

Meeting Documents

Board of Adjustment BOA - 1/2021

1/21/2021, 6:00 PM

Davidson County



AGENDA

DAVIDSON COUNTY BOARD OF ADJUSTMENT

Thursday, January 21, 2021

6:00 PM

Commissioners' Meeting Room
913 Greensboro Street
Lexington, NC 27292

1. CALL TO ORDER

2. ADOPTION OF AGENDA

3. APPROVAL OF MINUTES

- A. Approval of December 17, 2020 Board of Adjustment Meeting Minutes

4. PUBLIC HEARINGS

- A. Request by Michael A. and Kimberly A. Lyda for a Special Use Permit, Class B, to construct a Residential Storage Facility in a RS, Low Intensity Residential District.

5. NEW BUSINESS

6. ADJOURN



DAVIDSON COUNTY AGENDA ITEM

TO: BOARD OF ADJUSTMENT

DEPARTMENT: Planning and Zoning

PREPARED BY: Lynn Wilson

TITLE: CALL TO ORDER

BACKGROUND:

RECOMMENDATION(S):

Attachments



DAVIDSON COUNTY AGENDA ITEM

TO: BOARD OF ADJUSTMENT

DEPARTMENT: Planning and Zoning

PREPARED BY: Lynn Wilson

TITLE: Adoption of Agenda

BACKGROUND:

RECOMMENDATION(S):

Attachments



DAVIDSON COUNTY AGENDA ITEM

TO: BOARD OF ADJUSTMENT

DEPARTMENT: Planning and Zoning

PREPARED BY: Lynn Wilson

TITLE: Approval of December 17, 2020 Board of Adjustment Meeting Minutes

BACKGROUND:

Attached for your review and consideration are Minutes from the December 17, 2020 Board of Adjustment Meeting.

RECOMMENDATION(S):

Approve or revise and approve.

Attachments

December 17, 2020 Board of Adjustment Meeting Minutes

Minutes of the Board of Adjustment Meeting Davidson County, North Carolina

Thursday, December 17, 2020
6:00 PM

Commissioners' Meeting Room
County of Davidson

PRESENT

Board Members: Chairman Kenny Meredith, Vice-Chairman Tim Temple, Jim Boggs, Ron Russell, and Alternate Board Member J. Gary Hill.

OTHERS PRESENT

Senior Assistant County Attorney Mike Newby, Deputy Clerk to the Board of Commissioners Lynn Wilson, Planning Director Guy Cornman, and Zoning Officer Josh Tussey. Also present was Robert Petree.

1. CALL TO ORDER

Chairman Meredith called the meeting to order. He noted the absence of Alternate Board Member Thrift.

2. OATHS OF OFFICE

Deputy Clerk Lynn Wilson administered the oath to Mr. Hill.

3. ELECTION OF CHAIR AND VICE-CHAIR

Ms. Wilson opened the floor for nomination of Chair. Vice-Chairman Temple nominated Mr. Meredith to remain Chairman, and his nomination was seconded by Mr. Morris. The Board voted 5-0 to reappoint Kenny Meredith as Chairman.

Chairman Meredith opened the floor for nomination of Vice-Chair. Mr. Russell nominated Mr. Temple to remain Vice-Chairman, and his nomination was seconded by Mr. Morris. The Board voted 5-0 to reappoint Tim Temple as Vice-Chairman.

4. ADOPTION OF AGENDA

Vice-Chairman Temple moved, seconded by Mr. Russell, to adopt the Agenda as presented. The motion carried unanimously (5-0).

VOTING

Motion by: Temple, Tim

Second by: Russell, Ronald A.

Board Members	YES	NO	ABSTAIN	RECUSE
Kenny Meredith	X			
Tim Temple	X			
James Boggs	X			
Scott Morris	X			

