

**BOONE COUNTY BOARD OF ADJUSTMENT  
BOONE COUNTY ADMINISTRATION BUILDING  
BOONE COUNTY FISCAL COURTROOM  
BUSINESS MEETING  
December 13, 2023  
6:00 P.M.**

Chairman Whitton called the meeting to order at 6:00 P.M.

**BOARD MEMBERS PRESENT:**

Mr. George Whitton, Chairman  
Mr. Richard Miller, Vice-Chairman  
Dr. Ryan Estes

**BOARD MEMBERS NOT PRESENT:**

Mr. Bill Weltzer  
Mrs. Susan Poston

**STAFF MEMBERS PRESENT:**

Mr. Michael Schwartz, Director, Zoning Services

**LEGAL COUNSEL PRESENT:**

Mr. Dale T. Wilson

**APPROVAL OF MINUTES**

Chairman Whitton stated the Board members received copies of the minutes of the Boone County Board of Adjustment meeting of August 9, 2023. He asked if there were any other comments or corrections. Vice-Chairman Miller moved to approve the minutes and Dr. Estes seconded the motion. Chairman Whitton called for the vote and it carried unanimously.

**ACTION ON REVIEWS**

1. Request of Eric Keel for a Conditional Use Permit to allow the existing single-family residential dwelling to be used as a short term rental. The approximate 0.19 acre parcel is located at 1108 Donner Drive, Boone County, Kentucky and is zoned Suburban Residential One (SR-1).

Staff Member, Michael Schwartz, presented the Staff Report which included a

Powerpoint presentation (see Staff Report).

Chairman Whitton asked the Board if they had any questions for staff.

Vice-Chairman Miller asked the location of the closest short term rental to the site. Mr. Schwartz showed the location on a PowerPoint slide.

Chairman Whitton asked the applicant if they would like to provide the Board with any other information.

Mr. Scott Summers stated that he and his wife know what it's like to live in a rural area. He stated that he sent out letters to the 10 adjoining property owners ensuring that they would receive free membership in the proposed club. He stated that they have developed a plan that would not violate any noise restrictions. He stated that due to family issues, this concept did not occur ten years earlier. He stated that they might want to re-build a house on an old foundation. He stated that the club would be available to members only and not the general public. He stated that there will be no racing. He stated that all motorcycles would have to have a government approved muffler creating no more than 80-82 decibels. He stated that membership would be limited to 150 people. He stated that the activities of the club would include dirt bike riding, picnicking, primitive camping, swimming, fishing, and canoeing. There would be no RV's. He stated that the trails have been in use for the past 40 years. He stated that there would be an on-site manager. He stated that riding would only be permitted during daylight hours and the property would be closed during hunting season. He stated that the government approved mufflers on the dirt bikes create less noise than other agricultural equipment. He stated that he consulted with Chris Reel, who owns DPS Technical, is a sound expert relative to motorcycles. He stated that Mr. Reel informed him that the chances are very slim that noise from the government approved dirt bikes will have a negative effect on adjoining properties. He stated that last Saturday he rode several bikes on the property and no one complained about the noise. He stated that he was a professional motorcycle rider and rode his unrestricted bike on the property for decades and no one had complained. He stated that he had a conversation with a neighbor and they had no concern regarding the proposal. He stated that he spoke to a club in Louisville and they have very little traffic on a day-to-day basis and that they have never had a noise complaint.

Chairman Whitton asked how would the muffler requirement be enforced. Mr. Summers replied that they will have a full-time on-site manager that will inspect the vehicles.

Vice-Chairman Miller asked if the memberships will be individual or family

memberships. Mr. Summers replied that they will offer both but cap the total membership at 150 people.

Vice-Chairman Miller asked what is the noise effect of cumulative bikes running simultaneously. Mr. Summers replied that due to the direction of noise coming from the bikes, the cumulative effect would be negligible.

Dr. Estes stated that he has driven on Snyder Lane and that it is very narrow and he has a concern regarding access for emergency vehicles. Mr. Summers replied that vehicles can get by using the existing turn outs along the roadway.

Chairman Whitton asked if there was anyone else who wanted to speak in favor of the request. There were none.

Chairman Whitton asked if there was anyone who wanted to speak against the request.

Mr. Jack Gatlin stated that he is an attorney representing Scott Yung. Mr. Gatlin, using a PowerPoint presentation (see project file) stated that the information from Chris Reel should not be allowed because he is not there to testify nor were any reports submitted. He stated that the appropriate zone for the use is the Recreational zone and that a zoning map amendment would have been the proper procedure. He stated that a private dirt bike club is not a Commercial Recreation use but is better categorized as a Non-Commercial Recreation use.

Chairman Whitton asked legal counsel to address this issue. Mr. Dale Wilson stated that he would defer to Michael Schwartz as the Zoning Administrator. Mr. Schwartz replied that when the zoning update was being developed, non-commercial recreation was intended to be the recreational amenities of apartment complexes and HOA developments and that the proposed use was categorized as commercial recreation.

