

BOARD OF ADJUSTMENT APPLICATION

Additional Information

The Board of Adjustment is a body established under Kentucky Revised Statutes Chapter 100 to perform a variety of decision-making activities associated with land use regulation. Board members are local citizens who are appointed by the legislative body. Board members are from a variety of backgrounds and different neighborhoods within the community. Members serve staggered four-year terms. The responsibility of the Board of Adjustment includes 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 submitted materials provided with the application. This is an opportunity for the applicant to utilize their submission materials to present and outline the reason for their request prior to the public hearing. More information provided to staff and the board, prior to the hearing, will expedite the process and ensure a timely review of the application. Once all applicant submission items have been compiled, they can be dropped off at the offices of Planning and Development Services (PDS). The address is 1840 Simon Kenton Way, Suite 3400, Covington, Kentucky 41011. These can also be sent via email to avidekovich@pdskc.org. 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 appeal must be made not more 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 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 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.
5. **Appeals to the Board** per [KRS 100.257](#) and [KRS 100.261](#), may be taken by any person or entity claiming that there is an error in an official action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator.

Joshua R. Wice, Ed.D., Executive Director

1840 Simon Kenton Way, Suite 3400 • Covington, Kentucky 41011-3693 • (859) 331-8980 • pdskc.org



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 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.
4. In determining that an appeal may be granted, the Board must find that there was an error in an order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator.