

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
MARCH 10, 2021
6:00 P.M.**

Chairman Whitton called the meeting to order at 6:02 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
Mr. Chris Vaught-Hall
Mrs. Sherry Hempfling

BOARD MEMBERS NOT PRESENT:

Mr. Bill Weltzer

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 February 10, 2021. He asked if there were any other comments or corrections. Mr. 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 Jeff Taylor for a Change of Nonconforming Use to allow for an outdoor storage. The approximate 0.78 acre parcel is located along the north side of Petersburg Road, at its intersection with Idlewild Road, and immediately east of the property at 4498 Petersburg 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 the Board if they had any questions for staff. Vice-Chairman Miller asked if anything is currently being stored on the site. Mr. Schwartz replied that there are tires being stored on the site. Vice-Chairman Miller asked what will be stored on the site if the request is approved. Mr. Schwartz replied that staff did not know the answer to that question.

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

Mr. Jeff Taylor stated that storage on the site would be limited to cars, trucks, and trailers as well as overflow from his other adjacent properties. Mr. Taylor stated that the tire were not supposed to be there that long. He stated that Rumpke was supposed to pick those up. Unfortunately, Rumpke is behind schedule. Mr. Taylor stated that the site was originally a Dodge dealership which existed between the 1940's to around 1990.

Chairman Whitton asked if a building has ever been on the site. Mr. Taylor replied no, the site was used for the storage of automobiles.

Mr. Fred Pfalzgraf stated that he did not have much of a concern regarding the storage of vehicles as long as it does not turn into a junkyard. He stated that the site used to be an overflow parking lot for the former auto dealership. He stated that the former auto dealership closed in 1976. He stated that he was also concerned with the storage of tires, as they can collect water and become a breeding ground for mosquitos.

Mr. Taylor stated that they typically do not store tires outside of their building. This instance occurred because Rumpke told them that they would pick up the tires.

Chairman Whitton asked if the applicant would remove the outside storage of tires. Mr. Taylor replied yes.

Vice-Chairman Miller asked if the cars, trucks, and trailers would be vehicles that are in the process of being repaired or will they be dilapidated vehicles stripped for their parts. Mr. Taylor replied that the vehicles would be those that are for sale as well as those that are in the process of being repaired. He stated that there will be no junk vehicles on the site.

Chairman Whitton asked if there was anyone else present that wanted to address the Board.

Mr. Daryl Smith stated that he lives up the hill from the site and that he agrees with Mr. Taylor that the property has been improved. He stated that his concern is that if the request is granted, what could a future owner of the property do, can they expand the business into a junkyard.

Chairman Whitton asked Mr. Dale Wilson if he could respond to that concern. Mr. Wilson stated that the Board could allow the change in use if the new use is no more objectionable than the previous use. Mr. Wilson also stated that the Board can impose reasonable conditions as part of their action of approval.

Mr. Smith asked if there is a time limit on the existence/non-existence of the previous use. Mr. Wilson replied that it is up to the Board to decide if the previous use has been abandoned.

Herschel and Christy Potter stated that they are an adjoining property owner and they are opposed to the request as it will be an eyesore and will devalue their property.

Vice-Chairman Miller asked what the existing nonconforming use of the property is. Mr. Schwartz replied that the former storage area was nonconforming and that staff thought that the submittal of the application was the best process so the Board could determine if the nonconforming use of the site was abandoned. Mr. Schwartz also stated that since staff does not know exactly what has been stored on the site in the past, the proposed request constituted a change in that nonconformity.

Vice-Chairman Miller asked if the vehicles being stored on the site will be stored for a long period of time or will they be turned over relatively quickly. Mr. Taylor replied that he does not intend to have any long term storage of vehicles on the site.

Mr. Pfalzgraf wants to make sure that there is no tire storage on the site.

Mr. Smith asked if there would be any repairs being conducted on the site. Mr.

Taylor replied that there will be no repairs being conducted on the site.

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 in Nonconforming Use subject to the conditions in the staff report and with an added condition that there be no junk vehicles stored on the site. Mr. Vaught-Hall seconded the motion.

Mr. Schwartz asked if the Board wanted to add a condition regarding the length of time that a vehicle can be stored on the site. Vice-Chairman Miller amended his motion to include that condition. Mr. Vaught-Hall seconded the amended motion.

Chairman Whitton stated that the motion is to approve the Change in Nonconforming Use, subject to the following conditions:

1. Any fence must be set back a minimum of eighteen (18) feet from the right-of-way of Petersburg Road.
2. A Buffer Yard A must be provided along Petersburg Road.
3. Any storage/parking area shall be set back a minimum of ten (10) feet from any rear or side property line.
4. The site shall only be used for the parking/storage of operable cars, trucks, and/or trailers.
5. No car, truck, and/or trailer shall be stored for more than thirty (30) consecutive calendar days.
6. The property owner shall obtain an approved Site Plan from Boone County Planning Commission.

Chairman Whitton called for the vote and it carried unanimously.