Ronald A. Russell	X																																	
<u>5. APPROVAL OF MINUTES</u>																																		
A. Approval of September 17, 2020 Board of Adjustment Meeting Minutes																																		
Mr. Russell moved, seconded by Mr. Boggs, to approve the September 17, 2020 Minutes of the Board of Adjustment Meeting. The motion carried unanimously (5-0). <u>VOTING</u> Motion by: Russell, Ronald A. Second by: Boggs, James <table border="1"> <thead> <tr> <th>Board Members</th> <th>YES</th> <th>NO</th> <th>ABSTAIN</th> <th>RECUSE</th> </tr> </thead> <tbody> <tr> <td>Kenny Meredith</td> <td>X</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Tim Temple</td> <td>X</td> <td></td> <td></td> <td></td> </tr> <tr> <td>James Boggs</td> <td>X</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Scott Morris</td> <td>X</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Ronald A. Russell</td> <td>X</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>					Board Members	YES	NO	ABSTAIN	RECUSE	Kenny Meredith	X				Tim Temple	X				James Boggs	X				Scott Morris	X				Ronald A. Russell	X			
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A. Request by Robert W. Petree for a Variance to the side yard setback in a RS, Low Intensity Residential District.																																		
Mr. Cornman reported this request by Robert W. Petree for a Variance to the side yard setback in a RS, Low Intensity Residential District. Said property is located on the east side of High Rock Drive across from the High Rock Shores Intersection, having an address of 263 High Rock Drive. Said property is further described as Silver Hill Township, Tax Map 29D, Lot 32, containing approximately 0.55 acre, more or less. Staff presented the Board with a revised site plan of the property. A copy of this document is included with the original Minutes. Mr. Tussey, first being duly sworn, noted the location of the property on an aerial map and stated that there is an existing home on the property. This is a request for a variance of 4 feet to the side yard setback. Mr. Tussey noted that with these lake lots, there is already an exception to allow a five-foot setback and Mr. Petree is requesting an additional four feet in order to be one foot off from the closest point. Mr. Tussey also noted the revised site plan presented to the Board. He stated that the front of the RV shelter will be approximately one foot off of the line to the closest point. Further back towards the lake side the property widens and fans out and the rear of the shelter will be five feet from the property line. Mr. Tussey stated that the Board was provided photos of the property so that they would have a visual of the property line. He noted a photo of the RV in its current location which is where the shelter will be placed, if approved, and he noted a photo of the side view of the camper that includes Mr. Petree's neighbor's fence. Robert Petree, of 263 High Rock Drive, first being duly sworn, reported that he purchased a camper and needed a place to park it. Due to the length of his truck with the camper in tow, this location would be ideal for getting the camper maneuvered and backed in on his property. This location is the most level and would not obstruct his septic system or lines. When Mr. Petree purchased the camper, he was informed that the roof is the most vulnerable and should be covered. He reported that he researched options for covering the roof. He found this shelter to be the most appropriate to protect the camper and its roof as opposed to a camper cover. Mr. Petree noted for the Board a photo of the proposed shelter.																																		

Mr. Petree stated that he spoke with his neighbors and they reported no issues with the shelter. He stated that his neighbor located on the side of the property where the camper will be parked, recently purchased his property and that the neighbor stated that he may in the future need something similar. Mr. Petree further stated that there are other homes on his street with similar structures for their RV's.

Mr. Tussey recommended this location and stated that this is the most feasible location as it would not obstruct the septic system or lines.

Chairman Meredith inquired if there were any persons present who would like to speak in favor of or in opposition to the Applicant's Variance. Having hearing no further testimony or evidence, the Board makes the following findings:

Chairman Meredith stated that the lot is singular and unique in size and shape and no lot is consistent in that area. Having no further requests for discussion, Mr. Russell moved, seconded by Mr. Morris, to approve this finding. The motion carried unanimously (5-0);

Chairman Meredith stated that the Variance would be necessary due to the need for the Applicant to protect his property and this is substantially more than a mere inconvenience. Having no further requests for discussion, Mr. Morris moved, seconded by Mr. Russell, to approve this finding. The motion carried unanimously (5-0);

Chairman Meredith stated that there was no opposition reported prior to this hearing and no one is present to oppose the Applicant's request, there is already an existing garage and this proposed structure would not have a negative impact on adjoining properties. Having no further requests for discussion, Vice-Chairman Temple moved, seconded by Mr. Russell, to approve this finding. The motion carried unanimously (5-0);

Chairman Meredith stated that the Variance is in harmony with and serves the general intent and purpose of the Ordinance if built pursuant to the plan submitted. Having no further requests for discussion, Mr. Russell moved, seconded by Mr. Boggs, to approve this finding. The motion carried unanimously (5-0); and,

Chairman Meredith stated that the Applicant will have a hardship if he cannot protect the camper and avoid maintenance issues, and justice would be served by approving the Variance. Hearing no further requests for discussion, Mr. Morris moved, seconded by Mr. Russell, to approve this finding. The motion carried unanimously (5-0).

