

<p align="center"><b>VARIANCE STAFF REPORT</b></p>	<p align="center">City-County Planning Commission 1141 State Street Bowling Green, Kentucky 42101 (270) 842-1953</p>
<p><b><u>Docket Number:</u></b> 2011-V-19</p> <p><b><u>Public Hearing Date:</u></b> September 8, 2011</p> <p><b><u>Pre-Application Meeting Date:</u></b> August 4, 2011</p>	<p><b><u>Applicants:</u></b> Teri and John Cox 1404 Melrose Street Bowling Green, KY 42104</p> <p><b><u>Property Owner(s):</u></b> David and Lathell Dymacek 1319 Bybee Avenue Bowling Green, KY 42104</p>
<p><b><u>Location of Proposed Variance:</u></b> 1404 Melrose Street</p> <p><b><u>Acreage or Square Footage of Tract:</u></b> 0.38 Acre (16,351 square feet)</p> <p><b><u>PVA Parcel Number:</u></b> 040B-40-025</p>	<p><b><u>Site District:</u></b> Urban Density Development</p> <p><b><u>Focal Point:</u></b> 106-3 Smallhouse</p> <p><b><u>Characteristics:</u></b> Residential. Mid 1960's stable residential but with some deterioration.</p>
<p><b><u>Traffic Considerations:</u></b> The property has road frontage on Melrose Street – fifty (50) feet of right-of-way and twenty-nine (29) feet of pavement width and Karen Avenue – fifty (50) feet of right-of-way and twenty-nine (29) feet of pavement width. Both are City maintained local roadways.</p>	<p><b><u>Existing Land Use:</u></b> Residential</p> <p><b><u>Zoning History:</u></b> R-2 (Two Family Residential) is the original zoning. The property was converted from R-2 to RM-2 (Two Family Residential) in 2001.</p>

## DESCRIPTION OF REQUEST

The applicants are requesting two variances. The property is on a corner lot with two road frontages that gives the property a setback of 25' along each street. The first request is for a variance of 14' from the setback from Karen Avenue for the existing house, and the second request is for a variance of two feet (2') from the maximum height of four feet (4') for a fence to extend beyond the setback on Karen Avenue (the side street).

## ZONING ORDINANCE REFERENCE

### Article 4.5.4

#### VARIANCE REQUEST REFERENCE

The provision of the Zoning Ordinance from which this variance is requested is referenced in Article 4.5.4.B, 4.5.4.C and 4.5.4.F.2.

#### Front setback

**4.5.4.B** Front setback in the RM-2 zone is twenty five feet (25').

**4.5.4.C** Corner lots shall be required to provide a front yard along any lot line abutting a street.

#### Accessory Structures

**4.5.4.f.2** No accessory building or structure shall be nearer to the side street than the depth of any required front yard for a dwelling along such side street, excluding fences four (4) feet or less in height.

## 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 **VARIANCE** REQUEST:

I make the motion to **approve** the request for variances at 1404 Melrose Street, Docket number 2011-V-19, a 14 foot variance from the 25 foot setback from Karen Avenue for the existing house, and a two (2) foot variance from the four (4) foot maximum height permitted for a fence to extend beyond the 25 foot setback from Karen Avenue.

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 VARIANCE**:

I make the motion to **deny** the request for variances at 1404 Melrose Street, Docket number 2011-V-19, a 14 foot variance from the 25 foot setback from Karen Avenue for the existing house, and a two (2) foot variance from the four (4) foot maximum height permitted for a fence to extend beyond the 25 foot setback from Karen Avenue.

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.