

MINUTES FOR THE BOARD OF ADJUSTMENT MEETING

May 12, 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, Linda Tucker, Chad Walker, Harry Clarke, James Persley, Branden Gross, and Bob Sturdivant. Staff members present were Traci Wade, Dalton Belcher, James Mills, Patti Haley, and Stephanie Cunningham. Brittany Smith, Department of Law, was also present.
- III. **APPROVAL OF MINUTES** – There were no minutes to be approved 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, to stand in order to be sworn in at that time. The oath was administered to several members of the audience at that time.
- B. **Sounding the Agenda** - In order to expedite the completion of agenda items, Chair Carter sounded the agenda with regard to any postponements, withdrawals, and items requiring no discussion.
- C. **Postponements**

1. **PLN-BOA-25-00037: CHERISH THE CHILD DAYCARE** – requested 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)

Staff Comments – Mr. James Clay Walker was present on behalf of the applicant, and he requested a one month postponement to the June 9, 2025 meeting.

Action – Mr. Gross made a motion, seconded by Mr. Clarke; motion carried 7-0 to postpone **PLN-BOA-25-00037: CHERISH THE CHILD DAYCARE** – request 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 until the June 9, 2025 meeting,

2. **PLN-BOA-25-00051: TWO FISTED WILLIES** – requested 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)

Citizen Comments – Ms. Jean “Gigi” Barnet, expressed her concern about the potential increased noise related to the use and the impact on the neighborhood.

Representation of Application – Mr. Scott Schuette, attorney for the applicant, requested that the case be postponed due to the applicant having a family emergency and they were not able to attend the hearing.

Action - Mr. Gross made a motion, seconded by Mr. Sturdivant; motion passed 7–0 to postpone **PLN-BOA-25-00051: TWO FISTED WILLIES** – requesting 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 until the June 9, 2025 meeting.

3. **PLN-BOA-25-00041: CHAD WALKER** – requested 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)

Applicant Presentation – Mr. Chad Walker requested a postponement for the case on property located at 5167 Briar Hill Road until the June 9, 2025 public meeting in order to work through some of the issues with the PDR staff.

Action – Mr. Clarke made a motion, seconded by Ms. Tucker; motion carried 6–0 (Walker recused) to postpone **PLN-BOA-25-00041: CHAD WALKER** – requesting 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 until the June 9, 2025 meeting.

D. Variance Appeals

1. **PLN-BOA-25-00042: CAROL ROBINSON** – requested 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)

Staff Comments – Mr. Dalton Belcher indicated to the Board that Ms. Robinson would not be attending the meeting, and requested that the Board withdraw the case from further consideration.

Action – Branden Gross made a motion to withdraw the case, seconded by Bob Sturdivant; motion carried 7 – 0 to withdraw the **PLN-BOA-25-00042: CAROL ROBINSON** application requesting 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.

2. **PLN-BOA-25-00013: DAVID TIPTON** – requested 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 Recommended: 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 for approval was 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.

Application Representation – Mr. David Tipton was present to represent his application. Mr. Tipton briefly explained his project and his request for a variance.

Citizen Comments – Mr. Bartley Hagerman, 435 Hart Road, shared pictures with the Board. Mr. Hagerman stated that he lived behind the applicants' property and the proposed rear property setback would be one-and-a-half feet, while the current requirement was 10 feet. He said that the applicant had already begun the project by excavating the space. He stated that when they excavated for the project, they impacted his property, as well. He quoted case law in a letter to support his opposition.

Staff Comments – Ms. Wade stated that based on regulation Article 15-6(a)(3) of the Zoning Ordinance, the plan proposed that a small portion of the new garage would extend between the principal structure and the side lot line, which does require a variance. Ms. Wade explained that in situations where portions of the accessory structure were located between a principal structure and the side yard property line, the Zoning Ordinance specifically stated that the accessory structure was required to meet the larger side yard setback for a principal structure. In this situation, the applicant must comply with the side yard, not the rear yard. Mr. Hagerman stated that the code required a 10-foot yard setback in the rear yard. Mr. Mills stated that this applied only to principal structures. Mr. Hagerman stated that there was still an issue of trespassing. Ms. Wade suggested that trespassing was not a matter for the Board; the Board's job was to address the request for a variance.

Chair Carter confirmed that the applicant understood and accepted the conditions as listed.

