

## Kenton County Joint Board of Adjustment Meeting Minutes: August 19, 2026

Chairman Kannady called the meeting of the Kenton County Joint Board of Adjustment to order on Wednesday, August 19, 2026. The meeting was held in the Kenton County Courthouse, Fiscal Court Chambers, at 5272 Madison Pike, Independence, KY.

Mr. Videkovich introduced Mr. Matt Smith as the Board's new legal counsel, noting that the Management Board and the Executive Director of PDS made the decision in June. Mr. Smith also serves as counsel to the Management Board, the Planning Commission, the Code Enforcement Board, and the Campbell County and Pendleton County Boards of Adjustment.

Mr. Videkovich then provided general housekeeping and safety information.

The attendance of the members was as follows:

| Member                         | Term Expiration | JAN | FEB | MAR | APR | MAY  | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|--------------------------------|-----------------|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|
| <b>Joe Bergman, Vice Chair</b> | 12/31/2027      | X   | X   | -   | -   | X    | X   | -   | X   |     |     |     |     |
| <b>Amy Heeger, Secretary</b>   | 12/31/2026      | X   | X   | -   | -   | X    | A   | -   | X   |     |     |     |     |
| <b>Rodney Kannady, Chair</b>   | 12/31/2027      | X   | X   | -   | -   | X    | X   | -   | X   |     |     |     |     |
| <b>Paul Lawless</b>            | 12/31/2029      | X   | X   | -   | -   | X    | X   | -   | X   |     |     |     |     |
| <b>Steven Sorg</b>             | 12/31/2026      | X   | X   | -   | -   | X    | X   | -   | X   |     |     |     |     |
| <b>Rusty Smith</b>             | 12/31/2026      | X   | X   | -   | -   | X    | X   | -   | X   |     |     |     |     |
| <b>Guilford Guthrie</b>        | 12/31/2028      | X   | X   | -   | -   | 5:48 | X   | -   | X   |     |     |     |     |

X present  
A absent  
- no meeting  
AP Appointment Pending

Staff members present: Mr. Matt Smith, Legal Counsel; Andy Videkovich, PDS Director of Planning; Patrick Denbow, PDS Senior Planner; and Pamela Bushelman, PDS Senior Secretary, Planning & Zoning

Others present: other interested parties are listed on the attached Sign-In Sheet (EXHIBIT A)

Chairman Kannady asked for a roll call which found all seven members present, and a quorum was established.

He then moved on to the review of the agenda. There were no corrections or changes and *Ms. Heeger made a motion to approve the agenda as presented; seconded by Mr. Bergman. The motion carried by acclamation of all members present.*

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Chairman Kannady continued to the review and approval of the June 17, 2026, meeting minutes. The only correction noted was at the end of the minutes, where the motion had been recorded as a motion to approve the agenda rather than the minutes; that correction had already been made. There were no further corrections or changes and *he made a motion to approve the minutes as corrected; seconded by Mr. Bergman. The motion carried by acclamation. Ms. Heeger abstained.*

**PUBLIC HEARING**

**Chairman Kannady then opened the public hearing for FILE NUMBER: BOA-26-0017:**

**APPLICANT:** James Woeste

**LOCATION:** 157 Pelly Road, Independence

**REQUEST:** An appeal to the decision of the zoning administrator to deny a request to allow accessory structures within a front yard area of the R-LLS (Residential Large Lot Subdivision) Zone of the Independence Zoning Ordinance

**SUMMARY:** The applicant is proposing to subdivide the existing property to build a new home. The proposed location of the new home will be towards the rear portion of the existing lot. There are existing accessory structures within the existing lot, which are proposed to be included within the new lot for the new home. The applicant is seeking this appeal to allow these structures to be located within the front yard area for the new lot where accessory structures are not permitted within any front yard.

**LEGAL TESTS:** To overturn the **Zoning Administrator's decision** the Board must find that there was an error in, and that the applicant was injuriously affected or aggrieved by, an order, requirement, interpretation, grant, refusal, or decision by the Zoning Administrator.

