

Division of Planning
200 East Main Street, Lexington, KY

Planning Services Section
Board of Adjustment Meeting

MINUTES FOR THE BOARD OF ADJUSTMENT MEETING

April 14, 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, James Persley, Bob Sturdivant, Linda Tucker, and Chad Walker. Branden Gross was absent. Staff members present were Traci Wade, Daniel Crum, Dalton Belcher, James Mills, Patti Haley, and Bill Sheehy. Others present were Brittany Smith, Department of Law, Lauren Storr, Building Inspection, Joseph Whitlock, Building Inspection

III. **APPROVAL OF MINUTES**

There were no minutes to approve at this time.

IV. **PUBLIC HEARING ON ZONING APPEALS**

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

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

C. **Postponements**

1. **PLN-BOA-25-00030: CANE MANOR LLC** – requested a conditional use permit for an un-hosted short-term rental in an Agricultural Rural (A-R) zone on property located at 2593 Berea Road. (Council District 12)

Note: The applicant has requested that this application be postponed to the June 9, 2025 meeting.

Action - Ms. Tucker made a motion, seconded by Mr. Persley and carried 6-0 (Gross absent) to **Approve** the postponement of **PLN-BOA-25-00030: CANE MANOR LLC** – requesting a conditional use permit for an un-hosted short-term rental in an Agricultural Rural (A-R) zone on property located at 2593 Berea Road until the May 12, 2025 meeting.

D. **Variance Appeals**

1. **PLN-BOA-25-00028: GIBSON TAYLOR THOMPSON** – requested a variance to reduce the required side yard setback from five-feet to three-feet within the defined Infill and Redevelopment Area and an Historic District Overlay (H-1) zone in a Planned Neighborhood

Residential (R-3) zone on property located at 407 E. High Street. (Council District 3)

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

- a. Granting the variance should not adversely affect public health, safety, or welfare of the general vicinity, nor cause a hazard or nuisance to the public. The subject property is within the defined Infill and Redevelopment Area and the proposed structure features a side yard setback that is keeping with other structures in the immediate vicinity.
- b. Granting the variances will not result in construction that is out of character with the general vicinity. The abutting properties on E. High Street also have non-conforming side yard setbacks and have made additions to the primary structures in the past. Also, the addition will not be visible from High Street.
- c. The subject property narrows by approximately 15-feet between the front property line and rear property line, creating an odd-shaped lot. This reduces the amount of space in the rear yard available for expansion of the structure, and creates a unique circumstance not generally found in the immediate area.
- d. The variance request does not attempt to circumvent the provisions of the Zoning Ordinance. 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 to facilitate appropriate development without creating an unusual hardship or development that is incompatible with the existing pattern of the neighborhood. Additionally, the applicant has applied for the variances as soon as it was determined that they were needed, prior to starting 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. The applicant shall receive a Certificate of Appropriateness for the proposed improvements from the Board of Architectural Review or the Division of Historic Preservation.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Building Inspection prior to construction.

Applicant Representation – Darren Taylor, applicant, was present to represent the application.

Action – Chair Carter confirmed that Mr. Taylor had read and agreed to the conditions proposed by the Staff. Mr. Clarke made a motion, seconded by Mr. Sturdivant and carried 6–0 (Gross absent) to approve **PLN-BOA-25-00028: GIBSON TAYLOR THOMPSON** – requesting a variance to reduce the required side yard setback from five-feet to three-feet within the defined Infill and Redevelopment Area and an Historic District Overlay (H-1) zone in a Planned Neighborhood Residential (R-3) zone on property located at 407 E. High Street as recommended by Staff and subject to the three conditions as listed.

2. **PLN-BOA-25-00036: LFUCG HOUSING AUTHORITY** – requested a variance to reduce the required group residential project exterior yard from twenty-feet to fifteen-feet in a Planned Neighborhood Residential (R-3) zone on property located at 1604 Versailles Road. (Council District 11)

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, nor alter the character of the general vicinity. The proposed fifteen-foot buffer should be adequate to provide separation between the adjoining uses and exceeds the typical rear yard for townhomes outside of a group residential project.
- 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, prior to beginning 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 showing proposed handicap spaces located in the center of the parking area.
2. The applicant shall apply for a revised development plan approval with the Planning Commission and Traffic Engineering prior to construction.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Building Inspection and Traffic Engineering prior to construction.

