
BRUCE SIMPSON LAW

Bruce Simpson
859-229-3436
bruce@bsimpsonlaw.com

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Mr. Bob Sturdivant, Chair
Board of Adjustment
Division of Planning
Lexington-Fayette County Urban County Government
101 E. Vine Street, 7th Floor
Lexington, Kentucky 40507

Via Email Only to James Duncan, Director Division of Planning, jduncan3@lexingtonky.gov

Re: Behavioral Health Real Estate Associates, LLC
Application for Conditional Use Permit for Rehabilitation Home

Dear Chairperson Sturdivant and Members of the Board of Adjustment:

I am a new counsel for Behavioral Health Real Estate Associates, LLC, in connection with its request for a conditional use permit to operate a rehabilitation home at 319 Duke Road. This facility will provide inpatient mental health services to persons in our community with a primary diagnosis of mental illness. Prior to hearing this application, we held two open houses for residents of the nearby neighborhoods on March 4, 2026, and March 5, 2026, during which we afforded residents the opportunity to tour our building, hear our proposal, and ask questions. We also attended a neighborhood meeting on March 24, 2026, where we again presented to the neighbors and answered questions.

First, it is important to keep in mind that the subject property has long been contemplated for residential healthcare-related uses. It was originally zoned in 2018 to operate as an assisted living facility. However, that facility never opened. Thereafter, this Board approved a conditional use request to operate a personal care home. Subsequently, another request for a conditional use application was filed to operate as a residential hospice facility. Although this application received staff approval, the application was withdrawn prior to the scheduled hearing. These prior approvals demonstrate that the proposed use is consistent with the longstanding intended use of the property and compatible with the surrounding area. The proposed use operates in a manner like other residential healthcare environments previously approved at this location, with 24-hour supervision, structured programming, and controlled access - features that promote safety, stability, and minimal neighborhood impact.

As reflected in several articles and letters to the editor of the Lexington Herald-Leader, as well as on social media, this application has generated considerable controversy. Regrettably, much of the opposition has been in reaction to a use and operational model which we are **not** proposing. To address the concerns raised by the objectors, we are submitting the following binding conditions of approval. These binding conditions are as follows:

1. Maximum Capacity

The facility shall be limited to fifty-two (52) beds.

2. Age Restriction

The facility will serve adults aged eighteen (18) and older only.

3. Voluntary Admissions Only

The facility will admit voluntary residents only and will not accept court-ordered, correctional, or forensic placements.

4. No Walk-In Admissions

All admissions will be scheduled in advance and completed only after pre-admission clinical screening.

5. Primary Mental Health Program Only

The facility shall operate as a primary mental health residential treatment program.

6. No Primary Substance Use Disorder Admissions

The facility shall not admit any residents whose primary diagnosis is substance use disorder or addiction.

7. No Drug or Alcohol Rehabilitation License

The facility shall not operate under a Kentucky AODE license.

8. Insurance / Payment Type

The facility shall accept commercial insurance and private pay only.

9. Joint Commission Certification

Upon licensure, the facility shall begin operations with a deliberately low census to ensure safe, structured program implementation, staff training integration, and continuous quality monitoring. This measured ramp-up is consistent with standard practice for

healthcare facilities as they establish operations and progress toward Joint Commission accreditation.

10. Appropriate Level of Care Only

The facility shall admit only those individuals who meet appropriate medical and clinical criteria and whose needs can be safely managed in this type of structured residential mental health setting.

11. Excluded Higher-Need Placements

The facility shall not admit individuals who require a locked psychiatric hospital setting, seclusion, emergency sedation, restrictive hold procedures, or another level of care beyond the scope of the program.

12. 24/7 On-Site Staffing

Staff shall be physically present at the facility 24 hours a day, 7 days a week.

13. Minimum Staffing Ratios and Client Supervision

The facility shall maintain minimum staffing ratios of approximately one (1) direct-care staff member for every five (5) residents during daytime hours and one (1) for every eight (8) residents overnight, supported by nursing and clinical oversight. Direct-care staff shall maintain a consistent and visible presence throughout residential areas to ensure a safe, structured, and supportive environment.

14. Structured Daily Programming

Residents shall follow a structured daily schedule that includes therapeutic services, meals, treatment activities, supervised programming, and ongoing medical and psychiatric evaluation and care.

15. No Independent Resident Departure

Residents shall not be permitted to independently leave the property or move through the surrounding neighborhood on their own.

16. Staff-Controlled Off-Site Transportation

Any off-site movement shall occur only with staff approval and staff-coordinated transportation.

17. No Resident Vehicles

Residents will not keep personal vehicles on site.

18. Staff-Coordinated Departures

Upon discharge, transfer, or departure against medical advice, staff shall coordinate transportation away from the property whenever possible.

19. Scheduled Visitation Only

Visitation shall be by appointment only and must be approved in advance.

20. Visitor Check-In Requirement

All visitors shall be required to check in with staff before entering the facility to maintain a safe environment for clients and staff.

21. Closed Campus

The property shall not be open to the public. Access shall be limited to residents, staff, and approved visitors.

22. No Loitering / No Unauthorized Presence

Anyone who is not a resident, staff member, or approved visitor shall not be allowed to remain on the property.

23. Controlled Access Points

Building entrances and exterior access points shall be controlled and monitored by staff.

24. Alarmed Exit Doors

Emergency exits shall be equipped with alarmed, delayed-egress hardware to immediately alert staff if an emergency exit door is opened.

25. 24-Hour Camera Coverage

Cameras shall monitor key non-private areas of the property, including entrances, exits, parking areas, corridors, stairwells, and communal areas. Bedrooms and bathrooms shall not be monitored.

26. On-Site Outdoor Activity Only

Residents' outdoor activity shall take place only in designated on-site areas and under staff supervision.

27. Designated Smoking Area Only

If smoking is permitted, it shall be limited to one designated, supervised area within the property and screened from public view.

28. Privacy Fencing / Contained Outdoor Space

The property shall maintain privacy fencing and a contained courtyard or outdoor layout intended to keep outdoor activity within the site.

29. Limited Parking / Managed Traffic

Parking and traffic shall remain as it currently exists, with on-site spaces used primarily for staff and scheduled visitors. There shall be no off-street parking associated with the facility.

30. School Traffic Sensitivity

When feasible, staff shall use alternate routes during nearby school drop-off and pick-up times to reduce congestion and neighborhood conflict.

31. Neighborhood Communication and Dedicated Point of Contact

The facility shall designate an administrative point of contact for neighborhood questions or concerns and shall maintain ongoing communication with neighborhood representatives to promptly address concerns and share operational updates as appropriate.

32. Referral Out if Needs Exceed Scope

If a prospective or current resident presents with needs beyond the scope of services that can be safely provided or no longer meets medical necessity or clinical criteria for this level of care, the individual shall be referred to or transitioned to an appropriate level of care.

33. Ongoing Safety Monitoring

The program shall maintain active observation practices, staff rounds, crisis-response procedures, and ongoing staff training to support safe operations.

I look forward to presenting this application to the Board on April 13, 2026.

Thank you,
Very Truly Yours

Bruce Simpson Law

cc: Honorable Jessica Winters
Honorable Nathan Billings