Mr. Gatlin continued by stating that the Board has the authority to determine whether the use is properly categorized. He stated that the proposed use is not consistent with the purpose of the A-1 zone. He stated that the proposed club will be a nuisance to the area and disturb the character of the area. He stated that the request does not meet the requirements Section 205.H of the zoning regulations. He stated that enforcement will be problematic and will be a burden on public services. He stated that he wanted to reserve time to potentially ask the applicant questions.

Mr. Kim Matler stated that he is concerned about the impact of the club on the area. He stated that the neighbor referenced by the applicant was under the

impression that a Conservancy was going to be created on the property. He stated that Snyder Lane is a dead-end street and that all roads getting to Snyder Lane are inadequate. He stated that there are four blind curves on Snyder Lane. He stated that he is concerned with the resale value of his property. He stated that noise will be a problem. He stated that there will be pollution going into Woolper Creek. He stated that the fire department cannot access the property.

Ms. Emily Steidel stated that the areas identified for helicopter landing areas are not large enough. She stated that traffic is going to be a problem on Ashby Fork. She stated that the noise will carry across the ridges.

Ms. Donna Michaels stated that she heard the dirt bikes from the test run last Saturday. She stated that there are a lot of hidden drives along the street and the additional traffic will be hazardous.

Mr. Eric Dijon stated that he is a member of the volunteer fire department and that it is difficult to get to the property. He stated that the area needs to be kept in a rural/agricultural state. He stated that noise carries in the valley.

Mr. Bill Remke stated that the area is rural and agricultural and it needs to stay that way.

Mr. Scott Yung stated that he opposes the request.

Mr. John Craddock stated that there are very few bikes with the 80-82 decibel mufflers. He stated that policing is going to be difficult. He stated that traffic is going to be a problem.

Mr. Michael Rohmiller referenced several Facebook posts pertaining to a larger facility.

Mr. Scott Summers responded by stating that it is his small dream to have this club. He stated that the inclusion of the helicopter pads was for emergency purposes. He stated that the runoff and erosion will be very limited. He stated that there will not be any competitions or races on the property.

Mr. Bob Dilts stated that he is an attorney representing the Rohmiller's and that the Conditional Use runs with the land and becomes an asset that can be sold. He stated that there were 20-30 people in attendance that are opposed to the request.

Mr. Wilson asked if Mr. Gatlin wanted to ask questions of the applicant. Mr. Gatlin replied that he had no questions.

Chairman Whitton asked if there was anybody else in attendance that wanted to speak to this issue. There were none.

Chairman Whitton asked if there was any further discussion. There was none. Chairman Whitton asked if the Board wanted to make a motion.

Vice-Chairman Miller made a motion to deny the proposed Conditional Use Permit based on the evidence and testimony that the application does not meet the requirements of Section 205.H.a, b, and f of the zoning regulations. Dr. Estes seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

2. Request of WHC OH LLC, dba Ztrip, per William M. George, on behalf of AGJ Property LLC, per Gerry Pizzano, for a Conditional Use Permit to allow automotive repair to be conducted within an existing building. The approximate 1 acre parcel is located at 2126 Petersburg Road, Boone County, Kentucky and is zoned Commercial Two (C-2).

Staff Member, Michael Schwartz, presented the Staff Report which included a Powerpoint presentation (see Staff Report).

Chairman Whitton asked the Board if they had any questions for staff. There were none.

Chairman Whitton asked the applicant if they would like to provide the Board with any other information.

Mr. Don Woodcock stated that they will only be doing light maintenance on their own vehicles. He stated that the vehicles are not stored on the site. He stated that their business operated Monday through Friday 8:00 am to 4:00 pm. He stated that their use will be compatible with the adjacent use.

Vice-Chairman Miller asked if the proposed conditions in the staff report were acceptable. Mr. Woodcock replied that they are acceptable.

Chairman Whitton asked if there was anybody else in attendance that wanted to speak to this issue. There were none.

Chairman Whitton asked if there was any further discussion. There was none. Chairman Whitton asked if the Board wanted to make a motion.

Vice-Chairman Miller made a motion to approve the proposed Conditional Use

Permit subject to the following conditions: (1) There shall be no additional exterior lighting; (2) Storage of any kind, within the front yard, shall be prohibited; (3) No inoperable vehicle shall be parked or stored in the front yard; (4) The hours of operation of the automotive repair facility shall be limited to 8:00 am – 8:00 pm; (5) Any automotive repair work shall be conducted within a completely enclosed building with all doorways and windows shut; and (6) A Tenant Finish permit shall be submitted to, and approved by, the Boone County Planning Commission prior to the operation of the business. Dr. Estes seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

3. Request of Tony Berling on behalf of Camp Ernst Road LLC and Drees Homes for Variances: (1) decreasing the front yard setback from thirty (30) feet to twenty-five (25) feet; and (2) decreasing the rear yard setback from thirty (30) feet to 22.96 feet. The approximate 0.22 acre parcel is located at 6681 Gordon Boulevard, Boone County, Kentucky and is zoned Suburban Residential One (SR-1).