Action – Mr. Gross made a motion, seconded by Mr. Persley; motion carried 7-0 to approve **PLN-BOA-25-00013: DAVID TIPTON** – requesting a variance to reduce the required side yard setback from ten (10') feet to (1.5) feet within a Neighborhood Design (ND-1) Overlay in a Single Family Residential (R-1C) zone, on property located at 218 Chenault Road, subject to the three conditions and based on the Staff's recommendations.

3. **PLN-BOA-25-00038: JOHN WORKMAN** – requested 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 Recommended: **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.

Staff Presentation – Mr. Mills stated that the applicant was requesting a variance to reduce the required front yard setback from five (5) feet to zero (0) feet to pave two driveways in the front yard to provide enough off-street parking for a duplex. Mr. Mills presented photos of some neighboring properties that had driveways going to the side of the properties, where properties were divided into a duplex dwelling. Mr. Mills stated that two driveways in front of the structure were not the same. The applicant requested two driveways in the front yard in front of the house. Mr. Mills stated that the Staff recommended disapproval since there was no justification for the variance. He stated that the applicant had the option to redesign their property to provide parking at the rear of the property and this would not require a variance.

Board Questions and Comments – Mr. Clarke noted that the property did not appear to have space for a driveway to the side of the house. Mr. Mills stated that if they redesigned where the structure would be located and the current driveway, they could add a driveway to the side of the structure.

Application Presentation – Mr. John Workman was present to represent his application. Chris Oney, from Gleanings Housing, was also present. Mr. Oney stated that he and Mr. Workman were board members of Gleaning Housing and the property in question would provide affordable housing for those that are underserved. He explained that they were trying to offer off-street parking to avoid vehicles parked in the street being damaged or hindering snowplows and emergency vehicles. Mr. Oney stated that other properties had received variances to do what the applicant requested. Mr. Oney stated that there was just not enough space to build a side-driveway based on the plan for this property.

Mr. Workman pointed out that there were new houses that had driveways in front of their homes. He stated that if they had on-street parking, this would be an issue because there is a LexTran stop in front of the property. Mr. Workman stated that if they were to use on-street parking, there would be a conflict with LexTran. Mr. Workman stated that if the variance was not granted, the property would require a total redesign. He stated that if the plan was not approved, there would be on-street parking for one or two cars. Mr. Workman re-stated that there were many other properties with driveways in front of the house. Mr. Oney stated that giving people off-street parking would be a good way to clear the streets and make it safer.

Board Questions and Comments - Mr. Clarke asked where the LexTran stop was in relation to the property. Mr. Workman said it was directly in front of the property. Mr. Clarke asked how much the house would need to be reduced to build a driveway to the side of the structure. Mr. Workman stated that it would be a reduction of about 12 feet. He stated that it would reduce the width of the structure from 25 feet to 12 feet in width.

Mr. Gross stated that the Board had to uphold policy that a property cannot have a driveway in front of the house, and he would not be supporting the plan. He suggested that the applicant work with the Staff and discuss some changes in the side-yard requirements. Mr. Workman asked if they could build a driveway where the curb-cut is currently. Mr. Belcher stated that he could revise his plan, and the Staff will review it.

Mr. Clarke asked if one driveway would be adequate for the property. Mr. Workman said he did not know, but Mr. Oney said it would not be enough to serve to their needs.

Mr. Sturdivant asked if they would change the property into a single-family home; Mr. Oney said they would just have parking for one car and let other cars park on the street. Chair Carter stated that even one driveway in front of the house would not be approved.

Motion – Mr. Gross made a motion, seconded by Mr. Persley; motion passed 7 - 0 to disapprove **PLN-BOA-25-00038: JOHN WORKMAN** – requesting 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, based on recommendations by the Staff.

4. **PLN-BOA-25-00044: CARA MEADE** – requested 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 Recommended: 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.

Staff Presentation – Mr. Belcher restated the plan being heard. He directed attention to the site plan on the overhead. He restated the Staff's reasoning for the disapproval.

Board Questions and Comments - Mr. Gross asked if the pool would reduce the front yard or the side yard. Mr. Belcher stated that, as proposed, the pool would also need to be fenced and screened in. Mr. Gross confirmed that if the pool did not go past the front of the garage and the pool was moved 13 feet to the side, that may be allowable.