Chairman Kannady asked for confirmation of notification. Mr. Denbow confirmed that notifications were made per KRS 100.

Chairman Kannady then asked members if any of them had a conflict of interest with the request. There were none, and he then asked members if there had been any visits to the site for the purpose of this meeting. There were none.

Mr. Denbow submitted Exhibits B1-B3 into the record: (copies of which are attached to the original Minutes of record)

|            |                                        |
|------------|----------------------------------------|
| Exhibit B1 | PDS Staff Report dated August 12, 2026 |
| Exhibit B2 | Materials submitted by the applicant   |
| Exhibit B3 | Submitted Site Plan                    |
| Exhibit B4 | Presentation slides                    |

**\*\*NOTE:** Exhibit B5: Slides were provided by the Applicant only moments prior to this hearing and were uploaded and made available for review as needed by the Board members and the Applicant.

Mr. Patrick Denbow, PDS Senior Planner, presented the Staff Review. The site is just under seven acres on the southeast side of Pelly Road, just northeast of the intersection with KY 17, inside the boundaries of Independence and bordering unincorporated Kenton County to the front and rear. The surrounding area is mostly rural and suburban residential, with an elementary school to the west across KY 17. The site contains an existing single-family home toward the front of the lot, set back 11 feet from the right-of-way and approximately 40 feet from the edge of pavement, and two access points roughly 100 feet apart —

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one serving the home and the other a long driveway running back to the three existing accessory structures, all presently within the rear yard of the existing lot.

Mr. Denbow explained that the applicants reside in the existing home and have been seeking a lot split to construct a new home toward the rear of the lot, which would place the existing accessory structures in the front yard of the new lot. Through the subdivision process they learned that all newly created lots must meet all zoning requirements, and that the new lot cannot be approved unless zoning approval is first obtained to allow the accessory structures within the front yard.

The site is zoned R-LLS (Residential Large Lot Subdivision) and the surrounding properties are zoned R-LLS within Independence or R-1C in unincorporated Kenton County, all single-family residential. The R-LLS zone requires a minimum lot area of one-half acre, a minimum lot width of 100 feet, and setbacks of 40 feet front, 10 feet side with a 25-foot aggregate, and 25 feet rear; accessory structures are prohibited within any front yard or required side yard in any zoning district. Existing and surrounding land uses are single-family residential and open space, with some agricultural use. The submitted site plan shows the three existing accessory structures of 1,500, 1,152, and 840 square feet, the proposed new home site, and a proposed septic area to the rear. The new home would sit approximately 200 feet behind those buildings and would far exceed all required minimum setbacks. Proposed property lines were not indicated on the plan, but the plan contemplates that the structures would fall within the front yard of the new lot. Mr. Denbow clarified that the request relates strictly to the location of the accessory structures within the front yard and also displayed a rendering of the proposed home.

Mr. Denbow reported that the applicant submitted a letter detailing the nature of and reasons for the request, claiming to be injuriously affected and aggrieved by the Zoning Administrator's decision, along with GIS images and maps alleging front yard accessory structures on other lots and letters of support, all attached to the staff reports. He explained that KRS gives the Board the power to hear and decide cases in which an applicant alleges an error in any order, requirement, decision, grant, or refusal of the zoning official, and that appeals may be taken by any person claiming to be injuriously affected or aggrieved. Staff recommended upholding the decision of the Zoning Administrator, finding no error, as the interpretation is based on the literal language of the ordinance prohibiting accessory structures within a front yard. He added that if the appeal were approved, the applicant would still need to complete the subdivision process and obtain zoning and building permits.

In response to a question from Mr. Bergman as to what is considered a front yard and whether the front yard extends only straight out from the front of the house or also to the sides, Mr. Denbow explained that the front yard consists of everything in front of the front building line, that the building lines extend outward to the side property lines depending on how the house is oriented, and that everything in front of those projected lines is front yard. Returning to the applicant's site plan, he illustrated that if the new house were built in the proposed location, everything streetward of that front building line, extended laterally to the property lines, would constitute front yard.

