewing the application.

Action – Ms. Tucker made a motion, seconded by Mr. Clarke, and carried 3 –1 (Walker recused, Carter and Persley absent) for disapproval of **PLN-BOA-23-00086: PHILLIP PETRIE (RENEW HOLDINGS, LLC)** – requesting a conditional use permit for an un-hosted short-term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 316 Nelson Avenue for the reasons provided by the Staff in the report and discussed today.

*Mr. Belcher briefly summarized the requirements of Article 7 of the Zoning Ordinance and KRS 100.237, applicable to all STR applications filed after 12/12/2024.*

2. **PLN-BOA-25-00018: RYMA STARS** – requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1D) zone, on property located at 2351 Harrods Pointe Trace. (Council District 9)

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. The applicant has willfully violated the rules and regulations set forth in the Code of Ordinances, Chapter 13, Article 5 and its sub-sections by operating without a license.
- c. Review of those factors shows that no STRs in the proximity have been cited as a nuisance. But the proposed un-hosted short term rental for six (6) individuals has a documented history of compliance issues with the short term regulations, including citations. This history of compliance issues suggests that the continued use of the property as a short term rental could cause an adverse influence on the surrounding neighborhood by creating a nuisance.

Application Representation – Anto Yauwanta, was present representing the applicant.

Staff Presentations – Mr. Belcher directed the Boards' attention to the overhead screen and presented the Staff's reasoning for recommending disapproval. The Staff recommendation was based heavily on the non-compliance of the applicant for this property, the next property on the agenda, and another property that is not on the agenda. The violation fees were paid right around the same time that the applicant filed these two cases. Aside from the application being disapproved for non-compliance and violation of the Ordinance, the Staff feels that the non-compliance could result in a nuisance to the surrounding neighborhood.

Applicant Rebuttal – Mr. Yauwanta agreed that he was non-compliant, due to various reasons. He has five properties that need to be rented out. He also stated that he thought that the Notice of Violation was something sent from LexServ. He put the envelope that the citation came in and a LexServ envelope next to each other up on the overhead. He stated that he pays LexServ through auto pay, so he never opened the bill. He said he did not pay because he couldn't afford the \$2,500 fine all at once. He stated that he called the City and was told that someone would get in touch to set up a payment plan but he was never contacted. He took a loan and paid \$2,500 all at once. He showed the paid receipt for his violations on the overhead. He stated that his properties enhanced the neighborhood.

Board Questions and Comments - Ms. Tucker stated that it was her understanding that the applicants' entire case was built on not opening mail.

Action – Ms. Tucker made a motion, seconded by Mr. Clarke, and carried 3-1 (Walker recused, Persley and Carter absent) for disapproval of **PLN-BOA-25-00018: RYMA STARS** – a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1D) zone, on property located at 2351 Harrods Pointe Trace, for the reasons provided by the Staff.

3. **PLN-BOA-25-00020: RYMA STARS** – requests a conditional use permit for an un-hosted short-term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 2009 Polk Lane. (Council District 2)

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. The applicant has willfully violated the rules and regulations set forth in the Code of Ordinances, Chapter 13, Article 5 and its sub-sections by operating without a license.
  - c. Review of those factors shows that no STRs in proximity have been cited as a nuisance. But the proposed un-hosted short-term rental for six (6) individuals has a documented history of compliance issues with the short-term regulations, including citations. This history of compliance issues suggests that the continued use of the property as a short-term rental could cause an adverse influence on the surrounding neighborhood by creating a nuisance.

Application Representation – Anto Yauwanta. was present for the applicant.

Staff Presentations – Mr. Belcher presented aerial and street views of the property, along with a site map. He explained that the Staff's recommendation was based heavily on the non-compliance of the applicants for this property, along with two other properties. The violation fees were paid right around the same time that the applicant filed his applications. Aside from the application being disapproved for non-compliance and violation of the Ordinance, the Staff feels that the non-compliance could result in a nuisance to the surrounding neighborhood.

Applicant Rebuttal – Mr. Yauwanta stated that he felt that his one small mistake (non-compliance) should not be the cause for his application to be denied, as he paid the fine, did all the paperwork for his application so he could do things the right way, and stated that he has positively impacted the neighborhood surrounding his property.

Citizens Comments

James Lakely (did not sign in) was sworn in. He stated that he was concerned about security. There are strangers with no background checks and his children go to school across the street. There was a shooting in the neighborhood, and the suspect was never found. Ms. Tucker asked him if he lived on Polk Lane. He said that he lived one street over from Polk Lane.

Terese Dials, 2025 Polk Lane, stated that she lives on Polk Lane and did not know there was an STR on Polk Lane until just recently. Ms. Dials mentioned that there were other STRs on Polk Lane and she has never had an issue with STRs. She also stated that there was not a school across the street; it is a STEM Center. She stated that she is in support of the applicants' STR.

Applicant Response – Mr. Yauwanta reiterated the same arguments from his first rebuttal.

Board Comments – Mr. Walker stated that he was in support of the STR and felt that the rules are confusing. Mr. Clarke asked the Staff if there are other properties in violation. Mr. Belcher said he had three properties that had violations and was interested in applying for STRs at two other properties. Ms. Tucker stated that she had safety concerns because the STEM Academy is across the street with no fencing.

Actions – Ms. Tucker made a motion, seconded by Mr. Sturdivant and carried 3 – 1 (Walker recused, Persley and Carter absent) in support of the disapproval of **PLN-BOA-25-00020: RYMA STARS** – requesting a conditional use permit for an un-hosted short-term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 2009 Polk Lane, for the reasons provided by the Staff.

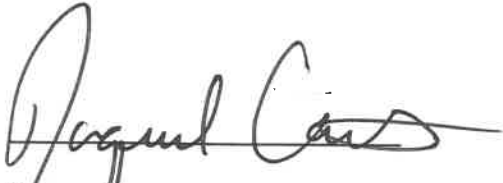
- V. **BOARD ITEMS** – Mr. Gross asked Staff if they were going to do any of the quarterly meetings/training like the ones done last year. Ms. Wade stated that the Division of Planning is looking to have KLC do

training for the BOA and Planning Commission related to by-laws and conduct meetings and will follow up with the Board members.

VI. **STAFF ITEMS** - None

VII. **NEXT MEETING DATE** - Next meeting will be held on April 14, 2025.

VII. **ADJOURNMENT** - Meeting adjourned at 4:48 p.m.



Raquel Carter, Chair



Linda Tucker, Secretary

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.