Applicant Representation – Tony Barrett, from the Housing Authority, was present to represent the applicant.

Action – Chair Carter confirmed that Mr. Barnett had read and agreed to the conditions proposed by Staff. Mr. Walker made a motion, seconded by Ms. Tucker, and carried 6-0 (Gross absent) to approve **PLN-BOA-25-00036: LFUCG HOUSING AUTHORITY** – requesting a variance to reduce the required group residential project exterior yard from twenty-feet to fifteen-feet in a Planned Neighborhood Residential (R-3) zone on property located at 1604 Versailles Road as recommended by Staff and subject to the three conditions as listed.

3. **PLN-BOA-24-00184: AURELIA AND OSCAR ROMERO** – requested 1) a variance to increase the allowable size of all buildings accessory to the dwelling unit from 678 square feet to 1,809 square feet; 2) a variance to increase the allowable lot coverage (building footprint) for accessory buildings from 1,356 square feet to 1,809 square feet; and, 3) increase the allowable width of a driveway from ten-feet to twenty-feet to allow existing expanded driveways to remain as constructed and construct a new accessory structure within the defined Infill and Redevelopment Area in a Mixed Low Density Residential (R-2) zone on property located at 412 Price Road. (Council District 2)

The Staff Recommends: **Approval of a lesser variance** to a maximum of 1,356 square feet of accessory buildings size and allowable lot coverage (building footprint) for accessory buildings 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. The home will remain the visual focal point of the property along Price Road, with the accessory structures being located to the rear of the home, thus remaining subordinate to the principal use of the property as a single-family dwelling.
- b. There are special circumstances that justify the need for the requested variances. The subject property is significantly larger than any other lot in the vicinity and can accommodate the expanded amount of accessory space without conflicting with the character of development in the area.

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

1. Applicant shall submit a revised site plan that depicts no gravel, a reduction in the size of

all accessory structures and removal of the second driveway. The existing driveway may split no less than 30 feet from Breathitt Avenue to allow a driveway of 20 feet in width to the proposed accessory garage.

2. All necessary permits and/or approvals shall be obtained from the Divisions Building Inspection and Traffic Engineering prior to construction.

The Staff Recommends: **Disapproval** of a variance to increase the allowable width of a driveway from ten (10) feet to twenty (20) feet to allow existing expanded driveways to remain as constructed 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.
- 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 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.

Applicant Representation – Aurelia Romero was present to represent the application.

Staff Presentation – Mr. Belcher reviewed the Staff's recommendations regarding the increase in size and lot coverage for the accessory buildings. The Staff recommended approval of a lesser variance to increase the maximum to 1,356 square feet. Mr. Belcher directed attention to a presentation on screen, noting that the proposed increase from 678 square feet to 1,809 square feet of accessory buildings and allowable lot coverage (building footprint) for accessory buildings. Mr. Belcher also indicated that the Staff recommended disapproval of a variance to increase the allowable width of a driveway from ten feet to twenty feet to allow existing expanded driveways to remain as constructed. Mr. Belcher suggested that the existing driveway could be narrowed and made into a split driveway. Further, Mr. Belcher informed the applicant that a gravel driveway is prohibited.

Applicant Rebuttal – Ms. Romero was not amenable to the proposed lesser limit on coverage for accessory buildings. She stated that one of the sheds contained mowers and weed eaters for a lawn business. She mentioned that she was told that she could not construct a second driveway unless it led to structure. She stated that she was planning to add a garage for her trailer and personal vehicles. She said that she used all the existing accessory buildings for various purposes and did not know how she could meet the proposed limit of 1,352 ft, while also adding another structure/garage. Ms. Romero stated that the existing driveway has always been made of gravel. She then stated that making the existing driveways into a split driveway was an issue; because a split driveway would go right over the area where an old septic system existed. She also stated that she was not in agreement with the limit of 10 ft wide driveways, because she had a 17-foot trailer to maneuver in the driveway.