Mr. Matt Smith, Legal Counsel, asked what legal basis had been offered for the claim that the Zoning Administrator was in error, and observed that the ordinance is very clear that accessory structures are not permitted in a front yard and that the Board does not have the authority to change the ordinance. Mr. Denbow responded that he would have to defer to the applicant on that question. Mr. Smith then reminded the Board of the nature of an appeal from the Zoning Administrator, explaining that unlike a conditional use request — in which the Board has the ability to determine whether a use should or should

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not be permitted — an appeal presents only the question of whether the Zoning Administrator was right or wrong in interpreting the ordinance, and that the Board does not have the ability to allow something that is not permitted by the ordinance.

Mr. Sorg asked whether the accessory structures would instead fall within a side yard, and therefore remain in violation, if the proposed home were tilted slightly to the right, and whether the lines could be adjusted by reorienting the house. Mr. Denbow responded that the specific orientation would have to be examined, but that in general, even if the house were tilted, it is difficult to see how the structures would end up outside a front yard as that term is defined, because the lines must still be drawn straight out from the corners of the house with everything streetward of those lines constituting front yard. He explained that if the house were turned fully to the right, the front yard area would not be reduced; rather, the side of the house facing the structures would also become front yard, resulting in front yard on two sides of the home.

Mr. Bergman asked whether the property could be subdivided in a different configuration, and Mr. Guthrie asked whether a copy of the subdivision plat had been provided. Mr. Denbow responded that no plat had been submitted. In response to a question from Mr. Guthrie as to how many times a seven-acre site could be divided, Mr. Denbow explained that the minimum lot size in the zone is one-half acre but that minimum lot widths must also be considered, and he confirmed in response to a further question from Mr. Bergman that the minimum lot width in the zone is 100 feet.

Mr. Sorg asked whether the definition of a front yard is dependent upon the location of the front corners of the building. Mr. Denbow explained that the ordinance definition builds upon itself and consists of three parts: first, all areas streetward of the front setback line, which in this zone is 40 feet; second, in addition to that, all areas in front of the front face of the principal structure, however the structure is oriented; and third, all areas in front of lines projected laterally from the lateral-most corners of the principal structure to the side property lines. He confirmed that even if the structure were turned, the lateral-most corners would still be used to project those lines, and everything in front of them would be front yard. Mr. Denbow added that the applicant had submitted, and Staff had discussed with him, several other options for subdividing the property, but that Staff did not identify any configuration that would allow the house to be located where the applicants wish to place it while keeping the existing structures out of a front yard.

Mr. Matt Smith, Legal Counsel, advised the Board that on an appeal from the Zoning Administrator, the Board must take the appeal exactly as it was presented to the Zoning Administrator. He explained that when the applicant submitted the application, the applicant sought approval of that application as submitted, and it was that application that the Zoning Administrator acted upon in determining that the accessory structures could not be located in the front yard. It is therefore that same application that comes before the Board, and the sole question is whether the Zoning Administrator was correct or in error in his decision. Mr. Smith advised that the Board cannot opine on a situation different from what was submitted and acted upon, cannot redesign the proposal, and must take the matter as it finds it and as the Zoning Administrator found it.

Mr. Sorg observed that the Board had, in the past, approved requests subject to changes, and asked whether counsel was advising that the Board should not have done so. Mr. Smith responded that he could not speak to hearings at which he was not present, but advised that the Board may overturn the Zoning Administrator if it believes he was in error based on the text of the ordinance, and that what the Board cannot do — unlike in a conditional use case — is agree to go around the ordinance. The proposal must

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comply with the ordinance, and the only question properly before the Board is whether the Zoning Administrator correctly interpreted it.

Mr. James Robert Woeste was sworn in and gave his address as 157 Pelly Road, Independence, Kentucky. He thanked the adjacent neighbors present in support — Mr. Joe Brueckner, Connie and Jim Feener, and Mr. Bob Williams — and identified his potential builder, Mr. Bill Cullen of Cullen Brothers Construction, who was present to answer questions.

