

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
JULY 10, 2019
6:00 P.M.**

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

BOARD MEMBERS PRESENT:

Mr. George Whitton, Chairman
Mrs. Sherry Hempfling
Mr. Chris Vaught
Mr. Bill Weltzer

BOARD MEMBERS NOT PRESENT:

Mr. Richard Miller, Vice-Chairman

STAFF MEMBERS PRESENT:

Mr. Michael Schwartz, Planner

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 May 8, 2019. He asked if there were any other comments or corrections. Mr. Vaught moved to approve the minutes and Mr. Weltzer seconded the motion. Chairman Whitton called for the vote and it carried with three yes votes and one abstention by Mrs. Hempfling.

ACTION ON REVIEWS

1. Request of Viox and Viox, Inc., per Jonathan W. Girdler, on behalf of Van Melle, Inc. for 3 Variances. The variances are: (1) to reduce the east side yard setback from fifty (50) feet to thirty-two (32) feet; (2) to increase the maximum building height from fifty (50) feet to seventy-four (74) feet; and (3) to reduce the minimum Buffer Yard C width from sixty (60) feet to fifteen (15) feet for a 12,868 square foot building addition and modified drive aisle. The approximate 25.7 acre site is

located at 3645 Turfway Road, Boone County, Kentucky. The site is currently zoned Industrial One/Planned Development/Houston-Donaldson Corridor Overlay District (I-1/PD/HDO) and Rural Suburban/Planned Development/Houston-Donaldson Corridor Overlay District (RS/PD/HDO).

Chairman Whitton read an email from the applicant, dated June 26, 2019, withdrawing the application. Chairman Whitton told the audience that this item will not be heard and that anyone that was here for this issue could leave if they wanted.

2. Request of Brad Rickels for a Variance to allow a pole barn to encroach into the 80 foot front yard setback. The approximate 3 acre parcel is located at 14459 South Fork Church Road, Boone County, Kentucky. The site is currently zoned Agriculture (A-1).

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

Chairman Whitton asked how far will the proposed building encroach into the front yard setback. Mr. Schwartz replied approximately thirty feet.

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

Chairman Whitton asked if anyone in the audience wanted to speak in favor of the request.

Mr. Brad Rickels stated that he is the property owner and wants to place the pole barn close to his house. Mr. Rickels stated that his closest neighbor was approximately 200 feet away.

Mrs. Hempfling asked if she could see the slide that showed the closest house. Mr. Schwartz showed the slide from the Powerpoint presentation.

Mr. Weltzer asked if the power lines made it difficult to locate the structure on the property. Mr. Rickels replied that it did.

Chairman Whitton asked if there was anyone in the audience that wanted to speak in favor or opposition of the request. 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.

Mr. Vaught made a motion to approve the requested variance. Mrs. Hempfling seconded the motion. Chairman Whitton asked if there was any discussion. There was no response.

Chairman Whitton called for the vote and it carried unanimously.

3. Request of Jessica Banish, on behalf of Three Keys Distillery, for a Conditional Use Permit to allow a gift shop, museum and bourbon and whiskey tasting room. The approximate 1 acre parcel is located at 8800 East Bend Road, Boone County, Kentucky and is zoned Agriculture/Small Community Overlay (A-1/SC).

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 if anyone in the audience wanted to speak in favor of the request.

Jessica Banish stated that she is the applicant on this request.

Chairman Whitton asked how a tasting bar is different than a regular bar. Ms. Banish stated that they intend to purchase spirits that they have chosen and to have them labeled with their brand, Three Keys Distillery, and then offer tastings of their brand, possibly paired with a dessert.

Mr. Whitton asked if the curb cut could be aligned with Waterloo Road. Ms. Banish stated that there is an existing curb cut, but it can be relocated to align with Waterloo Road, if required by the Kentucky Transportation Cabinet.

Chairman Whitton asked if they were aware that the off-street parking lot had to be paved with a hard surface, unless a waiver was requested from the zoning administrator. Ms. Banish replied that she was aware of that requirement and that they would be seeking a waiver.

Chairman Whitton asked if the Board had any questions for the applicant. Mr. Vaught asked what type of package liquor would be sold. Ms. Banish replied that it would be their own label bourbon/whiskey from small batch spirits.