Mr. Clarke confirmed that the Staff had indicated to the applicant that the plan to put the pool in the front yard, 13 feet closer to the street, was against the policy and would require a variance. Mr. Belcher stated that that was true.

Applicant Representation – Ms. Cara Meade was present to represent the application. Mr. Joe Fields (contractor) was also present. Ms. Meade disputed the fact that the Staff described her property as a typical corner lot. She asserted that placing the pool in the back yard was not feasible due to the grade of the back yard and the absence of flat ground. She stated that the home was pushed to one side of the lot, making the side yard the main yard. She stated that the pool was for laps, and reducing the size of the pool would defeat this purpose. She also mentioned that other property in her neighborhood used their side yard for purposes in opposition to the Zoning Ordinance.

Mr. Fields stated that if the applicant were to install the pool in the back yard, she would need to put three to four-foot retaining walls and the grading would need to be changed. This cost would be about half the cost of the pool. The pool could not be placed where the lot number is, since there was a KU underground line at this location. To move this would cost \$13,000 - \$14,000. He stated that she would be spending \$75,000 - \$100,000 to build this pool, which will support her career as an exercise and yoga instructor. He stated that he had previously installed two other pools for the applicant.

Board Questions and Comments – Mr. Clarke asked Ms. Meade who would be using the pool. Ms. Meade stated it would just be herself. Mr. Sturdivant confirmed that the pool would be fenced and screened. Mr. Gross asked the Staff if the six-foot fence around the pool was allowed if it was set back three feet. Ms. Wade confirmed that it was and also mentioned that there was concern about the issue of sight-distance. The neighbor needed to have the visibility to back out of their driveway safely. Ms. Meade stated that the fence would be in line with the neighbor's fence.

Chair Carter confirmed with Ms. Wade that the reason the pool is in violation of Zoning is due to the fact it is being treated like a structure.

Mr. Clarke said he would be in favor of discussing a possible exception if others on the Board were willing to have a discussion. Chair Carter stated that she would be willing to discuss this further, as she has usually been lenient on decks that were concealed by fencing. Mr. Gross suggested a condition being added that a 6-foot solid fence be placed around the pool.

Chair Carter called for a brief recess. The Board reconvened at 2:54 p.m.

Action – Mr. Clarke made a motion with respect to **PLN-BOA-25-00044: CARA MEADE**, a request for a variance for the required side street side yard setback, for approval based on the following findings:

- a. Granting the variance should not adversely affect the public health, safety, or welfare of land in the general vicinity, nor cause a hazard to the public. The proposed pool will be adequately screened with a privacy fence.
- b. Granting the variance will not result in construction that is out of conformity with the general vicinity. Testimony at the hearing revealed several neighboring properties with structures built in the side-street side yard. The privacy fence will also screen neighboring properties from the use of the pool.
- c. There are specific circumstances on the subject property that do not generally apply to land in the general vicinity that justify the need for this variance, and which show why this request does not attempt to circumvent the provisions of the Zoning

Ordinance. The grading in the back yard changes significantly and will require installation of a 3-4 feet high retaining wall to locate a pool in the backyard. Furthermore, an underground electrical line would have to be relocated before the pool could be built in the backyard.

- d. Disapproval of the variance could create an unnecessary hardship because the applicant cannot build this pool in the backyard, and a reduction in the size of the pool eliminates the ability to use the pool for the desired purposes.

This approval was made subject to the following conditions:

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

Mr. Sturdivant seconded the motion, which carried 7 - 0 to approve the **PLN-BOA-25-00044: CARA MEADE**, a requesting for a variance for the required side street side yard setback based on the findings and with two conditions.

E. Conditional Use Appeals

1. **PLN-BOA-25-00049: ROMAN CATHOLIC BISHOP DIOCESE OF LEXINGTON** – requested 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 Recommended: **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's designed for prayer and meditation. The loss of parking spaces will not affect the area as the applicants 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 for approval was 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.

Application Representation – Rory Kahly, landscape architect with EA Partners, was present to represent the application. Rob Rumpke, president of Lexington Catholic, was also present.

Board Questions and Comments – Bob Sturdivant asked how many people could fit in the Grotto at this location. Mr. Kahly stated that a handful of people could fit inside, and others could, theoretically, gather outside of it, in the existing parking lot. Mr. Clarke asked if the Grotto would be open during school hours. Mr. Rumpke verified that it would be used primarily during school hours.