Mr. Woeste reviewed the four stated purposes of the ordinance provision prohibiting structures in a front yard: aesthetic uniformity and a consistent streetscape; protection of surrounding property values against haphazard construction; public safety and visibility through clear sight lines for drivers; and unobstructed emergency access to the primary residence. He stated that none of those purposes is implicated on the seven-acre property as it sits today, because the additional structures sit well behind the current home.

Mr. Woeste explained that the family's plan is to parcel the existing house with approximately one acre and eventually sell it to help finance a new home, then build back on the property while retaining the existing structures to maintain the remaining six acres. He stated that a new home would only benefit the community — enhancing the area visually, adding property tax revenue, increasing property values, and adding a home to the local market — and that the only visual change would be a home on the back ridge. He displayed photographs from the edge of the road showing that no structures are visible from that vantage point. He emphasized that the family is not asking to build a structure in front of a home but to build a home behind existing structures, which are well kept and would sit approximately 200 feet in front of and to the side of the new home.

Mr. Woeste stated that every neighbor the family had spoken with fully supported the plan and had expressed confusion over the zoning decision. He stated that denial would leave the family two unacceptable options — demolishing fully functional structures or subdividing them onto a separate parcel — and that replacing what the buildings provide would be very costly and would require clearing and grading additional mature green space at the rear of the property. He stated that the Zoning Administrator's strict literal interpretation fails to account for the family's extenuating circumstances, creating a severe practical hardship and unreasonable financial burden after 34 years on the property, and noted that a recent similar build on a large lot with front structures had been approved and proven harmless. He asked the Board not merely to evaluate the interpretation of the ordinance but to weigh the impact of the decision on the family.

Mr. Woeste then read the appeal provision, noting that appeals may be made by any person or entity claiming an error or that they are injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator. He questioned why the Board exists if the matter is simply a yes-or-no determination, and why the family had spent three months and a \$500 filing fee if the decision had effectively been made before the hearing began.

Mr. Sorg asked whether any exception exists for extenuating circumstances of the kind Mr. Woeste had described. Mr. Matt Smith explained that under Kentucky law the requirement that an applicant be injuriously affected or aggrieved goes to standing — a neighbor, for example, could not appeal on the applicant's behalf — and that once standing is established the Board must determine only whether the Zoning Administrator was in error. He explained that the appeal process exists because zoning interpretations can reasonably go either way, but that the Board may consider only what was applied for

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and cannot redesign a proposal. As to legislative intent, he explained that the City of Independence enacts the ordinance and states its purposes through elected council members, and that the ordinance remains valid law until changed. He acknowledged that the Council might create an exception for property situated far from the road but stated that the Board cannot create one and can only interpret what it finds.

Mr. Sorg asked whether extenuating circumstances therefore go to standing rather than interpretation, and Mr. Smith confirmed that they do.

Ms. Heeger asked whether the Board is unable to change the outcome even if it agrees the applicant is aggrieved. Mr. Smith confirmed that the applicant is aggrieved and therefore has standing to appear, but that the only remaining question is whether the Zoning Administrator was correct in his decision.

Before stepping away, Mr. Woeste offered additional background, stating that the family has been on the property for 34 years and that every decision along the way was made in planning to build back on the ridge, including the location of the existing buildings and the white oaks planted every 20 feet along the gravel driveway, and that the family's pets are buried along the proposed subdivision line. He stated that the pole barn built 26 years ago became his woodworking shop, in which he has spent thousands of hours making furniture, much of it owned by those present. He asked where the small city feel that drew the family to Independence had gone, noted that both sons live in Independence and that the family volunteers, and asked the Board to take care of one of its citizens.

Mr. Guthrie, noting that the Board cannot vote on opinion or speculation, asked whether the applicant had considered drawing the existing buildings out of the subdivision line and why that approach was prohibitive. Mr. Woeste confirmed that the accessory structures are intended to remain with the new home, and Mr. Guthrie asked whether there is any precedent for splitting the structures onto their own lot.