Board Comments and Questions – Mr. Persley asked the applicant where the trailer was currently being parked. Ms. Romero stated that it was in the back of the property, in front of an existing shed. Mr. Clarke noted that this case had originally been filed in August 2024. He asked Staff what caused the delay from then until this meeting. Mr. Belcher stated that it took a significant amount of time for the applicant to complete the application and its requirements.

Mr. Walker stated that if the applicant did not want to remove some existing structures, they

may not be able to add an additional building, which would mean no second driveway.

Ms. Tucker asked if the applicant could make the driveway longer.

Chair Carter called a brief recess. The Board of Adjustment returned to session with the following recommendations:

Motion

The Board proposes a lesser variance of a maximum of 1,356 square feet of accessory buildings and lot coverage and a lesser variance for a driveway width of 15-feet wide 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. The home will remain the visual focal point of the property along Price Road, with the accessory structures and the existing driveway being located to the rear of the home, thus remaining subordinate to the principal use of the property as a single-family dwelling.
- b. There are special circumstances that justify the need for the requested variances and allowing them will not unreasonably circumvent the zoning regulations. The subject property is significantly larger than any other lot in the vicinity and is able to accommodate the expanded amount of accessory space and existing 15-foot driveway without conflicting with the character of development in the area.

Approval of these variances is subject to the following conditions:

1. Applicant shall submit a revised site plan that depicts no additional gravel, a reduction in the size of all accessory structures and removal of the second driveway. The existing driveway may split no less than 30 feet from Breathitt Avenue to allow a driveway to the proposed accessory structure.
2. All necessary permits and/or approvals shall be obtained from the Divisions of Building Inspection and Traffic Engineering before new construction.

Note: Chair Carter requested that the motion be voted on separately; one action regarding the variance for the structure(s) and one action regarding the driveway.

Action #1 – Mr. Walker made a motion, seconded by Ms. Tucker and carried 6-0 (Gross absent) to approve **PLN-BOA-24-00184: AURELIA AND OSCAR ROMERO** for a lesser variance, as recommended by the Staff, of a maximum of 1,356 square feet of accessory structure square footage and lot coverage, for the reasons recommended by staff, and subject to the two revised conditions listed within the defined Infill and Redevelopment Area in a Mixed Low Density Residential (R-2) zone on property located at 412 Price Road.

Action #2 – Mr. Walker made a motion, seconded by M. Sturdivant and carried 6-0 (Gross absent) for approval of **PLN-BOA-24-00184: AURELIA AND OSCAR ROMERO** to increase the allowable width of a driveway from 10 feet to 15 feet to allow existing expanded driveways to remain as constructed within the defined Infill and Redevelopment Area in a Mixed Low Density Residential (R-2) zone on property located at 412 Price Road, subject to the revised two conditions as listed.

E. Administrative Appeal

1. **PLN-BOA-24-00214: FRM LAWSON, LLC** – requested an administrative appeal of a

decision of the Division of Building Inspection that a principal structure is not present on the subject's property. This is an appeal of Article 8-22(b) of the Zoning Ordinance on property located in the Light Industrial (I-1) zone at 404 Alexandria Drive. (Council District 11)

The Staff Recommends: the decision of the Division of Building Inspection Staff be upheld, for the following reasons:

- a. The applicant has not demonstrated that the mobile office on site meets the requirements of a permanent structure, and without a principal structure or use on-site, accessory storage is not permitted.
- b. A temporary structure that does not meet the requirements of the Kentucky Building Code cannot be considered a permanent structure.

Applicant Representation – Josh Cairns was present to represent the application, along with Fred Lawson, the applicant.

Staff Presentation – Mr. Belcher displayed the site map of the property on the overhead screen. He stated that during a site visit by the Staff and the Division of Building Inspection, he was looking for a principal structure or mobile office, as the applicant mentioned that there was one on the property.

Mr. Belcher stated that when a temporary structure remains on a property over a year, it must meet building code for a principal structure and must include a restroom. Mr. Belcher stated that there were things being stored and there were storage containers and other outdoor storage onsite. Construction was being carried out, with multiple cars parked on the property. Large amounts of gravel and traffic cones were piled up on the property, as well. The temporary structure did not contain a restroom, and therefore did not qualify as a permanent structure.

