

**AGENDA FOR THE BOARD OF
ADJUSTMENT MEETING**

June 9, 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 and April 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.
 1. **PLN-BOA-25-00030: CANE MANOR LLC** – requests 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 postponed to the July 14, 2025 meeting.*
 2. **PLN-BOA-25-00055: WADE & REBECCA KUNDINGER** – requests a conditional use permit for an un-hosted short term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 4336 Clearwater Way. (Council District 12)

NOTE: *The Applicant wishes to withdraw this case.*
 - C. **Variance Appeals**
 1. **PLN-BOA-24-00204: RIESIG BUILT CONSTRUCTION** – requests a variance to reduce the required side yard setback from three (3') feet to one (1) foot, seven (7") inches within the Infill and Redevelopment zone in a Planned Neighborhood Residential (R-3) zone, on property located at 199 Eddie Street. (Council District 1)

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 subject property is within the defined Infill and Redevelopment Area and the existing structure features legally non-conforming setbacks which are in keeping with other structures in the immediate vicinity. The addition is also not visible from the street, as it is situated directly behind the principal structure.
 - b. The strict application of the provisions of the Zoning Ordinance and denial of this variance would create an unnecessary hardship on the applicant as they would be required to significantly modify or remove the addition. An addition to a residential structure is a common request and in this case makes the home almost 40% larger, making it more livable.
 - c. The special circumstance that applies to the subject property is that it is twenty feet wide, which is narrower than most lots in the vicinity, and within the zone. This makes any addition to the existing structure difficult due to the narrowness and small size of the lot.

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 Building Inspection prior to construction.

2. **PLN-BOA-25-00011: KY-263 2FRIENDS LLC** – requests variances to 1) increase the allowable height of a billboard from forty (40) feet to forty-five (45) feet and 2) reduce the required setback between a billboard and a residential zone from one-hundred and fifty (150) feet to seventy (70) feet in a Corridor Business (B-3) zone, on property located at 1200 Winchester Road. (Council District 1)

The Staff Recommends: **Approval of the requested variance to increase the allowable height of a billboard from forty (40) feet to forty-five (45) feet**, 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 subject property is within in an area that permits billboards and the extra five (5) feet of height would allow for better visibility of the billboard without negatively impacting adjoining properties or the existing overhead utility lines.
- b. The granting of the height variance 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. The billboard is relocated to the front of the property abutting Winchester Road.
2. All necessary permits and/or approvals shall be obtained from the Divisions of Building Inspection prior to construction.

The Staff Recommends: **Disapproval of the requested variance to reduce the required setback between a billboard and a residential zone from one hundred and fifty (150) feet to seventy (70) feet**, 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 place the billboard in a different location on the property that would not necessitate a variance and reduce the proximity to the nearby residential zone.

3. **PLN-BOA-25-00040: MANUEL HIJAR** – requests variances: 1) to reduce the required side yard setback from five (5) feet to zero (0) feet and 2) to reduce the required rear yard setback from ten (10) feet to zero (0) feet in a Planned Neighborhood Residential (R-3) zone, on property located at 624 Andover Village Place. (Council District 7)

The Staff Recommends: **Disapproval of the side yard variance**, for the following reasons:

- a. Granting a variance to the side yard could impede access for the Division of Fire and Emergency Services, as well as maintenance of the principal structure and land. No side yard obstructions are allowed due to the narrow three (3) foot side yard allowed by the Zoning Ordinance.
- b. 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 Staff Recommends: **Approval of a lesser variance for the rear yard setback**, for the following reasons:

- a. Granting the lesser variance should not adversely affect the public health, safety, or welfare of the general vicinity, nor cause a hazard or nuisance to the public as the footprint would generally match the original footprint of the deck and the deck should have little visual impact on the surrounding properties as it is located on the rear of the structure.
- b. Granting the variance will not result in construction that is out of character with the general vicinity as it would replace the original deck that existed for three decades.

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

1. Construction shall be in accordance with an updated site plan submitted to the Division of Planning

and Building Inspection.