Mr. Woeste responded that the family had considered several options, including a flag lot with an easement running back to the structures, parceling the structures onto a separate non-buildable lot, and drawing the lines so that the structures would technically not be in a front yard, but that giving up the buildings is not acceptable. He stated that he did not understand why the Board is discouraged from visiting the property, as one must stand on the site to appreciate it. He acknowledged that he understands the purpose of the ordinance as applied to a subdivision lot and that the Zoning Administrator's interpretation was correct but urged that there must be some leeway available.

Mr. Guthrie asked what recourse would remain if the Board voted to uphold the Zoning Administrator's determination. Mr. Smith advised that the applicant could appeal to a judicial court but added that he would not expect a court to provide relief because the ordinance contains no exception.

Mr. Rusty Smith stated that the next step would be for the applicant to approach City Council about changing the ordinance, and Mr. Matt Smith agreed that the Council could create an exception — for example, for property far from street visibility — while reiterating that the Board cannot. Mr. Woeste stated that he had not contacted the Council because he had not known what recourse was available or what the process involved, suggested that Staff might advise on the requirements, and stated that the family is not in a position to pursue legal action. Mr. Rusty Smith again recommended returning to the Council, and Mr. Woeste stated that the family would look into it.

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Mr. William S. Cullen was sworn in and gave his home address as 1860 Coach Trail Drive, Hebron, Kentucky, and his business address as 10872 US Highway 42, Union, Kentucky, with Cullen Brothers Construction. Speaking in support, he stated that he had read the zoning ordinance some twenty times and believed the Zoning Administrator erred, because the ordinance is set up for lots in subdivisions and does not apply to a seven-acre lot on which the home would sit 300 feet back with the accessory structures 200 feet off to the side. He noted that the ordinance offers some twenty or more examples of a front yard — including flag lots, pie-shaped lots, and corner lots — and that every example is a lot in a residential subdivision. He stated that he considers it a good ordinance and does not want to see sheds in front yards, but that taking the spirit of the regulation, the decision was not correct as applied to this property.

Mr. Robert Williams was sworn in and gave his address as 158 Pelly Road, directly across from the applicant's property. He stated that he has lived there 25 years and has known the family that entire time and described the view from the front of his house. He acknowledged the ordinance and its strict interpretation but stated that he is a neighbor who cares for the family, that the neighbors present supported the request because the proposal would be better for the neighborhood, and that the proposed home would add value to the surrounding homes and enhance the City of Independence.

Mr. Lloyd Joseph Brueckner, who goes by Joe, was sworn in and stated that he owns property at 135 Pelly Road, to the right of the applicant's home. He stated that he agreed with the builder that the ordinance pertains to subdivisions and that, given the seven acres and the setbacks involved, he believed the decision was in error. He described the property as a beautiful lot that the proposal would only improve, noted that the surrounding neighbors have no objection, stated that an exception should exist for larger lots, and asked that his position be noted on the record.

Chairman Kannady asked whether there were any further comments from proponents, and there were none.

Chairman Kannady called for comments from opponents. There were no opponents present to speak.

Chairman Kannady opened the matter for discussion by the Board members, stating that while he sympathized with the applicant, the question before the Board is essentially whether the Zoning Administrator made a mistake.

Mr. Lawless asked whether it makes any difference whether the property is a seven-acre or a half-acre lot, and Chairman Kannady referred the question to Staff. Mr. Denbow responded that no accessory structures are permitted in a front yard in any zoning district. He explained that the accessory structure section does distinguish among the residential districts, with larger-lot zones such as R-LLS having different standards for permitted structure size, but that the front yard prohibition is set out at the top of the section and applies in every zone.

Mr. Guthrie asked Staff to review the definition of an accessory structure, and whether a barn or shed on a standalone lot could be a principal structure. Mr. Denbow responded that it would have to be the principal structure on the lot and reviewed the ordinance definition of an accessory structure or use as one that is subordinate in area, extent, and purpose to the principal use; contributes to the comfort, convenience, or necessity of the principal use; and is located on the same lot and in the same zoning district as the principal use. He added that the zone does not permit more than one principal use on a lot.

