

VARIANCE STAFF REPORT	City-County Planning Commission 1141 State Street Bowling Green, Kentucky 42101 (270) 842-1953
<p><u>Docket Number:</u> 2011-V-17</p> <p><u>Public Hearing Date:</u> August 11, 2011</p> <p><u>Pre-Application Meeting Date:</u> June 14, 2011</p>	<p><u>Property Owner(s):</u> BWJ Holdings, LLC Dr. John N. Breiwa, O.D. 811 Fairview Avenue Bowling Green, KY 42101</p>
<p><u>Location of Proposed Variance:</u> 335 New Towne Drive (lot 9-1 and lot 9-2 of Mount Victor Olde Towne subdivision)</p> <p><u>Acreeage or Square Footage of Tract:</u> 1.53 Acres (66,741 square feet)</p> <p><u>PVA Parcel Number:</u> 052A-20-009</p>	<p><u>Site District:</u> Urban Density Development District</p> <p><u>Focal Point:</u> 114-4A Lovers Lane</p> <p><u>Characteristics:</u> Urban Growth Focal Point. Presently single family residential, agricultural and industrial uses with Focal Point Plan and Future Land Use Plan adopted.</p> <p><u>Existing Land Use:</u> Vacant</p>
<p><u>Traffic Considerations:</u> The property has frontage on New Towne Drive – fifty (50) feet of right-of-way and twenty-four (24) feet of pavement width and Natchez Trace Avenue – sixty (60) feet of right-of-way and thirty (30) feet of pavement width. Both are City maintained local roadways.</p>	<p><u>Zone Classification:</u> PUD (Planned Unit Development) with Binding Elements.</p>

DESCRIPTION OF REQUEST

The applicants are requesting three (3) variances for the property. The first variance is for a change of ten (10) percent from the required seventy (70) percent lot coverage (lot 9-1) in the Lovers Lane Overlay District. The second variance is for a change of ten (10) percent from the required seventy (70) percent lot coverage (lot 9-2) in the Lovers Lane Overlay District. The third variance is for a ten (10) foot variance from the required twenty (20) foot side setback line (lot 9-2).

ZONING ORDINANCE REFERENCE

Article 4.9.2.F

VARIANCES REQUEST REFERENCE

The provision of the Zoning Ordinance from which this variance is requested is referenced in Article 4.9.2.F.1.j.(2) and 4.9.2.F.1.d

Lot Coverage and Setbacks

4.9.2.F.1.j.(2) For all uses permitted within this overlay district, no more than 70 percent of the total surface land area of the lot shall be improved with buildings, structures, parking and loading areas, streets, driveways or roadways.

4.9.2.F.1.d Minimum required side building setback (not on a corner lot) shall be 20 feet.

VARIANCE FINDINGS

KRS 100.243 - Findings necessary for granting a variance:

- (1) 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.
- (2) The board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

MOTIONS

MOTION TO **APPROVE** THE **VARIANCES** REQUEST:

I make the motion to **approve** the three (3) variance requests for the property located at 335 New Towne Drive. The first variance is for a change of ten (10) percent from the required seventy (70) percent lot coverage (lot 9-1) in the Lovers Lane Overlay District. The second variance is for a change of ten (10) percent from the required seventy (70) percent lot coverage (lot 9-2) in the Lovers Lane Overlay District. The third variance is for a ten (10) foot variance from the required twenty (20) foot side setback line (lot 9-2).

The testimony presented in this public hearing has shown that the granting of this 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.

OR

MOTION TO **DENY VARIANCES**:

I make the motion to **deny** the three (3) variance requests for the property located at 335 New Towne Drive. The first variance is for a change of ten (10) percent from the required seventy (70) percent lot coverage (lot 9-1) in the Lovers Lane Overlay District. The second variance is for a change of ten (10) percent from the required seventy (70) percent lot coverage (lot 9-2) in the Lovers Lane Overlay District. The third variance is for a ten (10) foot variance from the required twenty (20) foot side setback line (lot 9-2).

Sufficient testimony has **not** been presented in this public hearing that the requested variance meet the criteria set forth in KRS 100.243, "Findings necessary for granting variances," as:

(Choose one or more appropriate finding(s) and specific items)

- **will** adversely affect the public health, safety or welfare.
 - **will** alter the essential character of the general vicinity.
 - **will** cause a hazard or a nuisance to the public
 - **will** allow an unreasonable circumvention of the requirements of the zoning regulations.
- The proposed development plan does **not** show that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - The proposed development plan does **not** show that the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
 - The circumstances are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.