

**AGENDA FOR THE BOARD OF ADJUSTMENT
MEETING**

May 12, 2025

- I. **CALL TO ORDER** - The Chair will call the meeting to order at 1:30 p.m. in the Council Chambers, 200 East Main Street, Lexington, Kentucky.

II. **APPROVAL OF MINUTES**

The March 2025 Board of Adjustment meeting minutes will be considered at this time.

III. **PUBLIC HEARING ON ZONING APPEALS**

- A. **Swearing of Witnesses** - The Chair will announce that any applicant or objector, or anyone in the audience who plans to speak to any appeal before the Board, please stand in order to be sworn in at this time.
- B. **Sounding the Agenda** - In order to expedite completion of agenda items, the Chair will sound the agenda with regard to any postponements, withdrawals, and items requiring no discussion.

C. **Variance Appeals**

1. **PLN-BOA-25-00013: DAVID TIPTON** – requests a variance to reduce the required side yard setback from ten (10') feet to five (5') feet within a Neighborhood Design (ND-1) Overlay in a Single Family Residential (R-1C) zone, on property located at 218 Chenault Road. (Council District 5)

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

- a. Granting the variance should not adversely affect the public health, safety, or welfare of the general vicinity, nor cause a hazard or nuisance to the public. The proposed structure will maintain the existing accessory structure's setback and is screened by an existing fence.
- b. Granting the variance will not result in construction that is out of character with the general vicinity. The abutting properties on Chenault Road also have non-conforming side yard setbacks and accessory structures that project between the rear wall plane of the principal structure.
- c. 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. 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. Construction shall conform to the Chevy Chase Neighborhood Design Standards.
 3. All necessary permits and/or approvals shall be obtained from the Divisions of Building Inspection prior to construction.
2. **PLN-BOA-25-00038: JOHN WORKMAN** – requests a variance to reduce the required front yard setback from five feet (5') to zero feet (0') to pave two driveways in the front yard within the Infill and Redevelopment Area in a Mixed Low Density Residential (R-2) zone, on property located at 732 Florence Avenue. (Council District 2)

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.

- b. The applicant has not provided sufficient justification to demonstrate that denying the variance would create an unnecessary hardship that would deprive the applicant of the reasonable use of the land. The subject property is vacant and a new structure and parking can be designed in a manner that meets the requirements of the Zoning Ordinance, while achieving the density that the applicant desires.
3. **PLN-BOA-25-00042: CAROL ROBINSON** – requests a variance to reduce the required side yard setback from five (5') feet to three (3') feet to maintain a carport in a Planned Neighborhood Residential (R-3) zone, on property located at 410 Windfield Place. (Council District 5)

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 applicant would still be able to park their vehicle on the subject property without a carport and a vehicle would easily be able to be moved if access to the utility lines/pole was necessary.
 - b. The granting of this variance could allow an unreasonable circumvention of the requirements of the Zoning Ordinance as the applicant constructed the carport without the necessary permits or approvals.
4. **PLN-BOA-25-00044: CARA MEADE** – requests a variance to reduce the required front yard setback for a corner lot from forty feet (40') to twenty-seven feet, nine inches (27'-9") to construct a swimming pool in the front yard in a Single-Family Residential (R-1B) zone, on property located at 616 Autumn Lane. (Council District 5)

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

- a. 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 lot is a typical corner lot, similar to others in the vicinity.
- b. Disapproval of the variance will not deprive the applicant of the reasonable use of their land or create an unnecessary hardship. The applicant could construct a smaller swimming pool or adjust the placement of the proposed swimming pool in order to not require a variance and maintain the side street side yard.

D. Conditional Use Appeals

1. **PLN-BOA-25-00037: CHERISH THE CHILD DAYCARE** – requests a conditional use permit to amend an existing conditional use for a child care center in order to construct an addition to the principal structure in a Planned Neighborhood Residential (R-3) zone, on property located at 474 Stone Road. (Council District 10)

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

- a. Approval of the expansion to an existing conditional use should not adversely affect the subject or adjoining/nearby properties, provided that all necessary permits and approvals are made. Proposed activities on the site are similar to the activities which have occurred on the site since the 1980s as a church and a childcare center. Additionally, such activities will occur during normal business hours throughout the week.
- b. All necessary public services and facilities are or will be available and adequate for the proposed use. The applicant has adequate off-street parking spaces for the number of employees, space for drop-off and pick-up of children, and the enclosed play area is sufficient to handle the number of children on-site.

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

1. The childcare use shall be conducted in accordance with the submitted application materials and site plan.
 2. The applicant shall amend the existing final development plan in accordance with Article 21 of the Zoning Ordinance.
 3. All necessary permits, including a Zoning Compliance Permit and a Certificate of Occupancy, shall be obtained.
 4. The applicant shall meet all the requirements of Article 16 for vehicular use areas.
 5. The days and hours of operation shall not exceed Monday through Friday, from 7:00 a.m. to 6:00 p.m. without further approval by the Board of Adjustment.
 6. The childcare facility shall be limited to a maximum enrollment of 80 children.
 7. A fenced and screened play area, containing a minimum of 25 square feet per child, shall be provided.
 8. The facility shall be fully licensed and comply with requirements of the Kentucky Cabinet for Health and Family Services, Division of Regulated Child Care.
2. **PLN-BOA-25-00049: ROMAN CATHOLIC BISHOP DIOCESE OF LEXINGTON** – requests a conditional use permit to amend an existing conditional use for a school for academic instruction to construct an accessory structure and modify an existing parking lot in a Single Family Residential (R-1C) zone, located on property at 2250 Clays Mill Road. (Council District 10)

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

- a. Granting the expansion of the conditional use should not adversely affect the public health, safety, or welfare, nor alter the character of the general vicinity. The high school is an established use at this location and the accessory structure should not adversely impact the adjoining residential uses, since it designed for prayer and meditation. The loss of parking spaces will not affect the area as the applicant expanded their parking area by 36 spaces in 2019 and would only be losing two spaces with this accessory structure.
- b. All necessary public facilities and services are available and adequate for the proposed use.