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Mr. Sorg disclosed for the record that the applicant had reached out to him by email when the appeal was imminent, that he did not respond, and that he consulted counsel at that time and was advised the contact was not a conflict. Mr. Matt Smith confirmed that the communication does not prevent Mr. Sorg from voting.

Ms. Heeger stated that her understanding had been that the Board has changed outcomes in the past based on an applicant being aggrieved and asked whether that is no longer the case. Mr. Smith responded that this is not the law in Kentucky, offering by illustration that an applicant denied an industrial building in a commercial zone would be aggrieved and could appeal, but the Board still could not permit it. He explained that being aggrieved means only that a party is affected by the decision, and that allowing the ordinance to be set aside on that basis would leave no law at all.

*Ms. Heeger stated that she saw no purpose in continuing the discussion and made a motion to uphold the decision of the Zoning Administrator to deny the request; seconded by Mr. Guthrie. A roll call vote found Mr. Guthrie in favor; Ms. Heeger, Chairman Kannady, Mr. Lawless, Mr. Rusty Smith, and Mr. Bergman opposed; and Mr. Sorg abstaining. The motion failed.*

Ms. Heeger observed that although the motion had failed, the practical effect was the same because no other motion was available. Mr. Matt Smith advised that if no motion is made the decision is neither overturned nor affirmed, and that the Board must rule on the case. He stated that he was not unsympathetic, but that any exception would have to be written into the ordinance.

Mr. Lawless asked whether the matter could be tabled to give the applicant time to approach the City Council, and Mr. Sorg indicated support. Mr. Matt Smith advised that the matter could be tabled if the applicant agreed. Mr. Sorg made a motion to table the application, and Chairman Kannady noted that the applicant would need to be recalled to indicate whether he agreed.

Mr. Woeste stated that he would have to approach the City Council in any event and asked the Board to make its decision so the matter could be carried forward to the body with authority to amend the ordinance. Chairman Kannady explained that the Board cannot approach the Council on the applicant's behalf. Mr. Guthrie clarified, in response to Mr. Woeste's reference to prior approvals granted to aggrieved applicants, that those matters involved conditional use permits and nonconforming structures, and that an appeal of the Zoning Administrator's decision is a separate proceeding — a distinction he described as slight but very important. Chairman Kannady stated that he did not recall the issue arising before during his tenure.

Mr. Matt Smith explained that tabling would mean holding off on a vote for a specified period to which the applicant would have to agree. He advised that if the City created an exception in the interim the applicant could proceed, and that if it did not, the matter would return in essentially the same posture; tabling would therefore only postpone a decision.

Mr. Guthrie stated that he would not wish to send the applicant down a deeper path, noting that in his experience amending a zoning ordinance is not a fast process, as it would apply to all homes zoned in that manner.

Mr. Woeste asked whether the large pole building could become a secondary residence on its own parcel if improved to include water, electricity, heat, a bedroom, and a bathroom. Mr. Sorg observed that the

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question asked the Board to interpret the statute, and Mr. Matt Smith advised that the Board could act only on the application before it, adding that such a structure would fall within the definition of an accessory structure so long as it was not the primary structure.

Mr. Bergman, returning to the pending motion to table, stated that if the applicant agreed, he would recommend the applicant examine the subdivision lines and work with the City to determine whether the matter could be resolved by other means, as tabling would give the applicant time to explore options while the Board's hands remained tied. Mr. Matt Smith confirmed that a tabled matter need not be returned to the Board and that the applicant could later withdraw the appeal after pursuing options with the City and PDS. Mr. Bergman summarized that tabling would neither advance nor defeat the appeal but would place the matter back in the applicant's hands. Mr. Woeste asked whether the \$500 filing fee would be refunded upon withdrawal, and Mr. Bergman responded that he could not answer that question.

Chairman Kannady asked Mr. Woeste whether he wished to table the matter. Mr. Woeste responded that the Board had effectively voted the request down and that the family would have to pursue other opportunities regardless, having no alternative plan. He stated that he appreciated the Board members' understanding, and expressed disappointment that several months of preparation had come to nothing and his view that the appeal should not have been offered if the matter was not truly appealable. Mr. Matt Smith responded that the decision is appealable, but that the difficulty here is that the ordinance is very clear.