The applicant originally had a development plan approved, but the property was being reviewed by FEMA due to it being in a regulated floodplain. Mr. Belcher reiterated that without a permanent structure, the applicant could not use the property for storage of any kind and parked cars.

Applicant Rebuttal – Josh Cairns stated that there was a lot of history behind the property going back about seven years. The applicant's intent had always been to develop 8.25 acres of the 43 total acres of property. The property is in a floodplain and about halfway through the process to get the development plan signed, the applicants still did not yet have approval to fill in the floodplain. They needed a final development plan signed for the building, yet they didn't have approval to fill the land to start building. Mr. Cairns stated that a lawsuit was filed against the applicant and the City of Lexington, for "doing things in the wrong order." The case was dropped after six to eight weeks. The applicant incurred attorney costs and expenses. About two weeks prior to the April 14, 2025 BOA meeting, the applicant finally got approval from FEMA to modify the floodplain and expand the amount of buildable land. Mr. Cairns stated that about three to four years after they acquired the property, they took on a tenant who was starting a business, not knowing that this was against building code. The City cited the applicant with a violation. The City proposed that the applicant create a new final development plan for the 8.25 acres that were already outside of the floodplain. Mr. Cairns opined that Building Inspection considered a barn already on the property to be a principal structure. The applicant was going to have a mobile office. Mr. Cairns said that the applicant used a "ConEx" container for the mobile office, which has power and internet.

Board Questions and Comments – Chair Carter asked Mr. Cairns if he clearly understood the case, which was to determine if the violation from Building Inspection, which cited a violation

because the property lacked a principal structure, would be upheld. Mr. Cairns stated that there was no clear idea of what a principal structure should be, and there are many other properties doing business the same way.

Citizen Comments – Tom Miller, Legal Representative, stated that he was present to represent ‘interested parties’ in opposition to the application that lived along Old Frankfort Pike. Mr. Miller stated that the property was in violation, because the property lacked a primary structure and had engaged in storage without installing the proper landscape screening around the storage area, which was ignored by the applicant. He presented photos of the property, which were shown on the overhead. Mr. Miller stated that the applicant is scraping soil and rock which is a source of pollution for the Town Branch area. He stated that there is no justification for this property – the outdoor storage is an accessory use with no principal use, which is prohibited by the City’s Zoning Ordinance. Mr. Miller stated that as of March 2025, the property had been cited with six violations. He stated that the applicant needed to comply with the Ordinance and requested that the Board deny the appeal and enforce the law.

Applicant Rebuttal – Mr. Cairns stated that the applicant had five years to act on a development plan, that the applicant was not bound to install the landscape screening, as the FEMA approval was not completed. He stated that a landscape buffer was only required when there are buildings on the site. He was agreeable to putting up a landscape buffer when they apply for building permits. He denied that they have created any pollution. The applicant indicated that the cars on the property were not theirs and were possibly owned by City employees. They have removed about 20 cars already that did not belong to the business.

Board Questions and Comments – Chair Carter asked the Staff to clarify how to go about making a motion. Ms. Wade stated that if the Board was in favor of upholding the violation of the Zoning Ordinance, they would vote to uphold the decision of Building Inspection. Ms. Wade stated that the Division of Building Inspection Staff was present in the Council Chamber and were available to discuss next steps with Mr. Cairns and the applicant.

Staff Questions and Comments – Ms. Storrs, from the Division of Building Inspection – Zoning Section, stated that the applicant should apply for a building permit or appeal the decision of the Board within 30 days of the hearing. Ms. Storrs said that the application is good for six months and it would take about seven months total to get the application completed. Ms. Wade stated that while you are building, you are allowed to have a temporary structure on site for up to 180 days, but this was with the intention of building a permanent structure on the property. Ms. Storrs stated that they received a list of properties that were similar to the applicants – most had structures approved by the State. Mr. Persley wanted to clarify that if the applicant wanted to build a permanent structure, the applicant would need to go through the proper channels. Ms. Storrs confirmed that this was the case.

