

BOARD OF ADJUSTMENT APPLICATION

PDS One Stop Shop Communities

----- *To Be Completed By Administrative Official* -----

Application Number: _____

Hearing Date: _____

Date Received: _____

Action: _____

----- *To Be Completed By Applicant* -----

1. I, the undersigned, request a hearing before the Board of Adjustment, in regard to the following:

- Variance
- Appeal of The Zoning Administrator's Decision/Interpretation
- Conditional Use Permit
- Change From One Nonconforming Use To Another Nonconforming Use/Termination of Nonconforming Use or Structure

2. Description of request being made (indicate appropriate section or subsections of the local zoning ordinance, where applicable):

3. Reasons for request (may be attached):

4. Legal description (if applicable, may be attached):

5. Is site plan attached (if determined necessary by the administrative official) containing the applicable requirements of the local zoning ordinance?

- Yes
- No

6. Address/Location of property: _____

7. Present Zoning: _____

8. Applicant: Name: _____

Address: _____

Phone: _____

9. Owner, Name: _____
If Different

Than Address: _____
Applicant

Phone: _____

10. The foregoing information and attachments are true and accurate to the best of my knowledge:

Date

Applicant (Signature)

Applicant (Please Print)

Date

Owner, if Different Than Applicant (Signature)

Owner, if Different Than Applicant (Please Print)

Board of Adjustment Application Submission Materials

- 1. **COMPLETED APPLICATION** and \$558.00 payable by cash, check, or credit. Checks are made payable to Planning and Development Services, or PDS. Application fees go to the legally required costs associated with application and are nonrefundable based on the outcome of the hearing.

- 2. **SITE PLAN** showing the following:
 - a) The location of existing structure(s) and any proposed structure(s) or addition(s).
 - b) The setbacks, or distances, from all property lines from the corresponding façade of any existing or proposed structures
 - c) The dimensions (length, width, height) of existing and proposed structures
 - d) Renderings or elevations of existing or proposed structures (**optional**).

- 3. **SUBMISSION LETTER** providing an overview of the project detailing: **(1)** what is being proposed; **(2)** specific details (where applicable), such as hours of operation, total staff, number of clients, number of off-street parking spaces to be provided, etc., and; **(3)** reasons for the submitted request

A sample of this letter is as follows:

Part I - Introduction to the project (who, what, when, and where)

Part II – (Why) Reasons the submitted request should be granted. This language should be oriented toward the finding of facts required to approve Board of Adjustments requests found on Page 3 of the application. Be sure to orient this language to those finding of facts required for your specific request (E.g. if you are applying for a variance, the finding of facts should be oriented towards those corresponding to variance requests and not a conditional use or change of nonconforming use).

The submission letter does not need to be overly complicated but merely state the pertinent information to your request(s).

- 4. **Copy of the Deed** to the property (this information can be obtained from the county clerk’s office or from kcor.org. The PIDN# for the property can be found at linkgis.org).

- 5. **Name and Address of the Property Owners** located adjacent to the property (**APPLICABLE ONLY to Conditional Use Permit Applications**). This information can be obtained from the **Property Valuation Administration (PVA)** at their office or on the web at <http://www.kentonpva.com/>.

- 6. **Petition** or **letter** signed by surrounding property owners, especially those most impacted by the submitted request(s) (**OPTIONAL**)

Additional Information

The Board of Adjustment is a body established under Kentucky Revised Statutes Chapter 100 to perform a number of decision-making activities associated with land use regulation. Board members are local citizens who are appointed by the legislative body. The five-member board comes from a variety of backgrounds and different neighborhoods of the community. Members serve staggered terms of four years in length. The responsibilities of the Board of Adjustment include decisions on applications for zoning variances; decisions on appeals of rulings by the Zoning Administrator; decisions on applications for conditional-use permits; decisions on requests for changes to non-conforming use structures.

Approximately one week prior to the hearing, PDS will send out a staff report and recommendation, along with the submitted application materials provided within the application. This is an opportunity for the applicant to utilize their submission materials to present and outline the reasons for their proposal prior to the public hearing. The more information made available to staff, as well as the board, prior to the hearing will expedite the process and ensure a timely review of the application.

Once all of the applicant submission items have been compiled they can be dropped off the offices of Planning and Development Services (PDS). The address is at 2332 Royal Drive, Fort Mitchell, Kentucky 41011.

All approved applications shall require a zoning and building permit. If an applicant or individual claims to be aggrieved or injuriously affected by the decision of the board, they may appeal the board's decision to a court of law. The time period for such an appeal is no longer than thirty (30) days from the decision of the Board.

Definitions:

1. "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation.
2. "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:
 - a. A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and
 - b. A statement of the specific conditions which must be met in order for the use to be permitted.
3. "Nonconforming use or structure" means an activity or a building, sign, structure, or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located.
4. "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, length, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

Findings:

1. Prior to granting a change from one nonconforming use to another, the board of adjustment shall find that the new nonconforming use is in the same or more restrictive classification of use as the prior nonconforming use. In the determination of the same or more restrictive classification of use, the applicant shall establish and the board of adjustment shall find:
 - a. That the new nonconforming use shall generate less vehicular traffic (automobile and truck) than the prior nonconforming use;
 - b. That the new nonconforming use is of a nature which will emit less noise and air pollution than the prior nonconforming use;
 - c. That the new nonconforming use will be more in character with the existing neighborhood than the prior nonconforming use, in that it is more in conformance with the adopted comprehensive plan, and also, more in conformance with the uses permitted in the zone in which the use is located, than the prior nonconforming use.

2. Prior to granting a conditional use permit, the applicant shall establish and the board of adjustment shall find:
 - a. That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or the community; and
 - b. That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

3. Before any variance is granted, the board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:
 - a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
 - c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.