Citizen Comments – Rodney Wesley (570 Stratford Dr) stated that he was not in favor of the monument, as his property butted up to project. His property is 5 – 6 feet below grade, so the 12.5-foot-tall monument, will be almost 20-feet above his property line. There were a few trees and vegetation currently between Mr. Wesley's property and the applicant's property. He inquired if there would be a tasteful privacy hedge. He requested that the Board disapprove the plan or amend the request to include a privacy hedge.

Applicant Rebuttal – Mr. Rumpke confirmed that vegetation and trees were currently at the location, and he stated that they would leave the current vegetation in place. The plan included adding two new trees.

Board Questions and Comments – Mr. Clarke asked what Mr. Wesley's address was; Mr. Wesley stated that his property address was 570 Stratford Dr. Mr. Sturdivant asked for the distance from the back of the proposed structure to Mr. Wesley's property line. Mr. Kahly stated that the grotto is proposed to be 8 to 10 feet from the property line. Mr. Rumpke stated that there was a utility easement at the location, and the grotto would be in front of the easement.

Action – Bob Sturdivant made a motion to approve, seconded by James Persley, motion carried 7-0 to Approve **PLN-BOA-25-00049: ROMAN CATHOLIC BISHOP DIOCESE OF LEXINGTON** – requesting 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, subject to the three conditions listed and the recommendations of the Staff.

F. Short Term Rentals

Staff Presentation on STRs – James Mills, Planner, reviewed the regulations on Short Term Rentals (STRs). On December 5, 2024, the Urban County Council approved updates to the Code of Ordinances and the Zoning Ordinance regarding the regulations of STRs in Fayette County. Effective December 12, 2024, all new STR applications began being reviewed with these new regulations. Any STR with an occupancy over 10 requires a Condition Use Permit. Section 13 of the new Code of Ordinances includes additional regulations for business licensing and permitting. Zoning Ordinance Article 3-13(f) states that Short Term Rentals shall not be utilized for private events, such as weddings or parties, in which the number of participants exceeds the maximum occupancy limit. The maximum occupancy limit for principal and accessory uses allows a maximum of two (2) individuals per bedroom, plus an additional two (2) individuals; or a total of 10 individuals, whichever is less. The Board of Adjustment now considers a maximum of ten (10) new conditional use applications for Short Term Rentals per month. For Short Term Rentals regulated as conditional uses, the Board of Adjustment shall take into consideration:

1. The demonstrated compliance record of the applicant, if they operate other STRs in Lexington.

2. Whether other STRs in the general vicinity have been cited as a nuisance, including those operated by the applicant.
3. Whether the property being considered is located within a neighborhood that may be vulnerable to involuntary displacement based upon socioeconomic demographics

New STRs requirements include:

- a. No Short Term Rental regulated as a conditional use shall be located within six hundred (600) feet of another Short Term Rental that has either received a Conditional Use Permit from the Board or is otherwise a legal non-conforming use pursuant to Section (j), above.
- b. The number of Un-Hosted Short Term Rentals shall not exceed two percent (2%) of all dwelling units within one thousand (1,000) feet in residential zone.

There is relief of these regulations in certain cases. The Urban County Council also adopted regulations for the agricultural zone STRs, which allow for hosted or un-hosted units. The adopted ordinance only allows un-hosted units for properties of less than 10 acres in the A-R zone. There are several other requirements or criteria that the Board must review for STRs in the agricultural zones, including:

1. Documentation from the Health Department stating that the septic tank on the property is sufficient to handle the proposed use of the property as a short-term rental and based on the number of occupants.
2. Find that the proposed STR will not have an adverse influence on uses occurring on the subject or adjoining or adjacent properties.
3. Find that adequate fire safety measures are present within the unit.
4. Find that adequate parking is available on site, and that there are or will be lighted entrances that are easily visible from the roadway.
5. Spacing of one mile between short-term rental units in an A-R, A-B, or A-N zone, measured from the property boundary.
6. Permitted Detached Accessory Dwelling Units and Farm Employee Dwelling Unit (FEMU) may be used as a short-term rental.

Mr. Mills concluded by saying that currently there are no relief provisions for STRs in the agricultural zone, and adequate septic and other requirements apply in all cases. The Board then moved to hear the five cases regarding STRs.