Staff Member, Michael Schwartz, presented the Staff Report which included a Powerpoint presentation (see Staff Report).

Chairman Whitton asked the Board if they had any questions for staff. There were none.

Chairman Whitton asked the applicant if they would like to provide the Board with any other information.

Mr. Tony Berling stated that it is a Drees Homes community and that the Drees product is a deeper home and they need the variance so that a similar house can be built on the site.

Chairman Whitton asked if there was anybody else in attendance that wanted to speak to this issue. There were none.

Chairman Whitton asked if there was any further discussion. There was none. Chairman Whitton asked if the Board wanted to make a motion.

Vice-Chairman Miller made a motion to approve the proposed Variances. Dr. Estes seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

4. Request of Arlinghaus I LLC, per Bob Schroder, for a Variance decreasing the rear yard setback from thirty (30) feet to 7.9 feet. The approximate 0.47 acre parcel is

located at 6108 Springfield Boulevard, Boone County, Kentucky and is zoned Suburban Residential One (SR-1).

Staff Member, Michael Schwartz, presented the Staff Report which included a Powerpoint presentation (see Staff Report).

Chairman Whitton asked the Board if they had any questions for staff. There were none.

Chairman Whitton asked the applicant if they would like to provide the Board with any other information.

Mr. Bob Schroder stated that due to the condition of the zone change, the front of the house has to be rotated. This rotation creates the situation where the technical rear yard functions as a side yard.

Chairman Whitton asked if there was anybody else in attendance that wanted to speak to this issue. There were none.

Chairman Whitton asked if there was any further discussion. There was none. Chairman Whitton asked if the Board wanted to make a motion.

Dr. Estes made a motion to approve the proposed Variance. Vice-Chairman Miller seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

5. Request of Scott C. Spies on behalf of Mary L. Meadows, for a Conditional Use Permit to allow automotive detailing, self-storage, and the outdoor storage of boats and RV's. The approximate 1.53 acre parcel is located along the northwest side of Elijah Creek Road, between Russell Drive and Donjoy Drive, approximately 90 feet northeast of Russell Drive, and having a Property Identification Number (PIDN) of 047.05-00-005.01, Boone County, Kentucky and is zoned Commercial Two (C-2).

Staff Member, Michael Schwartz, presented the Staff Report which included a Powerpoint presentation (see Staff Report).

Chairman Whitton asked the Board if they had any questions for staff. There were none.

Chairman Whitton asked the applicant if they would like to provide the Board with any other information.

Mr. Scott Spies stated that there will be interior and exterior storage units. He stated that he is agreeable to the proposed conditions as outlined in the staff report.

Chairman Whitton asked if there was anybody else in attendance that wanted to speak to this issue.

Mr. Joe Lovins provided a history of the area and site. He stated that a lot of grading and utility work will have to be conducted to make the project work. He stated that the proposed developed will be very close to his house.

Mr. Ralph Brothers stated that his house is very close to the common property line. He stated that there will be a water runoff problem.

Mr. Jacob Lawhorn stated that he lives across the street from the site and he does not want the RV's to be using his driveway.

Mr. Spies stated that the rear of the property can be used for underground water detention.

Vice-Chairman Miller asked the applicant if he would agree to a condition requiring enhanced landscaping along the west property line. Mr. Spies replied that he would accept that condition.

Chairman Whitton asked if there was any further discussion. There was none. Chairman Whitton asked if the Board wanted to make a motion.

Vice-Chairman Miller made a motion to approve the proposed Conditional Use Permit subject to the following conditions: (1) There shall be no exterior storage, other than boats and RV's; (2) No inoperable vehicle shall be kept on the property; (3) The hours of operation of the automotive repair facility shall be limited to 8:00 am – 8:00 pm; (4) The automotive repair activity shall be limited to automotive detailing; (5) Any automotive detailing work shall be conducted within a completely enclosed building with all doorways and windows shut; and (6) Any of the required trees within the Buffer Yard A along the west property line shall be evergreen trees from Plant List D. Dr. Estes seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

**OTHER**

Mr. Schwartz informed the Board that the next meeting will be on Wednesday, January 10, 2024 and that election of officers would take place at that meeting.

Vice-Chairman Miller stated that this is his last meeting and it has been a pleasure being on the Board and thank the Judge/Executive and the Board members.

Chairman Whitton thanked Vice-Chairman Miller for his service on the Board and that he will be missed.

**ADJOURNMENT**

Chairman Whitton asked for a motion to adjourn the meeting. Dr. Estes made a motion to adjourn and Vice-Chairman Miller seconded the motion.

Chairman Whitton called for the vote and the meeting was adjourned by unanimous consent at 8:08 p.m.

**APPROVED**

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**Chairman George Whitton**

**ATTEST:**

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**Michael D. Schwartz**  
**Director, Zoning Services**