

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
SEPTEMBER 9, 2020
6:00 P.M.**

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

Mr. Schwartz stated that the meeting was being held via video teleconference pursuant to KRS 61.826, SB 150 and OAG 20-05. He stated that the public hearing format has been necessitated due to the state of emergency regarding the threats to public health presented by the novel Coronavirus (COVID-19) pandemic.

Mr. Schwartz confirmed that all those in attendance could see and hear the proceedings. All those in attendance stated that they could see and hear the proceedings.

BOARD MEMBERS PRESENT:

Mr. George Whitton, Chairman
Mr. Richard Miller, Vice-Chairman
Mrs. Sherry Hempfling
Mr. Chris Vaught-Hall
Mr. Bill Weltzer

BOARD MEMBERS NOT PRESENT:

None

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 August 12, 2020. He asked if there were any other comments or corrections. Mr. Chris Vaught-Hall moved to approve the minutes and Vice-Chairman Miller seconded the motion. Chairman Whitton called for the vote and it carried unanimously.

ACTION ON REVIEWS

1. Request of Klusty Sign Associates, per Vince Klusty, on behalf of KYVFP, LLC, per William E. Van Fleet for a Conditional Use Permit and Variances to: (1) allow the installation of an electronic message board/screen on a free standing sign; (2) reduce the minimum spacing distance requirement between electronic message boards/screens from 660 feet to 604 feet; and (3) increase the maximum sign area of a free standing sign from 200 square feet to 248.19 square feet (156.75 square feet for the static advertising display and 91.44 square feet for the electronic message board/screen. The approximate 1.1 acre site is located at 1728 Wildcat Boulevard, Boone County, Kentucky and is zoned Commercial Two (C-2) and Commercial Services (C-3) (this issue was deferred at the August 12, 2020 meeting).

Chairman Whitton asked for a motion to bring this issue off the table. Vice-Chairman Miller moved to bring the issue off the table for discussion and possible action. Mr. Vaught-Hall seconded the motion. Chairman Whitton called for the vote and it carried unanimously.

Chairman Whitton asked if the applicant had any further information to present to the Board. Mr. Vince Klusty stated that he had been in contact with Mr. Jeff Earlywine on two occasions and that there was no indication that the use of the right-of-way for the placement of the sign would be accepted by the highway department. Mr. Klusty continued to defend his position that the calculation of the sign area, using two rectangular forms, one around the boot and the other around the electronic sign, was the correct way to calculate the total sign area.

Mr. Schwartz stated that the county regulations state that sign area is calculated using a regular, geometric form, not geometric forms. Mr. Schwartz stated that the use of the word 'a' makes it a singular geometric form. Mr. Schwartz displayed the graphics found in Section 3403 of the Boone County Zoning Regulations to emphasize the regulation.

Mr. Klusty showed a graphic displaying the proposed sign, as originally submitted, and a revised sign showing a total sign area of 191.19 square feet (a smaller boot with a sign area of 99.75 square feet and the electronic sign with a sign area of 91.44 square feet), a sign height of 30 feet, and a ground clearance of 16'-7".

Mr. Schwartz stated that the revised sign meets the area and height requirements of the zoning regulations and the electronic sign would still need conditional use permit approval from the Board.

Vice-Chairman Miller asked if the sign height could be lowered since the boot is smaller in the revised drawing. Mr. Klusty replied that it would be possible to lower the height of the sign.

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

After further discussion, Chairman Whitton asked if the Board wanted to make a motion.

Vice-Chairman Miller made a motion to approve the submitted request, subject to compliance with the following conditions:

1. The total sign area of the sign shall not exceed 200 square feet.
2. The height of the sign shall not exceed 30 feet and the ground clearance of the sign shall not be greater than 13 feet.

Mr. Schwartz asked if the motion was to include the three suggested conditions found in Item H. on page 8 of the staff report. Vice-Chairman Miller replied yes.

Vice-Chairman Miller asked the applicant if they accepted those three conditions. Mr. Klusty replied yes.

Mrs. Hempfling asked if the motion included the two suggested conditions found in Item I. on page 8 of the staff report.