1. **PLN-BOA-25-00043: ANGEL INVESTMENTS LLC** – requested 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 Recommended: **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 was 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 – Chloe Long was present to represent the application. She indicated that she services the STR and that the owner was out of the country for an unspecified amount of time. She stated that she had spoken with one of the neighbors and worked out some of the issues prior to the hearing.

Board Questions and Comments – Ms. Tucker stated that she did not think she could support the conditional use; she drove past the property and the grass was over one and a half feet tall and the yard needed some attention. Ms. Long stated that one of the neighbors had agreed to maintain the yard.

Citizen Comments – Michael Rogers (3705 Lady Di Lane) expressed concern about the approval of the STR. He said he was going to work with the owner to keep him informed on the property. He asked what recourse he had if things did not go well. Chair Carter stated that there was a hot line to call if there were any issues or complaints. He stated that based on this information, he felt reassured and had no opposition to the request.

Janie Griggs (3720 Lady Di Lane) stated that she lives straight across the street from the property. She stated that there was little room for parking, and that about 40% of the properties in the neighborhood are rental properties. She stated that her main concern was the condition of the yard. She also stated that she was concerned about safety for the children. While owners were aware of the children in the street and drove slowly, she is concerned that STR renters may not do the same.

Applicant Rebuttal – Ms. Long stated that the yard would be kept up going forward, and that there was adequate parking.

Board Questions and Concerns – Mr. Clarke expressed concern about the state of the property and wanted to know who was responsible for the property. Ms. Long stated that she thought she was responsible for the property and the yard would be taken care of within a day.

Action – Mr. Gross asked Staff if they were still confident in their recommendation. Ms. Wade stated that it was important to maintain the property. If this did not occur, they would be subject to violations. Mr. Gross made a motion, Mr. Persley seconded, motion carried 4-3 (Clarke, Tucker and Sturdivant opposed) to Approve **PLN-BOA-25-00043: ANGEL INVESTMENTS 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 3713 Lady Di Lane, subject to the four conditions list, and supporting the recommendations of the Staff.

2. **PLN-BOA-25-00045: EMBRY PROPERTY MANAGEMENT LLC** – requested 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 Recommended: **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 was 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 – Emmy Isaacs was present to represent the application. Chair Carter asked Ms. Isaacs if she had read and agreed to the conditions proposed by the Staff for approval of the application. She stated that she had and agreed to the conditions. The property was being used as a long-term rental until recently. They had asked the renter to leave, and the property has been in transition for the last month or so. Ms. Isaacs stated that they had received a notice that the grass had gotten too long and it was going to be mowed the day after the hearing. She stated that going forward, there were going to be improvements to the property.

Citizens Comments – Wayne Stevenson (537 Southridge Drive) has been a neighbor since 2003. He stated that the grass had not been cut since the prior tenants moved out. He stated that the past three tenants never maintained the property. Previous tenants were roofers; they would leave supplies stacked on pallets in the backyard. Mr. Stevenson said there are shingles that were left behind in the back yard, as well as 8 - 10 large children's toys. Mr. Stevenson directed attention to the overhead, which showed the site plan of the property. While the drawing showed that the property was surrounded by a chain-link fence, Mr. Stevenson stated that there was a mixed material fence, a wooden fence and no fence at the front of the property.

Fran Hardaway (528 Southridge Drive) lives directly across from the applicant's property. She stated that the property was not maintained. She stated there were several times she would have called someone about the activities on the property, but she did not know who to call. She said she felt uneasy and feared for her safety if the short term rental was approved.

Sharon Neal (545 Southridge Drive) stated that she did not live at the property; however, her son and grandsons do live there. She stated that she was concerned about people she did not know staying at the proposed STR property, and she worried about the safety of her son and grandsons.

Applicant Rebuttal – Ms. Isaacs apologized for the state of the yard and said that the yard would be taken care of in the next day or so. She stated that there were only going to be 2-3 occupants on the property at a time. She offered the neighbors her phone number, so that they could notify her if there were concerns about the property. She has employees who could come and service the property.

Board Questions and Comments – Mr. Clark asked Ms. Isaacs to address the issue regarding the chain-link fence. Ms. Isaacs stated that she had not really noticed the issue with the fence, and if it was an issue, she would close the gaps on the fence.