Vice-Chairman Temple moved, seconded by Mr. Morris, to approve the Variance request by Robert Petree for a 4 foot Variance to the side yard setback in a RS, Low Intensity Residential District, said property being located on the east side of High Rock Drive across from the High Rock Shores Drive intersection and having an address of 263 High Rock Drive and that this Variance shall be consistent with the Applicant's application and the amended site plan submitted to the Board. The motion to grant the Variance carried unanimously (5-0).

VOTING

Motion by: Temple, Tim

Second by: Morris, Scott

Board Members	YES	NO	ABSTAIN	RECUSE
Kenny Meredith	X			
Tim Temple	X			
James Boggs	X			
Scott Morris	X			

Ronald A. Russell	X			
<u>7. NEW BUSINESS</u>				
Mr. Tussey reported that at this time, there is no business scheduled for the Board in January. Mr. Cornman reported that Staff and the County Attorney's Office are working on a text amendment that has gone before the Planning Board on two occasions. They were approached by the developers of Dollar General to work on a solution to give flexibility to be given by staff with regards to parking spaces. They want spaces based on retail area of the store rather than gross area which includes storage space and office area. Staff surveyed 12 surrounding counties and found that they are in line with those counties. Some counties gave flexibility at the Staff level; however, Mr. Cornman reported that Staff is not comfortable with these decisions. Dollar General had a successful case with the City of Thomasville where an agreement was reached that gave Dollar General a slight variance to the number of parking spaces that were required. Mr. Cornman noted that this matter went before the Board of Commissioners at their last meeting and there were some questions and concerns regarding the appeal procedure. He stated that this matter has been tabled for discussion. Mr. Cornman noted that depending on the amendments, these matters may come before this Board. The Board recognized Mr. Cornman on his retirement and this being his last official meeting as Planning Director of Davidson County. They noted their appreciation for Mr. Cornman's professionalism, sense of fairness and dedication to Davidson County. The Board commended Mr. Cornman on his ability to assemble the office staff and the quality of his employees, specifically that in his 36 years of service, he has only had 12 employees. The Board also noted that it is unusual for a Planner to be in one location for 36 years. Chairman Meredith made mention the news article written by <i>The Dispatch</i>. Mr. Cornman thanked the Board for their kind words and stated that it has been a pleasure working with this Board. He stated that this Board is professional and shows leadership to the Planning Board on how to conduct meetings. He spoke to the history of how planning and zoning began. Mr. Cornman stated that he plans to continue to serve on his current boards and committees and stay active within the County.				
<u>8. ADJOURN</u>				
Mr. Russell moved, seconded by Vice-Chairman Temple to adjourn the meeting. The motion carried unanimously (5-0). <u>VOTING</u> Motion by: Russell, Ronald A. Second by: Temple, Tim				
Commissioners	YES	NO	ABSTAIN	RECUSE
Kenny Meredith	X			
Tim Temple	X			
James Boggs	X			
Scott Morris	X			
Ronald A. Russell	X			

R. Lee Crook, Jr.
Zoning Administrator
Davidson County

Kenny Meredith, Chairman
Davidson County
Board of Adjustment



DAVIDSON COUNTY

AGENDA ITEM

TO: BOARD OF ADJUSTMENT

DEPARTMENT: Planning and Zoning

PREPARED BY: Lynn Wilson

TITLE: Request by Michael A. and Kimberly A. Lyda for a Special Use Permit, Class B, to construct a Residential Storage Facility in a RS, Low Intensity Residential District.

BACKGROUND:

See attached Application and Maps.

RECOMMENDATION(S):

Approve or disapprove request.

Attachments

Application and Maps
Legal Notice from *The Dispatch*

DAVIDSON COUNTY, NORTH CAROLINA

Application to the Board of Adjustment and/or Board of Commissioners for a Hearing

Application No.: 6-20-S

Applicant(s): Michael & Kimberly Lyda

Date: 12/18/2020

Address: 1181 Ervin Drive **Telephone:** 704-796-0975

Property Owner: Michael & Kimberly Lyda

Address: 730 Ervin Drive **Telephone:** 704-796-0975

Property Location (General Description): Property is located on the east side of Ervin Drive approximately 0.6 miles east of the Beckner Road intersection.