2. Request of Jimmy Patterson for a Change of Nonconforming Use to allow for the construction of a 1,500 square foot storage building and a 1,464 square foot storage building. The approximate 1.1 acre parcel is located at 8147 Dixie Highway, Boone County, Kentucky and is zoned Commercial Services (C-3).

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 what nonconformity is being changed. Mr. Schwartz replied that the existing nonconformity is predominantly single family residential and that the inclusion of the two accessory structures makes the use more of a personal storage, which is also not identified as a permitted use in the C-3 district.

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

Mr. Jimmy Patterson stated that he did not have anything else to add.

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

Chairman Whitton asked if there was any further discussion.

Vice-Chairman Miller asked if the new building would only be used for personal storage. Mr. Patterson replied yes. He stated that he works on cars as a hobby and would also like to store his personal camper.

Chairman Whitton asked if the Board wanted to make a motion.

Vice-Chairman Miller made a motion to approve the Change in Nonconforming Use as submitted. Mr. Vaught-Hall seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

3. Request of Janine Bradbury for a Change of Nonconforming Use to change the use of a portion of the interior of the building from an antique and gift store to an eating and drinking establishment, specifically a coffee shop. The approximate 0.9 acre parcel 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.

Vice-Chairman Miller asked if there are any Health Department requirements. Mr. Schwartz replied that the planning commission has no jurisdiction in that matter and that the property owner would need to contact the Health Department.

Vice-Chairman Miller asked if the change of use requires any additional parking. Mr. Schwartz replied that they meet the parking requirements.

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

Janine and Bill Bradbury stated that they just want to offer an additional amenity to their business.

Chairman Whitton asked if there was anyone in attendance that wanted to speak to 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. Vaught-Hall made a motion to approve the Change in Nonconforming Use as submitted. Vice-Chairman Miller seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

4. Request of Wellert Corporation, per Robert Wellert, on behalf of HPT TA Properties Trust, per John G. Murray, for a Conditional Use Permit to allow the redevelopment of the existing truck stop. The approximate 9 acre parcel is located at 145 Richwood Road, Boone County, Kentucky and is zoned Commercial Services (C-3).

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. Robert Wellert stated that he is the applicant and then he introduced the remainder of the team.

Tyler Andreason stated that the only reason that the site is being redeveloped is due to the roadway improvements to Richwood Road and Best Pal Drive. He stated that due to the access being changed, it necessitated a redesign of the site.

Jeff Baird stated that based on previous discussions with staff, all approved variances for signage runs with the land. He asked for clarification on the suggested reduction of previously approved building mounted signage. Mr. Schwartz replied that due to the widening of Richwood Road, driver's attention will be heightened. As such, staff felt that it would be appropriate to get the building mounted signage more in line with what is allowed, rather than what has been previously approved.

Mr. Baird stated that there still needs to be signage on the truck service building so that vehicles entering the site know which way to go. Mr. Schwartz replied that the suggestion is that building mounted signage be allowed on the north and east facades of the truck service building and that the signage meet the requirements of the zoning regulations, which is 2 square feet of sign area per linear foot of building wall for the primary façade and 1 square foot of sign area per linear foot of building wall for the secondary façade. Mr. Schwartz added that the property owner can indicate which façade is the primary and which is the secondary.

Chairman Whitton asked if there was anyone in attendance that wanted to speak to 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. Vaught-Hall made a motion to approve the Conditional Use, subject to the following conditions:

1. Vehicular use area lighting shall be down lit and equipped with cut-off shields to prevent glare onto adjacent properties.
2. Free Standing Signage shall be limited to the following:
 - a. One pole sign, having a maximum height of 86.5 feet and a maximum sign area of 1,206 square feet, which includes a maximum 202.5 square foot electronic fuel panel.
 - b. One monument sign, having a maximum height of 36 feet and a maximum sign area of 240 square feet, which includes a maximum 48 square foot electronic fuel price panel.
3. Building mounted signage on the north façade of the retail building shall be limited to one (1) sign having a maximum sign area of 300 square feet.
4. Building mounted signage on the east building façade of the retail building shall be limited to one (1) sign meeting the minimum requirements of Section 3413.1 (Boone County Zoning Regulations).
5. Building mounted signage on the west façade of the retail building shall be limited to one (1) sign meeting the minimum requirements of Section 3413.1 (Boone County Zoning Regulations).
6. Building mounted signage on the truck shop shall be limited to the following:
 - a. One (1) sign on the north building façade, meeting the minimum requirements of Section 3413.1 (Boone County Zoning Regulations).
 - b. One (1) sign on the east building façade, meeting the minimum

requirements of Section 3413.1 (Boone County Zoning Regulations).

7. Signage on the retail gas canopy shall meet the minimum requirements of Section 3413.2 (Boone County Zoning Regulations).
8. Signage on the truck fuel canopy shall be limited to one (1) fascia and shall meet the minimum requirements of Section 3413.2 (Boone County Zoning Regulations), with the exception that the fascia shall be allowed to be 100% illuminated.

Mrs. Hempfling 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 7:06 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Planner