Ms. Tucker stated that she was concerned about the applicant's lack of knowledge of the property and the state of the property. Ms. Isaacs said that last tenant was taking his time moving, which contributed to the mess. She stated that going forward the lawn would be maintained by a service. Mr. Clarke confirmed that the previous tenants had been responsible for mowing the lawn. Mr. Clarke asked who would be responsible for the property going forward. Ms. Isaacs stated that she was the owner and manager of the property, along with employees to help maintain the property.

Action – Mr. Clarke made a motion, seconded by Mr. Walker, motion carried 5-2 (Sturdivant and Tucker opposed the motion) to Approve **PLN-BOA-25-00045: EMBRY PROPERTY MANAGEMENT LLC** – requesting 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. This is based on the conditions listed and the recommendations made by the Staff.

3. **PLN-BOA-25-00046: COMPOUND PROPERTY LLC** – requested 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 Recommended: 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 was 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 – Joshua Cromwell was present to represent the application. Chair Carter ask the applicant if he understood and agreed with the conditions recommended by the Staff and Mr. Cromwell stated that he did. He gave a brief description of the plan and stated that he hoped that his property would draw people to Lexington and encourage them to stay in Lexington. He mentioned that he lived near the property and would be overlooking the property, if any issues arose for the neighbors.

Citizen Comments – Samuel Perry (1766 Yorktown) lives next door to the property. He stated that he opposed the plan due to the lack of parking. He disagreed with the applicant's statement that the property could accommodate 5 vehicles. He stated that it was his experience that the STR's garage was normally used to store maintenance equipment. He further stated that his driveway was the same size as the applicants, and he could barely fit three cars in his driveway. Mr. Perry stated that noise, disruption and safety would be a concern. He stated that the STR would not be consistent with the character of the neighborhood. He also stated that this STR would take a single-family home off the market, when it is much needed in Lexington. He stated that he had collected 22 signatures from neighbors who were in opposition to the STR. He also stated that there were already four STRs in the neighborhood. He stated that there is a park in the vicinity of the property, and occupants of the STR would increase transient traffic. Mr. Clarke asked Mr. Perry what the proximity was of the four STRs that he mentioned. Mr. Perry stated that only one of the STRs was within the 1000-foot buffer.

Jane Morgan (1773 Yorktown Road) stated that she has lived at her residence since 2021. Ms. Morgan stated her neighbors supported each other. She stated that as a single woman living alone, it was important for her to know her neighbors. She said that she often worked late shifts and she was concerned about strangers out at that time. She also stated her concern about trash, noise, and parking. She reiterated that she was opposed to the STR.

Virginia McKee (1738 Yorktown Rd) stated that she was opposed to the STR for the reasons Mr. Perry had stated. She also said that although the applicant stated that the STR may bring new residents to Lexington, there were not enough houses for those who were already residents in Lexington.

Patricia Hall (1758 Normandy Rd) resides on the next street over from the applicant's property. She stated that the neighborhood was a garden-side property with a close-knit community. She stated that she felt that the neighborhood was meant to be single-family homes.

Applicant Rebuttal – Mr. Cromwell stated that the STR only allowed for up to six occupants and he did not expect this to present an issue with parking, as vehicles often contained more than one occupant. He re-stated his proximity to the property and willingness to handle any issues and concerns. Mr. Clarke confirmed that Mr.

Cromwell would be the Property Manager.

Board Comments – Mr. Gross addressed the citizens issues and concerns, stating that their concerns may go outside of the Board's control. Many of their concerns were issues that City Council has domain over. He stated that it was the Boards obligation to make decisions based on the policy made by City Council. Mr. Clarke supported Mr. Gross and stated that with proper management, STR should not cause an issue. Mr. Gross stated that there was a number to call if there were issues with an STR. Ms. Tucker thanked the neighbors for coming to the hearing.

Action – Mr. Gross made a motion, seconded by Mr. Clarke, motion passed 7-0 to Approve **PLN-BOA-25-00046: COMPOUND PROPERTY LLC** – requesting 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, subject to the four conditions, and in support of the Staff's recommendations.

4. **PLN-BOA-25-00047: DR. JITANDER DUDEE** – requested 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 Recommended: **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 was 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. The 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.

