

COMMISSIONERS ORDINANCE NO. O-2019-006-A

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY AMENDING SECTION 7, 18.2, 18.5, AND 18.8 OF THE OFFICIAL ZONING ORDINANCE OF THE CITY OF NEWPORT, KENTUCKY.

WHEREAS, the City of Newport, Kentucky Planning and Zoning Commission, upon application for various text amendments, held a public hearing upon such request after giving notice as required by KRS Chapter 424, on February 26, 2019 (as part of Hearing # PZ-19-02); and,

WHEREAS, the City of Newport, Kentucky Planning and Zoning Commission during the public hearing unanimously approved the request and made recommendation to the Board of Commissioners of the City of Newport, Kentucky to approve the requested text amendments; and,

WHEREAS, the Board of Commissioners of the City of Newport, Kentucky hereby agrees with the recommendation City of Newport Planning and Zoning Commission,

NOW THEREFORE BE IT ORDAINED BY THE CITY OF NEWPORT, KENTUCKY:

SECTION I

That various sections of the Official Zoning Code, as set forth below, are hereby amended to read, as follows:

SECTION 7.0 WORDS AND PHRASES

BUILDING, HEIGHT OF: The vertical distance measured from average elevation of the finished grade adjoining the building at the front building line to the highest point of the roof surfaces, if a flat roof; to the deck line of a mansard roof and; to

the average height level between eaves and ridge for gable, [həp] hip and gambrel roofs.

SECTION 18.2 PROCEDURE FOR ALL APPEALS TO BOARD:

Appeals to the Board of Adjustment may be taken by any person, or entity claiming to be injuriously affected or aggrieved by an official action or decision of the Zoning Administrator, however, appeals for violation of the Official Zoning Code for which a citation has been issued and a civil penalty assessed pursuant to the Appendix A Fine Schedule shall be had with the Code Enforcement Board. Such appeal shall be taken within thirty (30) calendar days after the appellant or his agent receives notice of the action to be appealed from, by filing with said Zoning Administrator and with the Board, a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. [~~A fee, as required by SECTION 19.0 of this Ordinance shall also be given to the Zoning Administrator at this time.~~] Said Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At any hearing by the Board an interested person may appear and enter his appearance, and all shall be given an opportunity to be heard. The Board of Adjustment shall fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the Zoning Administrator at least one (1) calendar week prior to the hearing, and shall decide on the appeal within sixty (60) consecutive calendar days. The affected party may appear at the hearing in person or by attorney.

SECTION 18.5 POWERS OF BOARD OF ADJUSTMENT:

Upon initial applications or appeals from decisions of the Code Enforcement Director, the Board of Adjustment shall have the following powers:

- A. To hear and decide on applications for dimensional variances where, by reason of the exceptional narrowness, shallowness, or unusually shape of a site on the effective date of this Ordinance, or by reason of exceptional topographic conditions, or some other extra ordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of building or size of yards, but not population density) of the zoning ordinance would deprive the applicant of reasonable capacity to make use of the land.
- B. To hear and decide appeals where it is alleged, by the appellant, that there is an error in any order, requirement, decision, grant or refusal made by a Zoning Administrator in the enforcement of this Ordinance. Such appeal shall be taken within sixty (60) consecutive calendar days.
- C. To hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named herein which may be suitable only in specific locations in the zone only if certain conditions are met as specified in SECTION 9.13 of this Ordinance.
- D. To hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of the Official Zoning Map or for decisions upon other special questions upon which said Board is authorized to act upon.

E. To hear and decide, in accordance with the provisions of this Ordinance and the adopted Comprehensive plan for the City of Newport, requests for the change from one nonconforming use to another.

SECTION 18.8 DECISIONS OF THE ZONING ADMINISTRATOR:

A. Upon petition by an applicant, the Zoning Administrator may waive or modify the standards governing the placement of certain appurtenant structures within a residential property.

B. For the purposes of this section, appurtenant structures shall be limited to swimming pools, porches, decks, ~~and~~ utility sheds (smaller than 100 square feet), and single story garages located in the rear yard.

C. Applicants shall request such consideration in writing, stating the nature of the request and reasons for the need for a modification or waiver.

D. All decisions of the Zoning Administrator shall be rendered, in writing, within ten (10) working days of receipt of a petition~~, and after consultation with all adjoining property owners. Decisions shall be forwarded to the Planning and Zoning Commission and Board of Adjustment].~~

E. The Zoning Administrator, at his/her discretion, may refer a petition to the Board of Adjustments for action without recommendation.

F. The Zoning Administrator shall have discretion with regard to determination if an application to the Board of Adjustment for a dimensional variance qualifies as a Small Project. Small Projects typically include circumstances where the Board of Adjustment Application Fee exceeds fifty percent of the total cost of the project.

SECTION II

That this Ordinance shall be signed by the Mayor, attested to by the City Clerk, recorded, published and effective upon publication.

PASSED: First reading March 11, 2019

PASSED: Second reading March 25, 2019

Jerry R. Peluso, Mayor

ATTEST:

Amy B. Able, City Clerk

PUBLISHED: Online on the City website, www.newportky.gov, with URL reference published in the Campbell County Recorder the 28th of November, 2019 as statutorily allowable under Section 143 of HB 487 approved in 2018 by the Kentucky Legislature and became law on April 27, 2018.