Township: Cotton Grove **Map No.:** 36N **Blk. No.:** -- **Lots:** 2/15

Type of Application:

- ☐ **Appeal from an action of the Zoning Officer and/or petition for an interpretation of the Zoning Ordinance**
- ☒ **Special Use, Class B, Residential Storage Facility**
- ☐ **Variance**

Legal Advertisement: Request by Michael A. and Kimberly A. Lyda for a Special Use Permit, Class B, to construct a Residential Storage Facility in a RS, Low Intensity Residential District. Said property is located on the east side of Ervin Drive approximately 0.6 miles east of the Beckner Road intersection. Property is further described as Cotton Grove Township, Tax Map 36N, Lots 2 and 15 containing 6.92 acres more or less.

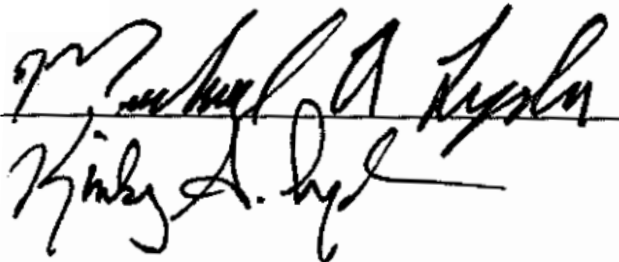
Planning Board Meeting Date: N/A

Planning Board Recommendation: N/A

Public Hearing Date: 1/21/2021

Board Action:

Signature, Applicant(s)

Handwritten signatures of Michael A. Lyda and Kimberly A. Lyda in black ink.

Fee Paid Receipt No.: 2020000186

Special Use Permit Application

**DAVIDSON COUNTY
STATE OF NORTH CAROLINA
APPLICATION FOR A SPECIAL USE PERMIT**

12/18/2020

I, Michael A. and Kimberly A. Lyda, hereby petition the Board of Adjustment to issue a Special Use Permit in the name of Michael A. and Kimberly A. Lyda of 730 Ervin Drive for use of the property described in the attached for, "Application for Hearing," in a manner set forth on that form, or if not adequately explained there, as more fully described herein: 5.08 (EE) Residential Storage Facility

Authority to grant the requested permit is contained in the Zoning Ordinance, Section(s) 7.04 (C), Board of Adjustment, Powers and Duties

The Zoning Ordinance imposes the following General Standards on the use requested by the applicant (See Article 6.4). Under each requirement, the applicant should explain, with reference to attached plan, where applicable, how the proposed use satisfies these requirements:

General Standard #1: "The use will promote public health, safety and general welfare, if located where proposed, developed and operated according to the plan as submitted;" We're planning on building a storage building to house our boat, cars, etc.

Staff Comment: If all necessary permits are approved and the structure is constructed to meet all applicable codes and regulations, this use should have no negative effects on public health, safety, and general welfare.

General Standard #2: "The use, which is listed as a Special Use in the district in which it is proposed to be located, complies with all required regulations and standards, including the provisions of Article 4 of this ordinance, unless greater or different regulations are contained in the individual standards for that special use;" The building will meet all local regulations.

Staff Comment: According to the site plan submitted and the applicants' description of the proposed structure, it appears this use will comply with all required regulations and standards in the Zoning Ordinance.

General Standard #3: "That the use will maintain or enhance the value of contiguous property, or that the use is a public necessity;" The building will be designed and constructed to resemble houses in the vicinity.

Staff Comment: Though staff cannot speak to property values, it appears that if this structure is built to appear residential in style, it should blend in with the existing houses and other residential storage buildings in the area.

General Standard #4: "That the use is in compliance with the general plans for the physical development of the county as embodied in these regulations:" This will be a residential storage building not for commercial use.

Staff Comment: The Zoning Ordinance recognizes that individuals need storage facilities to protect their personal property. This Special Use Permit exists in order to allow residents on waterfront lots with little buildable lot area an avenue to construct buildings that are normally allowed as accessory structures to a residence elsewhere in the County.