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

1. Construction shall be in accordance with the submitted application materials and site plan.
 2. All necessary permits and/or approvals shall be obtained from the Divisions of Planning and Building Inspection.
 3. The storm water management plan shall be reviewed, and updated in accordance with the requirements of the adopted Engineering Manuals, with due attention being given to any existing drainage problems within the area of the accessory structure. This plan shall be subject to acceptance by the Division of Engineering.
3. **PLN-BOA-25-00051: TWO FISTED WILLIES** – Requests a conditional use permit to establish outdoor live entertainment and a variance to reduce the required setback between outdoor live entertainment and a residential zone from one-hundred feet (100') to sixty-two feet (62') within in a Neighborhood Business (B-1) zone, on property located at 388 Woodland Ave. (Council District 3)

The Staff Recommends: **Disapproval of the conditional use and the variance**, for the following reasons:

- a. The proposed outdoor live entertainment would adversely affect the surrounding properties. The location of the outdoor live entertainment area on a second story (rooftop) and less than 100 feet from a residential zone leads to insufficient buffering for the neighboring residential properties.
- b. Approval of this conditional use and variance would negatively impact the health, safety, and welfare of the surrounding area as insufficient buffering is present to mitigate the noise of the use from the neighboring area, especially the existing residential homes along Kentucky Avenue.
- c. Approval of the requested variance would alter the essential character of the general vicinity as there are no outdoor live entertainment uses within the surrounding area.

E. Short Term Rentals

1. **PLN-BOA-25-00041: CHAD WALKER** – requests a conditional use permit for a hosted short-term rental in an Agricultural Rural (A-R) zone, on property located at 5167 Briar Hill Road. (Council District 12)

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

- a. The property is subject to a Purchase of Development Rights (“PDR”) easement which prohibits the use of the property as a short term rental. Until or unless the Rural Land Management Board in conjunction with the Natural Resources Conservation Service finds that a short term rental does not violate the easement language, no permissions should be granted to such a use.

2. **PLN-BOA-25-00043: ANGEL INVESTMENTS 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 3713 Lady Di Lane. (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 within 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.
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.

3. **PLN-BOA-25-00045: EMBRY PROPERTY MANAGEMENT LLC** – requests a conditional use permit for an un-hosted short- term rental in a Single Family Residential (R-1C) zone, on property located at 533 Southridge Drive. (Council District 1)

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

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood, as the structure is large enough to accommodate the proposed number of users.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- c. No short term rentals in the area have been cited as a nuisance.
- 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.
4. **PLN-BOA-25-00046: COMPOUND PROPERTY LLC** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 1770 Yorktown Road. (Council District 11)

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.
5. **PLN-BOA-25-00047: DR. JITANDER DUDEE** – requests a conditional use permit for an un-hosted short term rental with an occupancy greater than 12 in an Agricultural Rural (A-R) zone, on property located at 3284 Paris Pike. (Council District 12)

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

- a. The proposed use should not have an adverse influence on the uses occurring on the subject, adjoining, or adjacent properties, as the structure is large enough to accommodate the proposed number of users, the house is screened from view from adjoining properties by existing vegetation, and it is located approximately 150 feet from the side and rear lot lines. All necessary public services and facilities are available and adequate for the proposed use.
- b. There is no record of short term rental compliance issues with the applicant.
- c. No short term rentals in the area have been cited as a nuisance.
- d. The subject property is not located in census tract that has been identified as vulnerable to involuntary displacement based on socio-economic demographics.
- e. The septic facilities serving the use will be required to be sufficient to accommodate the proposed number of users.
- f. The property has adequate parking spaces (8) to accommodate the proposed number of users (sixteen).
- g. The entrance to the property and the driveway is continuously lit and there are floodlights leading to and near the unit.
- h. There are adequate fire safety measures present in the unit, and the unit is located approximately 870 feet from an existing fire hydrant.
- i. There are no other short-term rentals within 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 sixteen (16) individuals.
 3. Provisions for handling sewage shall at all times comply with the requirements of the Fayette County Health Department.
 4. Applicant shall provide 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.
6. **PLN-BOA-25-00050: BK WHOLESOME HOMES** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1E) zone, located on property 712 Grafton Mills Lane. (Council District 7)

The Staff Recommends: Approval for up to eight (8) occupants, for the following reasons:

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood, as the structure is large enough to accommodate the proposed number of users.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- c. No short term rentals in the area have been cited as a nuisance.
- d. There are no other short-term rentals within the required 600-foot buffer and the concentration of short-term rentals in 1,000 feet of the subject property is less than 2%.
- e. There is no record of short term rental compliance issues with the applicant.
- f. All necessary public services and facilities are available and adequate for the proposed use.

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

1. The short term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short term rental shall be limited to no more than eight (8) individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

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

V. **STAFF ITEMS** - The Chair will announce that any items a Staff member wishes to present will be heard at this time.

VI. **NEXT MEETING DATE** - The Chair will announce that the next meeting date will be June 9, 2025 at 1:30 p.m., Council Chambers, 200 East Main Street, Lexington, KY 40507.

VII. **ADJOURNMENT** - If there is no further business, the Chair will declare the meeting adjourned.

The media and public may view the hearing on LexTV Spectrum channel 185, MetroNet channel 3, or via live stream at the following link: http://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.