Action – Mr. Persley made a motion, seconded by Mr. Walker and carried 6–0 (Gross absent) to uphold **PLN-BOA-24-00214: FRM LAWSON, LLC** – requesting an administrative appeal of a decision of the Division of Building Inspection that a principal structure is not present on the subject property. This is an appeal of Article 8-22(b) of the Zoning Ordinance on property located in the Light Industrial (I-1) zone at 404 Alexandria Drive, as recommended by the Staff.

F. Conditional Use Appeals

1. **PLN-BOA-25-00024: HENRY BURNETT ARMSTRONG** – requested a conditional use permit for a hosted short-term rental in an Agricultural Rural (A-R) zone on property located

at 4761 Mt. Horeb Pike. (Council District 12)

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

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood, as the structure is large enough to accommodate the proposed number of users and is screened from view from adjoining properties by existing vegetation.
- b. All necessary public services and facilities are available and adequate for the proposed use.
- c. There is no record of short-term rental compliance issues with the applicant.
- d. No short-term rentals in the area have been cited as a nuisance.
- e. The subject property is not located in a census tract that has been identified as vulnerable to involuntary displacement based on socio-economic demographics.
- f. The septic facilities serving the use are sufficient to accommodate the proposed number of users.
- g. The property has adequate parking spaces (3) to accommodate the proposed number of users (2).
- h. The entrance to the property and the driveway is continuously lit and there are floodlights leading to and near the unit.
- i. There are adequate fire safety measures present in the unit, and the unit is located approximately 1,500-feet from an existing fire hydrant.
- j. There are no other short-term rentals within the one mile of the subject property.

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
2. Occupancy for the short-term rental shall be limited to no more than two (2) individuals.
3. Provisions for handling sewage shall at all times comply with the requirements of the Fayette County Health Department.
4. The entrance to the property shall be lit and easily visible from the roadway.
5. 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.
6. 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 – Henry Burnett Armstrong was present to represent the application. In addition to the request for STR approval, Mr. Armstrong stated that his property has room for four occupants. This property has one bedroom and a loft area with two beds, so he requested permission to update the application to request up to four occupants.

Board Questions and Comments – Ms. Tucker confirmed with Mr. Armstrong that he lived on the property.

Staff Comments – Mr. Belcher stated that the findings for approval and conditions had been updated, specifically finding a. and a new condition #4, denoted in bold in the staff presentation. The conditions now total seven and include the requirement for the agricultural STR to obtain documentation from the Health Department to verify the septic system is adequate. If the Board is agreeable, the Staff will also update finding g. and condition #2, changing number of occupants allowed from two (2) to four (4). The revised findings and

conditions are as follows:

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

- a. The proposed use should not have an adverse influence the uses occurring on the subject, adjoining, or adjacent properties, as the structure is large enough to accommodate the proposed number of users and is screened from view from adjoining properties by existing vegetation.
- b. All necessary public services and facilities are available and adequate for the proposed use.
- c. There is no record of short term rental compliance issues with the applicant.
- d. No short term rentals in the area have been cited as a nuisance.
- e. The subject property is not located in census tract that has been identified as vulnerable to involuntary displacement based on socio-economic demographics.
- f. The septic facilities serving the use are sufficient accommodate the proposed number of users.
- g. The property has adequate parking spaces (3) to accommodate the proposed number of users (4).
- h. The entrance to the property and the driveway is continuously lit and there are floodlights leading to and near the unit.
- i. There are adequate fire safety measures present in the unit, and the unit is located approximately 1,500 feet from an existing fire hydrant.
- j. There are no other short-term rentals within the one mile of the subject property.

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 **four (4)** individuals.
3. Provisions for handling sewage shall at all times comply with the requirements of the Fayette County Health Department.
4. **Applicant provides documentation from the Health Department, or whomever the Health Department designates, to verify the sufficiency of the septic tank for the proposed number of occupants of the short term rental.**
5. The entrance to the property shall be lighted and easily visible from the roadway.
6. 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.
7. 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.

