

**BOONE COUNTY BOARD OF ADJUSTMENT  
BOONE COUNTY ADMINISTRATION BUILDING  
BOONE COUNTY FISCAL COURTROOM  
BUSINESS MEETING  
SEPTEMBER 11, 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 July 10, 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 unanimously.

**ACTION ON REVIEWS**

1. 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).

Chairman Whitton asked Mr. Wilson to provide some background since this item

was deferred from a previous meeting. Mr. Wilson stated that the public hearing had been conducted and that the Chair closed the public hearing. Mr. Wilson stated that there was a tie vote and that the Board concluded that the item should be deferred to allow the Board members the opportunity to visit the site. Mr. Wilson stated that each Board member should disclose if they visited the site and to report their observations.

Mr. Vaught stated that he had visited the site and he observed that the area is serene and that the property is very nice. He stated that he can see both sides of the issue.

Mrs. Hempfling stated that she had visited the site and that she thought that the area is a rural setting and that the building would need a lot of work.

Mr. Weltzer stated that he had visited the site and that he concurred with the observations of both Mr. Vaught and Mrs. Hempfling. Mr. Weltzer stated that he can appreciate the historical significance of the structure.

Mr. Schwartz stated that staff had received packets from two individuals after the public hearing. Mr. Schwartz stated that staff accepted the packets but did not open them or distribute them since the public hearing had been closed.

Mr. Weltzer made a motion to deny the request based on the testimony of the public hearing, the area is not necessarily zoned for that kind of a business, and a more appropriate location would be closer to Rabbit Hash. Mr. Vaught seconded the motion. Chairman Whitton asked if there was any discussion. There was no response. A roll call vote found Mr. Weltzer, Mr. Vaught, and Ms. Hempfling voting yes and Chairman Whitton voting no. The motion passed by a vote of 3 to 1.

2. Request of DFW Investments, LLC, per Jeremy Deters, on behalf of Learning Zone Preschool, Inc., per Travis Fryman, for a Conditional Use Permit to allow an office use to occupy an existing structure. The approximate 0.5 acre site is located at 6024 Rogers Lane, Boone County, Kentucky and is zoned Suburban Residential Two/Small Community Overlay (SR-2/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.

Mr. Jeremy Deters stated that the staff report was very thorough.

Ms. Hempfling asked if the building would be occupied by a law office and a title company.

Mr. Deters stated that the building would be occupied by a law office and that a title company could be a future potential use in addition to the law office.

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 conditional use permit. 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 Expedite The Diehl, per Tracey Diehl, on behalf of Walgreens, per Michelle Reuss for a Conditional Use Permit to allow a face change of the existing monochrome electronic message center sign to a full color electronic message center sign. The approximate 1.6 acre site is located at 1747 Patrick Drive, Boone County, Kentucky and is zoned Commercial Two/Planned Development/Concept Development Plan (C-2/PD/CD).

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

Chairman Whitton asked if the sign was being reduced in size.

Mr. Schwartz stated that the sign image was being reduced in size.

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. Tommy Reed stated that technology has changed since the original sign was

approved in 2001. He stated that the sign can be smaller since the resolution and clarity of the image is much better.

Mr. Reed stated that the applicant will meet all of the conditions stated in the staff report.

Chairman Whitton asked how bright would the sign be at night. Mr. Reed stated that it would be no brighter than the static image and that the new sign would have a photocell in it.

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.

Mrs. Hempfling made a motion to approve the requested conditional use permit, subject to the following conditions: (1) That the proposed electronic message board have no apparent motion of the visual message, caused by, but not limited to, the illusion of moving objects, moving patterns or boards of light, expanding contracting, or rotating shapes or other similar animation effects, Additionally, there shall be no scrolling or running messages; (2) That the message displayed on the proposed electronic message board be displayed for a minimum of five (5) second intervals; (3) That the proposed electronic message board is equipped with a photocell or dimmer and the displayed messages shall dim as the sky gets darker and brighten as the sky gets brighter (4) That the proposed electronic message board has a 19 mm pixel pitch or better resolution (5) No message shall contain more than one (1) still photo and/or three (3) lines of text; (6) Any portion of an alphanumeric message that is not displayed on a still photo/image shall use a black background; and (7)The sign shall not be used to advertise off premise businesses/products/services. Mr. Vaught 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.

4. Request of Roy Smith for a Variance to reduce the rear yard setback from forty (40) feet to twenty-seven (27) feet to allow the construction of a covered patio. The approximate 0.32 acre site is located at 3104 Durango Court, Boone County, Kentucky and is zoned Rural Suburban (RS/CD).

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.

Mr. Roy Smith stated that most subdivisions are zoned SR-1 which has a rear yard setback of 30 feet. He stated that he has spoken with all of his neighbors and they have no objection to his request. He stated that he is willing to reduce the depth of the porch to 20 feet, if necessary.

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.

### **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 Mrs. Hempfling seconded the motion.

An audience member asked why the first item was denied since the use is allowed in the SC Zone. Mr. Wilson stated that the Board had the hearing, made a motion, and took a vote. He stated that the basis for the motion would be reflected in the minutes and that those would be available for public inspection.

Chairman Whitton called for the vote and the meeting was adjourned by unanimous consent at 6:32 p.m.

**APPROVED**

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**Chairman George Whitton**

**ATTEST:**

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**Michael D. Schwartz**  
**Planner**