

**AGENDA FOR THE BOARD OF ADJUSTMENT MEETING**

January 13, 2020

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 Chair will announce that the minutes of the December 9, 2019 meeting 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 to any appeal before the Board who plans to speak will 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-19-00082: MARIYANA K. & DIYAN R. HRISTOV** – request a variance to increase the allowable height of a fence located in the front yard from 4' to 6' in an Expansion Area Residential 2 (EAR-2) zone, on property located at 3376 Scottish Trace, (Council District 12).

The Staff Recommends: Disapproval, for the following reasons:

- a. Granting the variance would result in construction that is out of character with the general vicinity. Front yard fences of any height are not present in the general vicinity and a 6-foot tall fence would be very unusual.
- b. The recommendation of the Homeowners' Association does not qualify as a special circumstance that justifies the need for a variance and it appears that extending the fence directly perpendicular to the house from the front right corner, without curving the fence could result in an area large enough to accommodate the basketball court, without the need for a variance.
- c. A 4' tall fence in the front yard, although not as desirable for the applicant, would provide a reasonable level of security for a basketball court. Pursuing this alternative (if the court cannot be reduced in size and/or reoriented; or if the curved fence is more desirable to the applicant than the option presented herein) is not considered as a significant hardship.

2. **PLN-BOA-19-00091: VIBE PROPERTIES, LTD CO** – requests a variance to reduce the required front yard from 20' to 0' in order to allow parking in the front yard in a Planned Neighborhood Residential (R-3) zone within the defined Infill and Redevelopment Area, on property located at 264 E. Loudon Ave., (Council District 1).

The Staff Recommends: Disapproval, for the following reasons:

- a. Granting the variance could have a negative effect on the character of the general vicinity. While there are a few houses in the vicinity with parking in the front yard, the majority have parking in the rear or utilize on-street parking, which is available along East Loudon Avenue.
- b. Granting the variance could have a negative impact on the public health, safety, or welfare, as there would not be adequate space between the existing curb cuts on the adjacent properties. Additionally, the proposed driveway could conflict with existing stormwater infrastructure.
- c. Strict application of the Zoning Ordinance will not create an unnecessary hardship. A house has existed on the property for many years without a parking space in the front yard. On-street parking is available in the vicinity and the applicant can pursue a private arrangement that would allow the continued use of the shared driveway as designated in the subject property's deed.

D. **Administrative Appeals**

1. **PLN-BOA-19-00088: LEXINGTON FINANCIAL CENTER, LLC** – Requests an administrative appeal to transfer 21 square feet of allowable wall signage in order to erect a third free-standing sign at property within the defined Infill and Redevelopment Area in a Lexington Center Business (B-2B) zone, on property located at 250 W. Main Street, (Council District 3).

The Staff Recommends: Approval, for the following reasons:

- a. Granting the request will not circumvent the Zoning Ordinance as the proposed signage will comply with the limitations outlined in Article 17-8(a). A wall sign will be foregone on the Mill Street façade, so the total number of signs on the property will not exceed the total number of signs that are allowed per the Zoning Ordinance.

- b. The proposed sign will not have negative effects on the public health, safety, or welfare, nor will it alter the character of the general vicinity. The sign will be modest in size and will provide recognition to both motorists and pedestrians for a major tenant within the large building.

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

1. The sign shall be installed in accordance with the submitted application materials and site plan.
2. A sign permit shall be obtained from the Division of Building Inspection prior to installation of the sign.
3. Future signage on the Mill Street façade shall be limited to one wall sign.

2. **PLN-BOA-19-00089: GREER LAND CO SMYRNA #2 LLC** – Requests an administrative appeal to determine that a sign attached to a parapet wall is not a roof sign in a Neighborhood Business (B-1) zone, on property located at 1100 S. Broadway, (Council District 3).

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

- a. Granting the request would circumvent the Zoning Ordinance, as the sign proposed clearly does not meet the definition of a “wall sign,” but does meet the definition of a “roof sign.” The Board of Adjustment does not have the authority to approve a roof sign in this location, as roof signs are specifically prohibited in all zones.
- b. Disapproval of the request will not create an unnecessary hardship or unreasonable restriction. The proposed sign would be allowed as a wall sign if it were installed less than 3’ lower than what is currently proposed. Installing the sign at the allowable height will have minimal impact on the sign’s visibility from the road. The business should be easily seen and recognized by passersby, as the subject property is a visible corner lot on a Major Arterial; and there will be several signs on the property.

3. **PLN-BOA-19-00090: BRADFORD STENGEL** – Requests an administrative appeal to change one legal non-conforming use (retail sales) to another (office/retail sales/restaurant), at 501 E. High St. and a conditional use to establish a parking lot at 507 E. High St. within the defined Infill and Redevelopment Area in a Neighborhood Business (B-1) zone, (Council District 3).

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

- a. Granting the administrative appeal would result in an increase in the overall nonconformity of use as a larger portion of the existing structures will be utilized and the proposed uses have a higher parking requirement than the existing uses. Even with the addition of 15 parking spaces at 507 E. High Street, off-street parking to be provided falls way short of the estimated 75 required spaces.
- b. Disapproval of the variance would not create an unnecessary hardship for the applicant, or deprive the owner reasonable use of their land. There are several options the applicant could pursue to reduce parking non-conformity, including leasing off-site parking spaces, applying for a parking variance, or seeking designation as a “pedestrian oriented business district.”
- c. Since the addition of just 15 spaces at 507 E. High Street will not decrease parking nonconformity, due to the associated expanded uses at 501 E. High Street, a conditional use for a surface parking lot at that location is not justified. The needed building demolition and use of the entire lot for parking would likely have an adverse impact on the Woodland Triangle neighborhood.

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.

**A. Elect officers for the year.**

VI. **NEXT MEETING DATE** - The Chair will announce that the next meeting date will be February 10, 2020, at 1:30 p.m.

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