Mr. Woeste stated that he remained confused, in that the family had proven it was aggrieved and did not understand why the Board could not grant the appeal. Mr. Matt Smith explained that the applicant is aggrieved because the Zoning Administrator determined the proposed configuration does not conform to the ordinance, that being aggrieved is what gives him standing to appeal, and that the Board must then determine whether that decision was right or wrong by looking to the ordinance, which prohibits accessory structures in a front yard with no exceptions. Mr. Woeste stated that he was prepared for the Board to proceed with the vote, as the outcome would be the same either way.

Chairman Kannady closed the public comment portion of the hearing and asked the Board how it wished to proceed. Mr. Lawless asked whether a motion could instead be made to approve the request, and Mr. Matt Smith advised that he did not believe there was legal authority under Kentucky law to do so. Ms. Heeger asked whether she could make the same motion a second time, and Mr. Matt Smith and Chairman Kannady advised that she could, as the earlier motion had been voted down.

There was no further discussion and *Ms. Heeger made a motion in reference to **FILE: BOA-26-0017** to uphold the decision of the Zoning Administrator to deny the request to allow accessory structures within a front yard of the R-LLS (Residential Large Lot Subdivision) Zone of the Independence Zoning Ordinance; seconded by Mr. Guthrie. A roll call vote found Ms. Heeger, Chairman Kannady, Mr. Rusty Smith, and Mr. Guthrie in favor; Mr. Bergman opposed; and Mr. Lawless and Mr. Sorg abstaining. The motion carried.*

**Chairman Kannady then opened the public hearing for FILE NUMBER: BOA-26-0018:**

**APPLICANT:** Gary Hammons

**LOCATION:** 12064 Green Road

**REQUEST:** A variance request to reduce the required front yard setback within the A-1 (Agricultural) Zone of the Kenton County Zoning Ordinance.

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**SUMMARY:** The applicant is proposing a new attached garage addition to a single-family residential home with a front setback of 59 feet from the front property line where 85 feet is the minimum front setback required.

**LEGAL TESTS:** Before any **variance** is granted, the Board of Adjustment must find that it will not adversely affect the public health, safety, welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations.

Chairman Kannady asked for confirmation of notification. Mr. Videkovich confirmed that notifications were made per KRS 100.

Chairman Kannady then asked members if any of them had a conflict of interest with the request. There were none, and he then asked members if there had been any visits to the site for the purpose of this meeting. There were none.

Mr. Videkovich submitted Exhibits C1-C3 into the record: (copies of which are attached to the original Minutes of record)

|            |                                        |
|------------|----------------------------------------|
| Exhibit C1 | PDS Staff Report dated August 12, 2026 |
| Exhibit C2 | Materials submitted by the applicant   |
| Exhibit C3 | Submitted Site Plan                    |
| Exhibit C4 | Presentation slides                    |

Mr. Andy Videkovich, PDS Director of Planning, presented the staff report and explained that the site is approximately one acre located on the west side of Green Road, approximately 1,000 feet south of the intersection of Green Road with Walt Nicholson Pike, in unincorporated Kenton County. The site and the entire surrounding area are zoned A-1 (Agricultural) and are in single-family residential use.

He explained that while the front yard setback in the A-1 zone is 40 feet, Section 9.13 provides that where all homes within 300 feet on the same side of the street are set back farther than the required setback, the front yard setback becomes the average of those setbacks. In this case the adjacent homes within 300 feet are set back 83, 86, and 85 feet, producing an adjusted required front yard setback of 85 feet.

Mr. Videkovich then reviewed the submitted development plan, which shows a 760 square-foot addition to the front of the home containing an attached two-car garage, a mudroom, a home office, and a covered front porch, placing the home 59 feet from the front property line where 85 feet is required. He also reviewed elevations showing the existing home and the home as it would appear with the addition.