Mr. Vaught asked how many visitors do they currently have to the site. Ms. Banish stated that they currently have no visitors to the site. She stated that they moved to the property because they fell in love with the old store and that the

Rabbit Hash store will provide them with left over lumber from their store for the renovations.

Mr. Vaught asked how many guests will be coming to the site. Ms. Banish stated that their hours of operation will be Friday to Monday, 10:00 am to 4:00 pm and they expect to have 6 to 7 people at any given time.

Ms. Hempfling asked if the motorcycle traffic will cause a problem. Ms. Banish stated they want to be sensitive to the area regarding noise from cars and motorcycles.

Mr. Vaught asked if there would be a maximum number of tastings a person can purchase. Ms. Banish replied that they intend to have a maximum of two tastings of each type, typically one bourbon and one whiskey, each being less than 1 ounce.

Chairman Whitton asked if there was anyone else who wanted to speak in favor of the application.

Shannon Smith stated that she knows the applicant and these types of tastings are for small groups, limited hours, and limited sales. She stated that people are excited about having this type of business in the area.

Joyce McNeely stated that she owns Washington Square Café in Burlington and that she wants to see the historic structure renovated and maintained. She stated that this type of business would be a benefit to the County.

Ryan Long stated that he is a resident on Beech Grove Road and that he is a full service contractor and there is a need to keep historic buildings. He stated that the proposed activity would complement other businesses in the area.

Chairman Whitton asked if there was anyone who wanted to speak in opposition of the application.

Greg Howard stated that he lives next door to the proposed site and the proposal will damage the small community with additional traffic and noise. He stated that the intersection of East Bend Road with Waterloo Road is dangerous and the additional curb cut will only make matters worse. He stated that the proposal will bring additional bicyclists which will slow down traffic. He stated that the proposal will damage property values in the area.

Daryl Skeens stated that he has owned a farm in the area for 20-25 years. He stated that the building was shut down due to drugs and violence. He stated that

alcohol sales will create problems with DUI's. He stated that accidents occur frequently on the road. He stated that the proposal will have negative impacts on the safety of the roadway. He stated that the store is fine, but there should be no alcohol. Alcohol sales are available in Rabbit Hash.

Mr. Vaught asked what year was the drugs and violence on the property. Mr. Skeens replied that he thought that it was in the 1990's to 2000's.

Mr. Skeens stated that he and others were not notified of the meeting. He only knew about it because of word of mouth from neighbors. Mr. Wilson stated that the required notification includes posting a sign on the property, a legal ad in the Boone County Recorder, and notification letters to adjoining property owners.

James Duvall, Jr. stated that he owns the property across the street from the site. He stated that there are several blind curves along East Bend Road and the additional traffic will be a problem. He stated that the store closed in the 1950's and there is no historical value to preserve.

Mr. Vaught stated that all of the comments regarding the safety of the roadway should be addressed by the Kentucky Transportation Cabinet. He urged the residents in the area to contact the Cabinet regarding the safety issues.

Richard Snyder stated that he agrees with the previous speakers and would like to see the building restored for a store, but not for alcohol sales or tastings. He stated that such an activity will bring additional traffic and motorcycles to the area. He stated that he is concerned about the activity growing to something more than just tastings.

Tanya Spaulding stated that she lives on Beech Grove Road. She asked what the hours of operation would be and what would the capacity of the building. She stated that the renovation of the porch will encourage people to stay longer and linger on the property. She stated that she is concerned about people walking on the property and then onto adjacent property. She asked if an alcohol license will be required. She stated that they do not need another Rabbit Hash in the area. She asked if they will be able to have evening/outdoor events, creating additional noise.

Mr. Weltzer asked how far is Rabbit Hash from the site. Ms. Spaulding replied that it is approximately 5 miles, but the closest establishment is in Bellevue, approximately 3-1/2 miles from the site. Mr. Vaught asked if she could hear any noise from that establishment. Ms. Spaulding replied no.