Vice-Chairman Miller asked the applicant if they agreed to those two conditions. The applicant replied that the signs in the window provide a nicer view than the back of the store shelves that would be seen if those signs were not there. Mr. Schwartz stated that the signs that were applied to the inside of the windows are not regulated and those that are applied to the exterior of the windows are currently in violation of the regulations. Mr. Schwartz stated that there is a process for violation mitigation that can be utilized if the county wanted to pursue that.

Chairman Whitton asked Vice-Chairman Miller to restate his motion.

Vice Chairman restated his motion as approval of the Conditional Use Permit and Variances subject to compliance with the following conditions:

1. The total sign area of the sign shall not exceed 200 square feet.
2. The height of the sign shall not exceed 30 feet and the ground clearance of

the sign shall not be greater than 13 feet.

3. No message shall contain more than one (1) still photo and/or three (3) lines of text.
4. Any portion of an alphanumeric message that is not displayed on a still photo/image shall use a black background.
5. The sign shall not be used to advertise off premise businesses/products/services.

Mr. Vaught-Hall seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

2. Request of Joseph D. Enda for a Change of Nonconforming Use and Variance to allow the construction of a 2,400 square foot storage building and to reduce the minimum side yard setback from twenty (20) feet to fifteen (15) feet. The approximate 0.85 acre site is located at 295 Weber Lane, Boone County, Kentucky and is zoned Industrial Two (I-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. Joseph Enda stated that he wanted to build the structure to store his personal RV and other vehicles and equipment.

Chairman Whitton asked if there was anyone else that wanted to speak to this issue. There were none. Mr. Schwartz stated that no one from the public has contacted staff about attending the meeting tonight.

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-Hall made a motion to approve the Change of Nonconforming Use and Variance. Mrs. Hempfling seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

3. Request of Angela Smith for a Change of Nonconforming Use/Structure to allow the increase of an existing accessory structure from 530 square feet to 1,170 square feet. The approximate 2.2 acre site is located at 4174 River Road, Boone County, Kentucky and is zoned Suburban Residential One/Small Community Overlay (SR-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 the applicant if they would like to provide the Board with any other information. Mr. Ronnie Smith stated that the building would be used to store their personal boat and other personal items.

Chairman Whitton asked if there was anyone else 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 Change of Nonconforming Use. Mr. Vaught-Hall seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

4. Request of Hermes Construction Company, per Tyson Hermes, on behalf of Bradbury Design, LLC, per Bill and Janine Bradbury for a Change of Nonconforming Use to change the use of the property from an auto repair facility to an antique and gift store with antique and furniture. The approximate 0.9 acre site is located at 10829 US 42, 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 the applicant if they would like to provide the Board with any other information. Mr. Tyson Hermes stated that the staff presentation provided the Board with the necessary information.

Vice-Chairman Miller asked if there would be any outside storage. Ms. Janine Bradbury replied no.

Chairman Whitton asked if there was anyone else that wanted to speak to this issue. There were none. Mr. Schwartz stated that no one from the public has contacted staff about attending the meeting tonight.

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-Hall made a motion to approve the Change of Nonconforming Use. Mrs. Hempfling seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

5. Request of CAC Developments, LLC, per Cindy Cahill for a Variance to reduce the minimum required front yard setback from sixty (60) feet to thirty (30) feet in order to build a single family dwelling. The approximate 2.9 acre site is located at 915 Eads Road, 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 the applicant if they would like to provide the Board with any other information. Ms. Cindy Cahill stated that there was an oversight by her surveyor in configuring this lot, given the utility easement.

Chairman Whitton asked if there was anyone else that wanted to speak to this issue. There were none. Mr. Schwartz stated that staff has received several call regarding this issue, but after explaining the issue all but one said that they were satisfied. One person asked to be part of the public hearing and Mr. Schwartz stated that they were provided a link to the live teleconference.

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 Variance. Mr. Vaught-Hall seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

OTHER

None.

ADJOURNMENT

Chairman Whitton asked for a motion to adjourn the meeting. Mr. Vaught-Hall 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 7:11 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Planner