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

4. **PLN-BOA-25-00048: JAMES MASTIN** – requests a variance to reduce the required side yard setback from five (5) feet, eleven (11) inches to three (3) feet, two (2) inches within the defined Infill and Redevelopment Area in a Planned Neighborhood Residential (R-3) zone, on property located at 467 Johnson Avenue. (Council District 1)

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

- a. Granting the variance should not adversely affect the public health, safety, or welfare, nor alter the character of the general vicinity. The requested setback will be similar to other setbacks in the area, and the addition will not be visible from any public rights-of-way.
- b. The size and configuration of the lot is a special circumstance that justifies the need for the variance, as it is narrower and shallower than many of the lots in the immediate vicinity.
- c. The requested variance is generally reasonable, as it will continue an existing non-conforming setback for a modestly sized addition, replacing portions of a structure that has fallen into disrepair. Granting the variance will allow the applicant to update and better utilize a small lot within the Infill & Redevelopment Area by adding features that are more desirable in the current housing market.
- d. The variance request does not attempt to circumvent the provisions of the Zoning Ordinance. The proposed addition will be compatible with the existing development pattern in the neighborhood. The Zoning Ordinance specifically states that Board of Adjustment action may sometimes be required in order 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 variance as soon as it was determined that one was needed during the permit process, and 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.
2. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction and occupancy.

5. **PLN-BOA-25-00052: DISTINCTIVE DESIGN REMODELING** – request a variance to reduce the required side street side yard setback on a corner lot from thirty-five (35) feet to thirty (30) feet in order to construct an accessory structure in a Single Family Residential (R-1C) zone, on property located at 627 Lane Allen Road. (Council District 10)

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 detached garage will have a side yard setback that is keeping in line with the front setback of other structures in the immediate vicinity.
- b. The granting of this variance 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, and 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.
2. All necessary permits and/or approvals shall be obtained from the Divisions of Building Inspection prior to construction.

D. Conditional Uses

1. **PLN-BOA-25-00037: CHERISH THE CHILD DAYCARE (AMD)** – requests a conditional use permit to amend an existing conditional use for a childcare 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)

NOTE: *This case was postponed from the May 12, 2025 meeting.*

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 100 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-25-00051: 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)

NOTE: *This case was postponed from the May 12, 2025 meeting.*

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.

3. **PLN-BOA-25-00060: WESLEY UNITED METHODIST CHURCH** – requests to amend an existing conditional use permit for a place of religious assembly in an Agricultural Urban (A-U) zone, on property located 1825 Russell Cave Road. (Council District 1)

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

- a. Approval of the proposed modifications to the existing conditional use should not adversely affect the subject or adjoining/nearby properties, provided that all necessary permits and approvals are made. The modifications to the existing parking lot and open space will allow for a more sustainable use of the property without significant physical modifications. The improvements will not change the capacity of the church building, the hours of operation or the

days of activity on-site.

- b. All necessary public services and facilities are or will be available and adequate for the proposed use.

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

1. The property shall be developed and operated in accordance with the submitted application materials and site plan, subject to any alterations required throughout the permitting process.
2. All necessary permits and/or approvals shall be obtained from the Divisions of Planning, Building Inspection, and Engineering, as well as necessary state and federal agencies, prior to construction and occupancy.
3. The parking lot shall be paved (with permeable pavement where depicted), with spaces delineated, and landscaped/screened in accordance with the requirements of Article 16 and 18 of the Zoning Ordinance.
4. Any new outdoor lighting shall comply with the requirements of Article 30 of the Zoning Ordinance.
5. A sidewalk, a minimum of five feet in width, shall be provided from the subject property's Russell Cave Road frontage to the building entrance.

- 4. **PLN-BOA-25-00061: TOP DOLLAR PAWN** – requests a conditional use permit in order to establish a pawnshop in a Corridor Business (B-3) zone, on property located at 2015 Family Circle, Suites 110, 120, & 130. (Council District 5)

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

- a. Granting the requested conditional use should not adversely affect the public health, safety, or welfare, nor alter the character of the general vicinity. The requested location meets the minimum spacing established by the Zoning Ordinance, thus limiting the impact of pawnshops on one area of the community, and the proposed location is amid a mixture of commercial uses along one of the community's highly traveled corridors. The property is well-suited for the buying, selling, and pawning of general merchandise in a retail environment for electronics, tools, jewelry, and the like; but not for outdoor storage or sale of automobiles and other large items. The existing shared parking lot should be able to accommodate the customers and employees of the proposed pawnshop.
- b. All necessary public facilities and services are available and adequate for the proposed use.