Applying the variance criteria, Mr. Videkovich stated that Staff found the request arises from special circumstances, as the property is an irregular wedge shape and locating the addition farther from the front property line would either encroach on the side yard setback to the northwest or be topographically challenging to the southeast; that strict application of the regulations would create an unnecessary hardship, as the location of the existing driveway and the layout of the existing home make this the most logical location for a garage; and that the circumstances are not the result of actions taken by the applicant, who identified the need for the variance during the normal permitting process.

He then stated that Staff issued a favorable recommendation, finding that the variance would not adversely affect public health, safety, or welfare; would not alter the essential character of the general

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vicinity; would not cause a hazard or nuisance to the public; and would not allow an unreasonable circumvention of the zoning regulations. He noted that building and zoning permits would be required if the variance were approved.

There were no questions from the Board and Chairman Kannady moved on to comments from the applicant.

Mr. Gary Hammons was sworn in and gave his address as 371 Dry Creek Road, Cold Spring, Kentucky. He stated that he had nothing to add to the staff presentation and offered to answer questions. In response to his question about the effect of the preceding case, Mr. Matt Smith explained that a variance is an entirely different proceeding in which the Board has discretion to grant or deny relief based on the statutory criteria, unlike an appeal of the Zoning Administrator's decision, where the Board may only determine whether that decision was correct.

Ms. Carla Pierce of 12064 Green Road, Walton, Kentucky, the property owner, was sworn in and spoke in support. She stated that in June 2024, before the project began, she contacted Planning and Zoning and was advised of setbacks of 15 feet and 40 feet, and that neither she nor the adjoining neighbors, who support the request, were aware of the averaging provision until the permit stage. She asked how property owners are expected to learn of such ordinance provisions. Mr. Matt Smith explained that ordinances are published in local newspapers and that zoning issues are typically identified through an ALTA survey at closing, and Mr. Bergman acknowledged that there is a broad disconnect between individual property owners and the ordinances governing their properties.

There were no other proponents and no opponents came forward to speak.

Chairman Kannady then opened the matter for discussion by the Board members. There was no further discussion and Mr. Bergman made *a motion in reference to FILE NUMBER: BOA-26-0018 to approve the variance based on the facts and considerations contained in the staff report and the testimony of staff and witnesses present at the public hearing, finding that the variance will not adversely affect the public health, safety, or welfare and will not alter the essential character of the general vicinity; seconded by Ms. Heeger. A roll call vote found Mr. Bergman, Ms. Heeger, Chairman Kannady, Mr. Lawless, Mr. Sorg, Mr. Rusty Smith, and Mr. Guthrie in favor and the motion carried.*

### **NEW BUSINESS**

There was no New Business for review.

### **OLD BUSINESS**

#### **Temporary Relocation of Meetings**

Chairman Kannady continued the discussion regarding the temporary relocation of board meetings due to the upcoming Companion Bridge construction affecting access to the Board's regular meeting location in Covington. Mr. Videkovich reported that, in response to an outstanding question from the prior meeting, Staff confirmed that the Independence meeting room is available for at least the next year. Board members also noted that the only remaining entrance to the Covington building is from Pike Street.

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Mr. Matt Smith advised that the Board approves its regular meeting schedule and may amend it at any time; changing the location of the regular meetings from Covington to Independence would be an amendment of the regular meeting schedule rather than the calling of a special meeting, whereas holding a meeting at a time or place different from the approved regular schedule would constitute a special meeting.

*Ms. Heeger made a motion that the remaining 2026 meetings be held at the Independence Courthouse rather than in Covington; seconded by Mr. Sorg. A roll call vote found Mr. Bergman, Ms. Heeger, Chairman Kannady, Mr. Lawless, Mr. Sorg, Mr. Smith, and Mr. Guthrie in favor and the motion carried.*

There was nothing further and Chairman Kannady called for a motion to adjourn. *So moved by Ms. Heeger and seconded by Mr. Sorg. The motion carried by acclamation and the meeting adjourned at 6:58 p.m.*

DRAFT