Application Representation – Lauren Nichols, attorney from Dentons, Bingham and Greenebaum, was present representing the applicant. Ms. Nichols stated that the applicant understood and accepts the conditions recommended by the Staff. Ms. Nichols stated that the property encouraged tourism for Lexington. The property is large enough to accommodate up to 16 people and is located on 8 acres of land. Ms. Nichols stated that the Health Department would not inspect an existing sewer, but Lex Rooter (designee of the Health Department) approved the existing sewer system for the property. Ms. Nichols referred to the site plan on the overhead, reviewing the size of the land, parking and the lighting of the property. Ms. Nichols stated that the applicant was currently renting out space for agricultural use, but his tenant recently notified the applicant that he would be ending his lease. After the renter leaves the property, the applicant will continue with improvements to the property.

Board Comments and Questions – Mr. Clarke stated that he thought the property location was ideal for an STR and would likely draw people to the property. Mr. Clarke stated that the number of occupants (16) concerned him. He referred to the Paris Pike Committees' concerns and asked Ms. Nichols to address them. Ms. Nichols stated that there would be a maximum of 16 occupants, and another bathroom was going to be added to provide occupants with adequate accommodation. She mentioned that the STR would be a compliment to those hosting a wedding at the Kentucky Thoroughbred Center, due to the proximity of the STR to the park, which would allow families to stay together right next to the wedding venue. Ms. Nichols attended the Paris Pike meeting and stated that it was her impression that the commission was concerned about STRs in general, and the spread of commercialism.

Citizen Comments – Catherine Perkins was present as a citizen, not as a representative of the Paris Pike Corridor Commission. She stated that she was a horse trainer with one barn at the Thoroughbred Center. She is concerned about how the plan would affect her business. She quoted from BOA ordinance Section 3-13 which states that a STR in the Agricultural Rural (A-R) zone should not create a nuisance to surrounding properties. She is concerned about the single fence surrounding the property, along with pets and animals brought in by occupants. She requested that the applicant install double fencing and provide the Thoroughbred Center with vaccination records for any visiting animals. She stated that she was concerned about the lack of regulations in the ordinance prohibiting parties, fireworks, and loud music.

Action - Mr. Persley, seconded by Chad Walker, motion passed 6–0 (Gross recused) to approve **PLN-BOA-25-00047: DR. JITANDER DUDEE** – requesting 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, subject to the conditions listed and in support of the recommendations made by the Staff.

5. **PLN-BOA-25-00050: BK WHOLESOME HOMES** – requested 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 Recommended: **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 was 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. The 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.

Applicant Representation – Brandon Whitehead was present to represent the application. Chair Carter confirmed that the applicant understood and accepted the conditions recommended by the Staff. He stated that the company would have local cleaners and landscapers to maintain the property. There would be smart locks, outdoor cameras, and noise monitoring hardware.

Citizen Comments – Dylan Adams was concerned about the parking, because there was only one way to enter and exit the neighborhood. Mr. Adams was concerned about outside noise, which he would like to be monitored. He mentioned the concern for upkeep and removing a single family home from the supply of affordable housing.

Applicant Rebuttal – The applicant stated that they were going to provide a wholesome experience and may be able to monitor outside noise. Ms. Tucker questioned whether the letter of permission from the owner was valid since it was not dated. Ms. Wade stated that the application and permit would need to be submitted in the owner's name, not BK Wholesome Homes. Chair Carter stated that engineering companies often applied for plan approval by the Board, with the owner's permission. Ms. Smith stated that according to the STR Ordinance itself, one of the owners must apply for these things, not the managing company.

Action – Chad Walker made a motion, seconded by Mr. Persley, motion passed 7-0 to Approve **PLN-BOA-25-00050: BK WHOLESOME HOMES** – requesting 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 subject to the conditions listed and based on the Staff recommendations.

- V. **BOARD ITEMS** – The Chair announced that any items a Board member wished to present would be heard at this time. There were no issues at that time.
- VI. **STAFF ITEMS** - The Chair announced that any items a Staff member wished to present would be heard at this time.
- VII. **NEXT MEETING DATE** -The Chair announced that the next meeting date would be on June 9, 2025 at 1:30 p.m., Council Chambers, 200 East Main Street, Lexington, KY 40507.
- VIII. **ADJOURNMENT** – Chair Carter declared the meeting adjourned at 4:28 p.m.



Robert 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://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.