Action – Mr. Walker made a motion, seconded by Mr. Persley and carried 6–0 (Gross absent) to approve **PLN-BOA-25-00024: HENRY BURNETT ARMSTRONG** – requesting a conditional use permit for a hosted short-term rental in an Agricultural Rural (A-R) zone on property located at 4761 Mt. Horeb Pike as recommended by Staff and subject to revised conditions with a change from 2 to 4 occupants while meeting the updated requirement to include obtaining documentation from the Health Department that the septic system is adequate.

2. **PLN-BOA-25-00031: SAMUEL COOPER** – requested 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 103 Edison Drive. (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 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 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.

Applicant Representation – Samuel Cooper was present to represent the application. When asked by Chair Carter, Mr. Cooper confirmed that he understood and agreed to the conditions of approval.

Action – Mr. Clarke made a motion, seconded by Mr. Sturdivant, and carried 6–0 (Gross absent) to approve **PLN-BOA-25-00031: SAMUEL COOPER** – requesting 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 103 Edison Drive, as recommended by the Staff and subject to the four conditions as listed.

3. **PLN-BOA-25-00032: EMILY DAVENPORT** – requested a conditional use permit for an un-hosted short-term rental in a Planned Neighborhood Residential (R-3) zone on property located at 784 Rambling Creek 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 on 1,000 feet of the subject property is less than 2%.
- e. The applicant quickly addressed a complaint by altering the minimum length of stay while they sought approval from the Board of Adjustment.
- 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 7 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 – Emily Davenport, applicant, was present to represent the application.

Board Comments and Questions – Mr. Clarke asked applicant to explain how she has been using the property as her primary residence and a STR. Ms. Davenport stated that they rented it out when they were out of town. She said if the STR was approved, she and her husband would move out.

Citizen Comment(s) – One neighbor expressed concern about having adequate parking.

Action – Mr. Clarke made a motion, seconded by Mr. Persley and carried 6-0 (Gross absent) to approve **PLN-BOA-25-00032: EMILY DAVENPORT** – requesting a conditional use permit for an un-hosted short-term rental in a Planned Neighborhood Residential (R-3) zone on property located at 784 Rambling Creek Drive. as recommended by the Staff and subject to the four conditions as listed.

4. **PLN-BOA-25-00033: CHRIS VANHOOSE** – requested a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1D) zone on property located at 364 Whitfield Drive. (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 less than 2%.
- e. The applicant quickly addressed a compliance issue related to the length of time the dwelling unit was available to be rented to comply with the STR regulations and sought approval from the Board of Adjustment.
- 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 for 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.

Applicant Representation – Marsha Vanhooose (spouse of applicant) was present to represent the application.

Board Comments and Questions – Ms. Tucker confirmed that the applicant does not live at the property.

Action – Chair Carter confirmed that the applicant understood and was agreeable to the Staff recommendations. Mr. Sturdivant made a motion, seconded by Mr. Persley. Motion carried 6- 0 (Gross absent) to approve **PLN-BOA-25-00033: CHRIS VANHOOSE** – requesting a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1D) zone on property located at 364 Whitfield Drive, as recommended by the Staff and subject to the four conditions as listed.

5. **PLN-BOA-25-00035: COLONIAL HALL OF LEXINGTON LLC** – requested a conditional use permit for a hosted short-term rental in an Agricultural Rural (A-R) zone on property located at 3921 Military Pike. (Council District 12)

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

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood, as the structure is large enough to accommodate the proposed number of users and is located over 250 feet from the nearest adjoining property.
- b. All necessary public services and facilities are available and adequate for the proposed use.
- c. There is no record of short-term rental compliance issues with the applicant.
- d. No short-term rentals in the area have been cited as a nuisance.
- e. The subject property is not located in census tract that has been identified as vulnerable to involuntary displacement based on socio-economic demographics.
- f. The septic facilities serving the use are sufficient to accommodate the proposed number of users.
- g. The property has adequate parking spaces (2) to accommodate the proposed number of users (2).
- h. The entrance to the property and the driveway is well lit and visible from the road.
- i. There are adequate fire safety measures present in the unit, and the unit is located approximately 1,000 feet from an existing fire hydrant.
- j. There are no other short-term rentals within the one mile of the subject property.