The Zoning Ordinance also imposed the following SPECIFIC REQUIREMENTS on the use requested by the applicant. The applicant should be prepared to demonstrate that, if the land is used in a manner consistent with the plans, specifications and other information presented to the Board, the proposed use will comply with each of the following specific requirements:

- L. The parcel shall be in fee simple ownership in common with the required associated residence;
- M. The residential storage facility shall be of a similar design and construction as the associated residence;
- N. The use shall not be detrimental to adjacent properties due to noise, refuse, traffic, topography, and other factors;
- O. The maximum building size allowed would be according to the Table of Permitted Use requirements for the Maximum Lot Coverage for the applicable zoning district;
- P. No outdoor storage shall be permitted except as specifically provided otherwise;
- Q. The minimum lot size shall be any buildable lot of record as defined by the Davidson County Zoning Ordinance and/or the Davidson County Subdivision Regulations;
- R. The Storage of Junked Motor Vehicles shall be prohibited on the subject tract;
- S. Outside lighting shall be designed to prevent direct glare on adjoining properties;
- T. Setbacks shall be at a minimum the same as any principal use in the applicable zoning district;
- U. The proposed structure shall not be used for any commercial or industrial activity or use.



Davidson County Planning Department

913 Greensboro Street
Post Office Box 1067
Lexington, North Carolina 27293-1067

Guy L. Cornman, III
Planning Director

Toll Free Numbers
Lexington: 336-242-2220
Winston-Salem: 336-723-7890 ext. 2220
Denton: 336-859-2194 ext. 2220

Adjoining Property Owners

From the Tax Administrators Office as of:

12/22/2020

Parcel ID	Owner Name	Mailing Address
06036N0000005	KENNEDY CHARLES P	1046 ERVIN DR LEXINGTON NC 27292-
06036K0000003	LYDA MICHAEL A	3553 WINDY RD CONCORD NC 28027
06036K0000004	TAYLOR B HENRY JR	16215 CREST COVE RD CHARLOTTE NC 28278-
06036K0000005	HUDGENS WILLIAM RAY	4315 KIMMERIDGE RD GREENSBORO NC 27406-
06036K0000027	GIBSON COY	1144 ERVIN DRIVE LEXINGTON NC 27292
06036K0000028	MCKINNON PHILLIP RODERICK	1019 BLACK OAK DR MATTHEWS NC 28105-
06036K0000029	LUELLEN FAMILY LIVING TRUST	14610 WELLINGTON COURT NOBLESVILLE IN 46060-
06036K0000030	WELLER HENRY R	1202 ERVIN DRIVE LEXINGTON NC 27292-
06036N0000001	LUCKETT ROBERT ALLEN SR	803 ERVIN DRIVE LEXINGTON NC 27292
06036N0000002	LYDA MICHAEL A	3553 WINDY RD CONCORD NC 28027
0603400000005	FRANK JACK H	204 HEDRICK DR THOMASVILLE NC 27360-
06036N0000004	COTTER STEVEN P ET AL	833 ERVIN DRIVE LEXINGTON NC 27292-
0603700000041	PIEDMONT HARDWOOD LUMBER	P O BOX 535 MT PLEASANT NC 28124-
06036N0000006	KENNEDY CHARLES P	1046 ERVIN DR LEXINGTON NC 27292-
06036N0000007	KENNEDY CHARLES P	1046 ERVIN DR LEXINGTON NC 27292-
06036N0000008	KENNEDY CHARLES P	1046 ERVIN DR LEXINGTON NC 27292-
06036N0000009	KENNEDY CHARLES P	1046 ERVIN DR LEXINGTON NC 27292-
06036N0000012	KENNEDY CHARLES P	1046 ERVIN DR LEXINGTON NC 27292-
06036N0000013	KENNEDY CHARLES P	1046 ERVIN DR LEXINGTON NC 27292-
06036N0000014	KENNEDY CHARLES P	1046 ERVIN DR LEXINGTON NC 27292-
06036N0000015	LYDA MICHAEL A	730 ERVIN DR LEXINGTON NC 27292
06036N0000016	EVERETT CHAD E	1201 ERVIN DR LEXINGTON NC 27292
06036N0000003	MCCALLUM MARK E	811 ERVIN DRIVE LEXINGTON NC 27292-



