

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
NOVEMBER 13, 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. Richard Miller, Vice-Chairman
Mr. Chris Vaught
Mr. Bill Weltzer

BOARD MEMBERS NOT PRESENT:

None

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Executive Director
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 September 11, 2019. He asked if there were any other comments or corrections. Mr. Vaught moved to approve the minutes and Mrs. Hempfling seconded the motion. Chairman Whitton called for the vote and it carried unanimously.

ACTION ON REVIEWS

1. Request of Melanie Boone for a Variance to reduce the front yard setback from forty (40) feet to seven (7) feet to allow the construction of a single family residential dwelling. The approximate 0.729 acre site is located at 9451 Lower River Road, Boone County, Kentucky and is zoned Rural Suburban Estates

(RSE).

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

Chairman Whitton asked if the applicant was going to replace the existing house with a new one at the same location and size. Mr. Schwartz replied yes. 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.

Ms. Melanie Boone stated that her family has owned the property since the 1960's and that her daughter had lived in the house previously. She stated that the foundation was giving way and that they looked into it being fixed. It was determined that it would be less costly to replace the house. She stated that she wanted to keep the property in the family and that she was told that the 1937 flood did not enter the house. She stated that there is an out-house on the property and that while there is an indoor bathroom and kitchen sink, they both drain to the out-house. She stated that there is a cistern on the property and that it would be replaced with a new cistern that has already been approved by the state authorities.

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

Ms. Julie Threadgill stated that she is an adjacent property owner. She asked if the existing foundation would be used or if a new foundation would be placed. Ms. Boone answered that they will be pouring a new concrete foundation. Ms. Threadgill stated that there has been a lot of hillside movement within the last two years. She asked about the septic system and if it was the typical system.

Ms. Boone stated that the septic system was a special system that has been approved by the state rather than the local health department.

Chairman Whitton asked if there was anyone else in the audience that wanted to address the Board on this issue. There was 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. Miller made a motion to approve the requested variance. 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.

2. Request of Richard and Louise Johnson, LLC, for an amendment to a previously approved Conditional Use Permit. The amendment is to remove Condition #2, which states that operation of the ferry service shall be limited to one (1), ten (10) vehicle capacity ferry boat. The approximate 1.3 acre site is located at 8555 Lower River Road, Boone County, Kentucky and is zoned Recreation (R).

Mr. Miller stated that he has a conflict with this issue and recused himself. Mr. Miller left the room for the remainder of this issue.

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. Ben Douglas stated that he is the General Manager of Rising Star Casino, which operates the ferry, and that he is here to speak on behalf of the applicant. He stated that the ferry is now free and that has increased the usage of the ferry. They are looking to eliminate the traffic problems in the area while maintaining the use of only one ferry. He stated that their current ferry can accommodate more than ten cars, probably closer to 15 or 16 cars. He stated that they want to avoid the situation where cars could back up onto Lower River Road.

Chairman Whitton asked for clarification that they will not be adding a second ferry, but use the current ferry and load it to its maximum capacity. Mr. Douglas replied that is correct.

Ms. Hempfling asked if the applicant would accept an amendment to existing condition 2 by removing just the capacity limit. Mr. Douglas replied that would be acceptable.

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

Mr. Jeff Hansel stated that the free ferry service has resulted in increased traffic,

which creates a burden on Lower River Road. He stated that allowing the ferry to fill to its capacity will also increase traffic on Lower River Road. He stated that Lower River Road cannot accommodate the increased traffic. He stated that the original plan contained turbidity curtains to prevent erosion along the bank. He stated that these have not yet been installed and that no additional approvals should be granted until the plan is brought into compliance.

Mr. Vince Fallis stated that the ferry has already been filled beyond the 10 vehicle limit. He stated that the operation should be in compliance now rather than asking for an additional exception. He stated that conditions need to be applied before the problems occur. He suggested that speed limit signage, speed humps, and a painted center line be provided along Lower River Road. He also suggested that better signage be placed on the property to provide directions as to how the vehicle stacking should be done to reduce the cars backing onto Lower River Road.

Mr. Richard Broeg stated that he has seen an increased usage of the ferry since the fee was removed. He stated that it is difficult for two cars to pass due to the limited width of the roadway. He stated that he is aware that a violation complaint has been filed with the US Army Corps of Engineers regarding construction violations, specifically the need for the turbidity curtains. He stated that these issues should be addressed and resolved before the Board takes any further action.

Chairman Whitton asked if the Board had any responsibility regarding improvements to Lower River Road. Mr. Schwartz stated that Lower River Road is a public street and that only the Boone County Public Works Department could authorize speed limit signs, speed humps, and center lane markings.

Mr. Broeg asked if the Board had any involvement with the US Army Corps of Engineers. Mr. Wilson stated that the Board does not have the authority to enforce conditions on the applicant that to pertain to responsibilities of outside agencies, such as the US Army Corps of Engineers.

Mr. Douglas stated that they have not received any notification from the US Army Corps of Engineers that they are in violation of any of their requirements. He stated that they will work to have better stacking on their property and they are willing to go to Boone County Public Works with the residents to help get improvements made to Lower River Road.

Mr. Weltzer asked if the site plan that is being displayed is current. Mr. Douglas replied yes.

Mrs. Hempfling asked if they could do more to have better stacking on their property. Mr. Douglas replied that they will provide signage on the property to indicate that there are three lanes for stacking.

Chairman Whitton asked if there was anyone else that wanted to address the Board. 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. Weltzer made a motion to approve the requested amendment to the conditional use permit. Chairman Whitton 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.

Mr. Miller returned to the room.

3. Request of Ron and Angie Vanlandingham for a Variance to reduce the minimum required front yard setback from sixty (60) feet to 52.5 feet. The approximate 1.8 acre site is located at 1496 Grapevine Ridge, Boone County, Kentucky and is zoned Agricultural Estate (A-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 if anyone in the audience wanted to speak in favor of the request.

Mr. Ron Vanlandingham stated that the pin on the plat provided a distance. When measuring from that pin, he went five feet further to be sure that he did not encroach into the front yard. After the house was built, he took another measurement and found that the house did encroach into the front yard. He stated that there must have been an error on the plat.

Mr. Miller asked if the property was surveyed prior to construction of the house. Mr. Vanlandingham stated that the property was staked prior to construction but the house limits were not staked.

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

Mr. Kevin Costello stated that he was here to discuss the possibility of the Board to appoint one or more of its members as a hearing examiner. Mr. Costello stated that he is not looking for any action tonight, but wanted the Board to think about the issue. Mr. Wilson provided some background on the issue as it pertains to state statute and Board procedures. There was a general discussion regarding how the process would work and what scenarios could arise where a hearing examiner would be necessary. After the discussion, it was decided that Mr. Costello would provide the Board with additional information regarding process, By-Law amendments, and potential wording for a motion to provide for a hearing examiner.

ADJOURNMENT

Chairman Whitton asked for a motion to adjourn the meeting. Chairman Whitton made a motion to adjourn and Mr. Miller seconded the motion.

Chairman Whitton called for the vote and the meeting was adjourned by unanimous consent at 7:07 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Planner