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 for the short-term rental shall be limited to no more than two (2) individuals.
3. Provisions for handling sewage shall at all times comply with the requirements of the

Fayette County Health Department.

4. The entrance to the property shall be lit and easily visible from the roadway.
5. 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.
6. 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 - Ms. Von Unrug, applicant, was present to represent the application. Mr. Von Unrug, father of the applicant, was also present. Ms. Von Unrug requested that opposition speak first, and then she would provide a rebuttal.

Opposition – Ms. Jessica Winters, attorney representing the adjacent Shadwell Farm, a thoroughbred breeding and racing farm, stated several reasons for her client's opposition to the proposed STR. The applicant ran the STR without permits, and due to this fact, she received a violation. Ms. Winters stated that the applicant had claimed she had the neighbors' support for the STR, which Ms. Winters stated was false. Ms. Winters stated that the owners of Shadwell Farm and other surrounding farms were concerned that the light, noise and pollution would negatively affect the farms and their means of income. Furthermore, Ms. Winters stated that the applicant's property and those surrounding properties were protected properties with conservation easements, and therefore, any development on these properties must be of an agricultural nature. Ms. Winters then stated her client was concerned about the applicant hosting larger events on her property. She showed an overhead photo on the applicant's property, where a historical barn had been leveled and replaced by a 10,000 – 15,000 square foot building. She stated that her client was concerned that this large building was an event venue. Ms. Winters said she was aware of at least one wedding planned which would be hosted in this building. Additionally, she stated that the applicant added a new entrance from the road to her property without permission. She told the Board that the applicant had completed a private event application, which was never heard by the Board of Adjustments.

Staff Comments and questions – Mr. Belcher indicated that Building Inspection Staff present at the meeting shared that one of the building plans in question had a commercial HVAC and a 'Cake Room' noted on the building plan he displayed on the overhead projector.

Applicant Rebuttal – Mr. Von Unrug, the applicant's father, spoke on the applicant's behalf.

He stated that he was confused about why opposition was discussing the other building/venue. He stated that they should only be discussing the STR plan that was being proposed.

Ms. Von Unrug stated that she was interested in a future in agriculture and was an active member in the Farmers' Bureau of Kentucky. She stated that she was Hispanic and a Type - 1 Diabetic and was unable to farm the land as it had been done in the past. She stated that the hosted two-person STR had helped her pay her bills. She said that she had never had any issues with the STR and it had earned many five-star reviews. She also mentioned that the Shadwell Farm had a hosted STR prior to the regulations changed for STRs. She stated that there had been no complaints regarding the STR in the past. She stated that she is a member of the Bee-Keeper's Society and processed the honey from 15 hives inside of this building.

Board Questions and Comments

Mr. Clarke asked Ms. Von Unrug to respond to the opposition, asserting that the building was being used as an event venue. She stated that she has been using the building for honey processing – which is an agricultural use – and denied using it for a party venue.

Chair Carter reiterated that while the building was unrelated to the STR, the applicant was not allowed to use the building as an 'event venue' under any circumstances. Ms. Von Unrug said she was well aware of this and was not going against these regulations.

Mr. Walker mentioned that Agricultural properties were the only STR properties remaining that were required to be hosted.

Action – Mr. Walker made a motion, seconded by Mr. Clark, carried 6 – 0 (Gross absent) to approve **PLN-BOA-25-00035: COLONIAL HALL OF LEXINGTON LLC** – requesting a conditional use permit for a hosted short-term rental in an Agricultural Rural (A-R) zone on property located at 3921 Military Pike as recommended by Staff and subject to the five conditions as listed.

- V. **BOARD ITEMS** – Chair Carter will announce that any items a Board member wishes to present will be heard at this time.
- VI. **STAFF ITEMS** - Chair Carter announced that any items a Staff member wished to present would be heard at this time. There were no items to discuss.
- VII. **NEXT MEETING DATE** - Chair Carter will announce that the next meeting date will be May 12, 2025, at 1:30 p.m., Council Chambers, 200 East Main Street, Lexington, KY 40507.
- VIII. **ADJOURNMENT** - There was no further business. Chair Carter declared the meeting adjourned.



Robert J. Sturdivant, 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://fucg.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.

