

**Kenton County Joint Board of Adjustment
Meeting Minutes: September 16, 2026**

Chairman Kannady called the meeting of the Kenton County Joint Board of Adjustment to order on Wednesday, September 16, 2026, at 5:30 p.m. The meeting was held in the Kenton County Courthouse, Fiscal Court Chambers, at 5272 Madison Pike, Independence, KY. Mr. Videkovich welcomed attendees and provided general meeting instructions.

The attendance of the members was as follows:

Member	Term Expiration	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Rodney Kannady, Chair	12/31/2027	X	X	-	-	X	X	-	X	X			
Joe Bergman, Vice Chair	12/31/2027	X	X	-	-	X	X	-	X	X			
Amy Heeger, Secretary	12/31/2026	X	X	-	-	X	A	-	X	A			
Paul Lawless	12/31/2029	X	X	-	-	X	X	-	X	X			
Steven Sorg	12/31/2026	X	X	-	-	X	X	-	X	X			
Rusty Smith	12/31/2026	X	X	-	-	X	X	-	X	X			
Guilford Guthrie	12/31/2028	X	X	-	-	5:48	X	-	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; Josh Wice, PDS Executive Director; 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; six of seven members were present and a quorum was established.

Chairman Kannady moved on to the review of the agenda. There were no corrections or changes, and a *motion to approve the agenda as presented was made by Mr. Guthrie and seconded by Mr. Bergman. The motion carried by acclamation of all members present.*

Chairman Kannady continued to the review and approval of the August 19, 2026, meeting minutes. Mr. Guthrie noted one correction: on the last page, above New Business, the comment acknowledging the disconnect between individual property owners had been attributed to Mr. Bergman when it was himself who made that comment. Ms. Bushelman stated that she may have mixed up the voices and would make the change. *There were no further corrections, and a motion to approve the minutes as corrected was made by Mr. Guthrie and seconded by Mr. Sorg. The motion carried by acclamation of all members present.*

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PUBLIC HEARING

Chairman Kannady then opened the public hearing for FILE NUMBER: BOA-26-0019:

APPLICANT: Woolpert on behalf of Olowalu Land Company, LLC

LOCATION: 2112 Declaration Drive, Independence

REQUEST: A variance request to reduce the required side yard setback within the CC (Community Commercial) Zone of the Independence Zoning Ordinance.

SUMMARY: The applicant is proposing to construct an approximately 4,900 square foot restaurant with two drive-thru lanes. This includes an outside meal delivery (OMD) canopy over the drive-thru lanes which will be 5.19 feet from the property line in common with 2088 Declaration Drive to the north, where 10 feet is 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. Andy Videkovich confirmed that notifications were made per KRS 100. He then asked members if any of them had a conflict of interest with the request. There were none. 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 the staff report, the presentation, and the applicant's submittals into the record as Exhibits B1-B5: (copies of which are attached to the original Minutes of record):

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| Exhibit B1 | PDS Staff Report dated September 09, 2026 |
| Exhibit B2 | Materials submitted by the applicant |
| Exhibit B3 | Submitted Site Plan |
| Exhibit B4 | Submittals received from the applicant on September 16, 2026. |
| Exhibit B5 | Presentation slides |

Mr. Andy Videkovich, PDS Director of Planning, presented the Staff Review. He stated the site is approximately 1.31 acres on the east side of Declaration Drive and pointed out it is a double frontage lot, with frontage along both Declaration Drive and Madison Pike. He referenced the site as the former location of a Frisch's restaurant, which is currently vacant, along with an off-street parking area. He stated the surrounding area is made up of suburban commercial uses.

Mr. Videkovich explained that the site and the areas to the north, west, and south are zoned CC (Community Commercial), and that the areas to the east across Old Madison Pike are zoned NC (Neighborhood Commercial). He reviewed the development standards of the Community Commercial zone and noted that the standard side yard setback is 10 feet and this is the reason for this variance request. He reviewed images of the existing conditions on the site, including the main entrance, the former Frisch's restaurant and parking area, and the northern property line, which is the property line affected by the request.

Mr. Videkovich then reviewed the submitted development plan, which shows the construction of an approximately 4,900-square-foot fast-food restaurant with off-street parking and two drive-through lanes that wrap around the rear of the site and pass the northern side. He stated the plan also shows an outdoor meal delivery area with a canopy over it and the canopy would be 5.19 feet from the northern property line, where 10 feet is required.