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

1. The pawnshop shall be established in accordance with the submitted application and site plan.
2. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to any construction and/or renovation, and prior to opening the pawnshop.
3. This approval shall become null and void should the applicant no longer operate this business on the subject property.
4. No outdoor display or outdoor sales of merchandise shall be allowed on the property in the front yard between the structure and the right-of-way of Family Circle.

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)

NOTE: *This case was postponed from the May 12, 2025 meeting.*

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-25-00053: DR. THOMAS LARKIN** – requests a conditional use permit for a hosted short term rental in an Agricultural Rural (A-R) zone, on property located at 2751 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 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. 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 are sufficient to accommodate the proposed number of users.
- f. The property has adequate parking spaces to accommodate the proposed number of users (4).
- 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 425 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 four (4) 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 lighted 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.

3. **PLN-BOA-25-00054: LORALEE TRIM** – requests a conditional use permit for an un-hosted short term rental in a Planned Neighborhood Residential (R-3) zone, on property located 401 Redding Road, Unit 6. (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. 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 four (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.
4. **PLN-BOA-25-00056: JONATHAN ROLLINS** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 2116 Clays Mill Road. (Council District 10)

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

1. The four factors listed in Article 3-13(g) of the Zoning Ordinance have been evaluated, in addition to the requirements of Article 7 of the Zoning Ordinance and KRS 100.237.
 2. No other STRs have been cited in the vicinity as a nuisance and the applicant has no history of compliance issues; however, based on a review of the ArcGIS concentration mapping data, there are two (2) short term rental units operating within the required 600-foot buffer area.
 3. The applicant does not meet any of the three provisions for relief set forth in Article 3-13(m) of the Zoning Ordinance.
5. **PLN-BOA-25-00059: HR DAVIS REAL ESTATE LP** – requests a variance to reduce the spacing requirements between short-term rentals from one (1) mile (5,280 feet) to 2,100 feet and a conditional use permit for an un-hosted short term rental in an Agricultural Rural (A-R) zone, on property located at 4901 Briar Hill Road. (Council District 12)

The Staff Recommends: **Disapproval of the Variance**, 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 a variance.
- b. The applicant has not provided sufficient information to determine that strict enforcement of the Zoning Ordinance will result in an unnecessary hardship or deprive the applicant of the reasonable use of their land.
- c. Approval of the request variance will allow for an unreasonable circumvention of the requirements of the Zoning Ordinance. The adopted ordinance established a one-mile spacing requirement in order to control the density of un-hosted short term rental units in the Agricultural Rural (A-R) zone.

The Staff Recommends: **Postponement of the Conditional Use**, for the following reason:

1. Until the Board dispenses with the application PLN-BOA-25-00041 at 5167 Briar Hill Road, which falls within the one mile spacing requirement listed in Article 3-13(g)(4) and 8-1(d)(35) of the Zoning Ordinance, it would be inappropriate for the staff to make a recommendation.
 2. The applicant has not submitted documentation to address the sufficiency of the existing septic system to accommodate a short term rental for a total of 10 guests on the subject property as required by Article 3-13(g)(4)(1) of the Zoning Ordinance.
6. **PLN-BOA-25-00063: ALTUS KY LEX LLC** – requests a conditional use permit for an un-hosted short term rental in an Agricultural Rural (A-R) zone, on property located at 5898 Old Richmond Road. (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 and is screened from view from the adjoining residence by existing vegetation. 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 are being updated to ensure that they are sufficient to accommodate the proposed number of users.
- f. The property has adequate parking spaces (5) to accommodate the proposed number of users (10).
- g. Lighting at the entrance to the property and the driveway will be continuously lit to provide for safe access to the unit.
- h. There are adequate fire safety measures present in the unit, and the unit is located approximately 230 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 ten (10) 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, and shall contain signage that identifies that the driveway on the adjoining lot provides access to the subject property.
- 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.

- 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 July 14, 2025 at 1:30 p.m. in Council Chambers, 2nd Floor, 200 E. Main St., 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.