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Planning Director

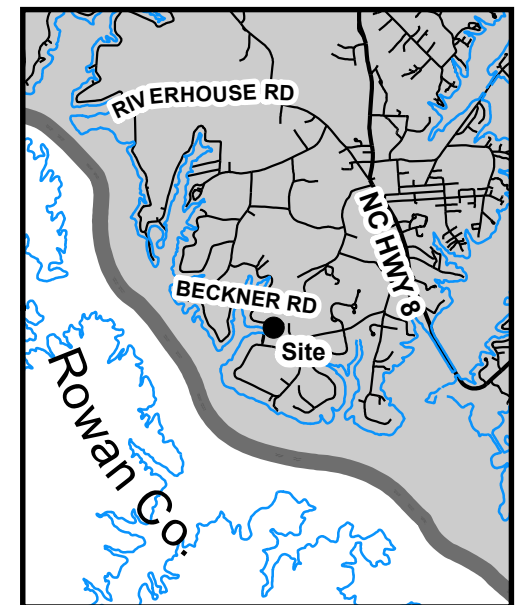
Toll Free Numbers
Lexington: 336-242-2220
Winston-Salem: 336-723-7890 ext. 2220
Denton: 336-859-2194 ext. 2220

Adjoining Property Owners

From the Tax Administrators Office as of:
12/22/2020

Parcel ID	Owner Name	Mailing Address
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"Planning for a Better Tomorrow"



Legend

- Secondary Road
- Interstate
- NC Hwy
- US Hwy
- Zoning Boundaries
- Property Lines
- City Zoning



Applicant:	
Michael A. & Kimberly A. Lyda	
Property Owner:	
Michael A. & Kimberly A. Lyda	
Scale 1 inch = 300 feet	Drawn By: JDT
Date: 12/22/2020	REVISED:
Special Use Permit Class B	
Residential Storage Facility	
Cotton Grove Twsp., Tax Map 36N, Lots 2 and 15 Containing 6.93 Acres More or Less	
2018 Aerial Photography	

Basemaps



Primary
Residence
730 Ervin

807 Ervin

Drive

Proposed
40x60
garage

1181 Ervin

NOTICE OF PUBLIC HEARING

Notice is hereby given that a Public Hearing will be held by the Board of Adjustment of Davidson County on Thursday, January 21st, 2021 at 6:00pm in the Commissioners Meeting Room, Governmental Center, 913 N. Greensboro Street in Lexington, North Carolina for the following zoning item:

Item #1: Request by Michael A. and Kimberly A. Lyda for a Special Use Permit, Class B, to construct a Residential Storage Facility in a RS, Low Intensity Residential District. Said property is located on the east side of Ervin Drive approximately 0.6 miles east of the Beckner Road intersection. Property is further described as Cotton Grove Township, Tax Map 36N, Lots 2 and 15 containing 6.92 acres more or less.

As a result of the Public Hearing, substantial changes might be made in the advertised proposal, reflecting objections, debate, and discussions at the hearing. All inquiries prior to the Public Hearing regarding the item mentioned above should be directed to the Davidson County Planning Department at (336)-242-2220.

Persons with disabilities who may need special accommodations to participate in this meeting should notify the County Manager's office at (336)-242-2200 at least twenty-four hours prior to the start of the meeting.

R. Lee Crook, Jr
Deputy Zoning Administrator

To Run: Friday, January 1, 2021
 Friday, January 8, 2021

Please Bill: *Attention: Stephanie Wilson*
 Davidson County Planning Department
 P. O. Box 1067/913 N. Greensboro St.
 Lexington, NC 27293
 Phone: (336)-242-2220



DAVIDSON COUNTY AGENDA ITEM

TO: BOARD OF ADJUSTMENT

DEPARTMENT: Planning and Zoning

PREPARED BY: Lynn Wilson

TITLE: New Business

BACKGROUND:

RECOMMENDATION(S):

Attachments



DAVIDSON COUNTY AGENDA ITEM

TO: BOARD OF ADJUSTMENT

DEPARTMENT: Planning and Zoning

PREPARED BY: Lynn Wilson

TITLE: ADJOURN

BACKGROUND:

RECOMMENDATION(S):

Attachments