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Mr. Videkovich reviewed the findings required under KRS 100 and the considerations the Board must weigh in making those findings. He stated that, based on the information available to Staff before the meeting, Staff issued an unfavorable recommendation. He said Staff found that approval of the variance would be a departure from the standards applied to all other properties, that there are no special circumstances unique to the property, and that the reasonable use of the property would remain even if the variance were not granted. He added that, if the request were approved, building and zoning permits would be required.

In response to a question from Mr. Sorg as to whether the existing Frisch's building would be torn down, Mr. Videkovich responded that the intent is to completely tear down the existing restaurant and build an entirely new one. There were no further questions for Staff.

APPLICANT COMMENTS

Mr. Greg Monnug was sworn in and gave his address as Woolpert, 4454 Idea Center Blvd, Dayton, Ohio. He stated that Woolpert is the site engineer for the project and represents Chick-fil-A, for whom the firm has developed a number of sites across Ohio and Kentucky.

Mr. Monnug explained that Chick-fil-A adopted the dual drive-through lane operation during COVID so that employees could move out among the customers and take orders earlier. He stated that employees take orders face-to-face outside along the affected side of the site, and customers then proceed around the corner to the pickup area, where employees walk between the two lanes to deliver orders. He stated that the canopies over both areas keep those employees out of the weather and allow them to perform that work safely. He described the canopy as a low-profile structure 10 feet high, carrying no advertisements, and supported by three columns, and stated that it is an accessory structure, that the main building does not encroach to within five feet of the property line, and that the canopy would not alter the essential character of the general vicinity because of its low profile. He added that he had worked with Mr. Videkovich on other elements of the plan, including relocating the dumpster to a more acceptable location, and reviewed a rendering of the canopy over the pickup area, noting that no rendering was available for the order-taking canopy because it is not attached to the building.

Mr. Monnug stated that the lot is uniquely shaped and is not a typical rectangle, and that the development had to be optimized to accommodate a Chick-fil-A. He explained that the company typically seeks a minimum of 60 parking spaces and that the plan provides 55, which may increase to 57 with another approach to the dumpster location, and that although the site contains 1.3 acres, some of that area is in slope transitions, making the lot very minimal in size for what Chick-fil-A typically requires. He stated that the shape, size, and topography of the lot therefore present a unique circumstance. As to whether the strict application of the zoning regulations would deprive the applicant of the reasonable use of the land, he acknowledged that another user, such as a smaller fast-food restaurant, could occupy the site, but stated that Chick-fil-A cannot effectively operate without the dual drive-through lanes, that customers would be frustrated if orders could not be filled quickly, and that he was unsure how many other users exist for a lot of that size. He stated that the canopy is essential to employee safety and the overall customer experience, that the applicant is simply trying to work within the zoning code, and that the request is a reasonable one that would not have a significant impact on the adjacent properties or their values. He asked the Board to vote favorably.

In response to a question from Mr. Bergman as to whether the canopy would cover only the meal delivery area or the entire drive-through, Mr. Monnug responded that the canopy covers a limited area. He explained that three columns would be located on the north side, nearer the adjacent property, which he identified as a McDonald's, and that those three posts would be closer to the property line than the setback allows. He added that the canopy

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itself is a low-profile structure approximately eight inches deep with no advertisement on it, and that the building itself is not proposed near the property line.

Chairman Kannady asked whether there were any further questions for the applicant; there were none and he called for comments from proponents.

PROPONENTS

Mayor Chris Reinersman was sworn in and stated that he appears on behalf of the City of Independence, 5409 Madison Pike. He stated that this is his twelfth and final year as mayor and that, although he had written the Board letters on various issues, he had not previously appeared at a meeting, which underscored the importance of this matter to the City. He explained that a closed business is always a challenge and that the City had discussed the difficulty of reoccupying the former Frisch's site when it closed: the site sits on an inside corner with more difficult access and somewhat below grade from the intersection, making it less appealing than other commercial sites, and chain restaurants are built so specifically that repurposing the building is often challenging. He stated that the City had therefore expected redevelopment to be unlikely.

