

<h1 style="text-align: center;">VARIANCE STAFF REPORT</h1>	<p style="text-align: center;">City-County Planning Commission 1141 State Street Bowling Green, Kentucky 42101 (270) 842-1953</p>
<p><u>Docket Number:</u> 2011-V-05</p> <p><u>Public Hearing Date:</u> March 10, 2011</p> <p><u>Pre-Application Meeting Date:</u> February 10, 2011</p>	<p><u>Property Owner(s):</u> Randall T. & Tammie Bentley P.O. Box 9 Whitesburg, KY 41858</p>
<p><u>Location of Proposed Variance:</u> 940 Sugarberry Avenue</p> <p><u>Acreage or Square Footage of Tract:</u> .364 Acres (15,836 square feet)</p> <p><u>PVA Parcel Number:</u> 042A-59-099</p>	<p><u>Site District:</u> Urban Density Development District</p> <p><u>Focal Point:</u> <u>Focal Point:</u> 108-3 Elrod Road</p> <p><u>Characteristics:</u> Residential. Low density single family residential and agricultural uses.</p> <p><u>Flood Plain:</u> The property is not located in the 100 year flood area according to FEMA map #21227C0315 E</p>
<p><u>Traffic Considerations:</u> The property has road frontage on Sugarberry Avenue, a County maintained local roadway with fifty feet (50') of right-of-way and twenty-four (24') feet of pavement width. The property also has road frontage on Monarchos Lane, a County maintained local roadway with fifty feet of right-of-way and twenty-four (24') feet of pavement width.</p>	<p><u>Existing Land Use:</u> Residential</p> <p><u>Zoning History:</u> AG (Agriculture) is the original zoning. The property was rezoned from AG to RS-1B (Single Family Residential) and RS-1C (Single Family Residential) in 2004.</p>

DESCRIPTION OF REQUEST

The applicants are requesting a variance of two feet (2') from the maximum height of four feet for a proposed fence to extend beyond the front of the principal structure. The property is on a corner lot with two road frontages that gives the lot two front yards.

ZONING ORDINANCE REFERENCE

Article 4.4.6

VARIANCE REQUEST REFERENCE

The provision of the Zoning Ordinance from which this variance is requested is referenced in Article 4.4.6

Accessory Structures

4.4.6.E.1 No accessory building or structure shall extend beyond the front of the principal structure, 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 a variance at 940 Sugarberry Avenue, Docket number 2011-V-05, a two (2) foot variance from the four (4) foot maximum height permitted for a fence to extend beyond the front of the principal structure.

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 a variance at 940 Sugarberry Avenue, Docket number 2011-V-05, a two (2) foot variance from the four (4) foot maximum height permitted for a fence to extend beyond the front of the principal structure.

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.
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- 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.