James Duvall, Sr. stated that the roads in the area are very dangerous. He

stated that he is concerned about the noise from additional traffic and motorcycles. He stated that he is concerned that the hours and business activity will be extended or enlarged. He stated that he is the County Archivist for the County Clerk and that whatever historic value exists will be reduced or nullified by moving it further back on the property as well as changing its use from a country store to a tasting bar. He stated that there are a large number of agricultural vehicles that use East Bend Road and that these vehicles go significantly slower than motor vehicles. The additional traffic generated by this site will be incompatible with the agricultural vehicles. He stated that he was a Soil Conservation Supervisor and the water quality of Gunpowder Creek will be compromised by this development.

Chairman Whitton asked if there was anyone else who wanted to speak. There were none.

Mr. Weltzer asked if the applicant was also the homeowner of the site. Ms. Banish replied yes. Chairman Whitton asked the applicant to clarify the hours of operation. Ms. Banish replied that the hours of operation would be 10:00 am to 4:00 pm, Friday to Monday, being a weekend operation. Chairman Whitton asked what kind of events would be held. Ms. Banish replied that these would be small groups to tour the museum and the artifacts that would be housed in the building and that these would occur during normal business hours. Mr. Vaught asked if there would be more than five events per year after normal business hours. Ms. Banish replied no. Mrs. Hempfling asked what kind of advertising will be done. Ms. Banish stated that they intend to be on The B-Line website as well as other digital advertising. Mr. Weltzer asked if they have a liquor license. Ms. Banish replied that they have a wholesale license and that they would get a retail liquor license if this application is approved.

Chairman Whitton stated that an anonymous letter had been received by staff in opposition to the proposal. Chairman Whitton summarized the letter for the Board.

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

Mr. Vaught made a motion to approve the requested Conditional Use Permit, subject to the following conditions: (1) That the proposed off-street parking area meet the requirements of Article 33 of the Boone County Zoning Regulations, unless a waiver is granted by the Zoning Administrator: (2) That any curb cut onto East Bend Road be aligned with Waterloo Road, subject to approval/modification by the Kentucky Department of Highways: and (3) That there be no events after 4:00 pm. Chairman Whitton seconded the motion. Chairman Whitton asked if there was any discussion. There was no response.

Chairman Whitton called for the vote, which resulted in a 2 to 2 tie with Mr. Vaught and Chairman Whitton voting yes and Mr. Weltzer and Mrs. Hempfling voting no.

Chairman Whitton asked Mr. Wilson how to proceed. Mr. Wilson stated that the Board could continue to deliberate and make another motion or the Board could defer action to another meeting so that the Board members could conduct a site visit.

Following discussion by the Board, Mr. Vaught made a motion to defer action until the Board's August 14, 2019 meeting, so that the Board members can individually do a site visit. Mrs. Hempfling seconded the motion.

Chairman Whitton called for the vote and it passed unanimously.

Mr. Wilson cautioned the Board members to not discuss this issue with any neighbors or each other and that they should just visit the site, make observations, and report those observations at the next Board meeting.

Chairman Whitton clarified for the audience that the public hearing has been closed and that no additional public testimony will be heard at the next Board meeting.

4. Request of Safran Landing Systems for a Variance to allow a reduction in the 10 foot minimum street frontage landscape area along Shorland Drive. The approximate 40 acre parcel is located at 1 Carbon Way, Boone County, Kentucky. The site is currently zoned Industrial Two (I-2).

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

Chairman Whitton asked if there would be any change to the existing conditions. Mr. Schwartz replied that no additional improvements are proposed.

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

Chairman Whitton asked if anyone in the audience wanted to speak in favor of the request.

Patrick Garret, Denham Blythe, stated that they have approval from the County and that they are coming back to the Board to remedy the existing situation.

Chairman Whitton asked if there was anyone in the audience that wanted to speak in favor or opposition of the request. 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.

Mr. Vaught made a motion to approve the requested variance. Mr. Weltzer seconded the motion. Chairman Whitton asked if there was any discussion. There was no response.

Chairman Whitton called for the vote and it carried unanimously.

OTHER

No other business was discussed.

ADJOURNMENT

Chairman Whitton asked for a motion to adjourn the meeting. Mr. Vaught made a motion to adjourn and Mr. Weltzer seconded the motion. Chairman Whitton called for the vote and the meeting was adjourned by unanimous consent at 7:12 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Planner