Mayor Reinersman stated that the City learned about a year ago that Chick-fil-A was interested in the site and quickly heard that the inside corner was the challenge, particularly the need to accommodate delivery trucks and customer traffic through a single entrance. He stated that the City had begun to consider the challenge insurmountable and that it was good news when the applicant overcame it, noting the company's strong reputation and that City residents have asked for a Chick-fil-A repeatedly. He stated that the City is very much in favor of the request and that the proposal would be an ideal use for the site, that a smaller fast-food restaurant might make the site work but that the dual drive-through lanes are critical to prevent vehicles from stacking out onto Declaration Drive, and that he was surprised by the unfavorable recommendation, which he believed may have resulted in part from communication between the applicant and PDS. He stated that, as a commercial real estate professional, he recognizes the challenges of the site, and that the request amounts to placing three canopy poles five feet closer to the property line adjacent to the McDonald's main entrance, which is not an outdoor seating area and is not where most people look out a window. He stated that he did not see the harm in the request, would not want it to be the reason the project failed, and that it is the kind of minor adjustment for which variances exist.

There were no questions for the Mayor from the Board members and Chairman Kannady asked whether there were any further comments from proponents. There were none.

OPPONENTS

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

Chairman Kannady then opened the matter for discussion by the Board members.

Mr. Sorg stated that if the Mayor of Independence were not present stating that the request was a good thing for the City, he would clearly be against it and observed that a staff recommendation is issued for a purpose. He asked what the Board's latitude was before making a final decision.

Mr. Matt Smith, Legal Counsel, responded that the applicant had placed its position in the record as part of its presentation and explained that a variance is a discretionary decision by the Board, entirely different from the

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review of a Zoning Administrator's decision the Board had considered at a prior meeting. He explained that in exercising that discretion the Board weighs whether there are special circumstances that do not generally apply to land in the general vicinity, noting that the challenges of the lot had been discussed; whether the strict application of the regulations would deprive the landowner of the reasonable use of the land, the question being whether five feet deprives the applicant of the ability to operate the restaurant; and whether the circumstances resulted from action taken after the adoption of the zoning regulations.

Mr. Smith then reviewed the required findings. He stated that moving the structure over five feet to allow double lanes and avoid stacking out onto Declaration Drive did not appear to be an unreasonable circumvention of the zoning regulations; that the site is adjacent to other restaurants, so the essential character of the neighborhood would not be altered; and that five feet on a canopy is not really a special privilege not conferred on other lands, structures, or buildings in the zone. He stated that, given the challenges the Mayor had described, the applicant had done their best and was asking only for five feet, and advised that, weighing those considerations together, the Board was well within its authority to find in favor of the variance.

There was no further discussion and *Mr. Bergman made a motion in reference to FILE NUMBER: BOA-26-0019 to approve the variance based on the testimony of the staff and the witnesses present at the public hearing, and after having considered the matter it is found that the variance arises from special circumstances which do not generally apply to the land in the general vicinity; that the strict application of the provisions of the zoning regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant; and that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. He further found that the variance should be approved because it will not allow an unreasonable circumvention of the requirements of the zoning regulations, will not alter the essential character of the neighborhood or the general vicinity, and will not confer on the applicant any special privilege that is not conferred on other lands, structures, or buildings in the same zone; and it will not allow an unreasonable circumvention of the requirements of the zoning regulations; seconded by Chairman Kannady. A roll call vote found Mr. Bergman, Chairman Kannady, Mr. Lawless, Mr. Sorg, Mr. [Rusty] Smith, and Mr. Guthrie in favor, and the motion carried.*

NEW BUSINESS

Ms. Bushelman reported that an application had been received for Elsmere, which may involve four separate properties, and that the details were not yet known. She stated that the applicant has until the following Wednesday (September 23, 2026), which is the submittal deadline. There was no other New Business for review.

OLD BUSINESS

Mr. Sorg asked whether the Board needed to take any action on the meeting location or whether the location would be addressed meeting by meeting. Chairman Kannady responded that the Board had acted at the previous meeting and had changed the meeting location for the remainder of 2026. No further action was taken.

Chairman Kannady noted that an executive session appeared on the agenda and that there was no matter to be taken up in executive session.

There was nothing further and *Chairman Kannady made a motion to adjourn; seconded by Mr. Lawless. The motion carried by acclamation and the meeting adjourned at 6:01 p.m.*