

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
JUNE 9, 2021
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 May 12, 2021. He asked if there were any other comments or corrections. Vice-Chairman Miller moved to approve the minutes and Mr. Vaught-Hall seconded the motion. Chairman Whitton called for the vote and it carried unanimously, 5 to 0.

ACTION ON REVIEWS

1. Request of Jeff Sudkamp, for Toebben KY, LP, for a Variance to increase the height of an ornamental fence within the required front yard from four (4) feet to six (6) feet. The approximate 9.4 acre area is located at 10295 Toebben Drive, 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.

Vice-Chairman Miller asked if there was any indication as to why they wanted the increased fence height. Mr. Schwartz replied that it was for security purposes.

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

Mr. Jeff Sudkamp stated that the site was going to be used for food distribution and the increased fence height is for security of the property and the trucks that will be on the site.

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.

Vice-Chairman Miller made a motion to approve the Variance as requested. Mr. Vaught-Hall seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

2. Request of BH and G, Inc., per Jack Berberich, for a Conditional Use Permit to allow a mini-warehouse or storage facility within an existing building, along with recreational vehicle storage as an accessory use and the Variance is to reduce the Buffer yard width along a portion of the west property line from thirty (30) feet to ten (10) feet. The approximate 2 acre parcel is located at 2134 Petersburg Road, Boone County, Kentucky and is zoned Commercial Two (C-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 how many interior units will there be. Mr. Schwartz replied that that information was not provided as part of the application.

Vice-Chairman Miller asked how many recreational vehicles can be stored in the back area of the site and how will it be laid out for proper circulation and will access be provided by lock and key, pass card, or by some other means.

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

Mr. Jeff Blankenship stated that his client, Mr. Jack Berberich, would address those issues.

Mr. Berberich stated that the site had been the Briarwood Banquet Hall for the past 13 to 15 years. He stated that there are approximately 175 parking spaces between the front and back of the building. He stated that their proposal is to use only the back area of the site for the storage of recreational vehicles. He stated that the layout would be either pull-up or back in angled parking/storage along the perimeter of the rear yard with angled drive-through spaces in the center of the area. Circulation would occur with 24 to 25 foot wide drive aisles. He stated that circulation would be one-way with the entrance on the east side of the building and the exit would be on the west side of the building. He stated that the security fence/gate would be opened and closed by the renter using an electronic pass card. He stated that he would also install a knock box for emergency personnel access.

Vice-Chairman Miller asked how many vehicles and what size vehicles will be stored in this area. Mr. Berberich replied that he is anticipating storage for approximately 45 recreational vehicles with spaces being 12 feet by 35 feet for RV's with some spaces being smaller for smaller boats and jet skis.

Vice-Chairman Miller asked how circulation would be handled. Mr. Berberich described how the layout would be designed.

Mr. Schwartz stated that the final design of the storage area would be reviewed by staff at the time that a Site Plan is submitted.

Mr. Vaught-Hall asked if any exterior lighting would be installed. Mr. Berberich replied that the existing lighting will suffice. However, they do intend to install

motion sensitive security lighting, with cameras.

Mr. Vaught-Hall asked if anything other than boats and RV's would be stored in the fenced area. Mr. Berberich replied that other recreational vehicles, such as jet skis, would also be stored in the fenced area.

Mr. Vaught-Hall asked if the facility would be accessible 24-hours a day. Mr. Berberich replied that access to customers would be from 7:30 am to 11:00 pm.

Mrs. Hempfling asked if there would be any storage on the side of the building. Mr. Berberich replied that there would be no storage to the west side of the building, but small vehicles could be stored to the east side of the building.

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 Permit and Variance, subject to the conditions suggested by staff. Mr. Weltzer seconded the motion.

Mr. Schwartz asked if Condition Number 1 was being amended to include the provision that motion sensitive security lighting could be installed.

Mr. Vaught-Hall clarified that his motion is to approve the Conditional Use Permit and Variance, subject to compliance with the following conditions: (1) There shall be no additional exterior lighting, except for motion sensitive security lighting; (2) Storage of any kind, within the front yard, shall be prohibited; (3) Storage within the fenced area shall be limited to recreational vehicles; (4) The required amount of landscaping shall be provided within the proposed buffer yards within the side and rear yards; and (5) A Site Plan shall be submitted to, and approved by, the Boone County Planning Commission prior to the operation of the business. Mr. Weltzer agreed and again seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

3. Request of Boone Valley Farm, LLC, per Tim Alexander, on behalf of Alton and Betty Mills, for a Conditional Use Permit to allow the construction of a 4,992 square foot (78' x 64') barn and an off-street parking area, for an event center. The approximate 120 acre area is located along the north side of Porter Road,

approximately 1,200 feet east of Monticello Way, and being directly across from 15614 Porter 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.

Vice-Chairman Miller asked why there is a discrepancy between the staff report and the applicant's submittal relative to the occupancy figure. Mr. Schwartz replied that while the applicant's information stated a maximum occupancy of approximately 250 people, staff counted the number of seats in the submitted drawings, which totaled approximately 300 people.

Vice-Chairman Miller stated that the staff report includes a possible condition relative to the paving of the driveway and off-street parking area. Vice-Chairman Miller asked if the applicant would accept that condition and pave those areas rather than leaving them surfaced with gravel.

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

Mr. Brock Mackay, Viox and Viox, stated that he, Mr. Tom Alfort, and Mr. Jerry Dusing, Adams Law, were present to speak on behalf of the applicant.

Mr. Alfort stated that he and Tim Alexander submitted the application. He stated that his family owns nearly 400 acres of land in the area that they currently farm, including the site in question. He stated that Porter Road was named after his great-great-grandfather. He stated that farming is not lucrative and the proposed event barn would be used to supplement the cost of continuing the use of the property for agricultural activity.

Mr. Mackay presented the issue which included a Powerpoint presentation. He identified the site, existing tree lines, and distances from the event barn to the limits of the property. He stated that under the current A-2 district, an approximate 60 lot subdivision could be developed. He stated that the occupancy of 250 people would be what the building could handle and that additional people could be accommodated for outdoor events. He stated that the hours of operation would be noon to 10:00 pm on Sundays through Thursdays and noon to 11:00 pm on Fridays and Saturdays. He stated that amplified music would be done only inside the building and that all music would end by the operating hours and that all guests would have to leave the site no later than one hour after closing. He stated that

they have letters/emails from Boone County Public Works and the Verona Fire Department approving the proposed access to the site. He stated that they have letters of support from Michael Bowlin, Ernie and Christina Ryan, and Steve and Amy Cauthen.

Mr. Dusing stated that the application meets the requirements of Sections 262 and 623 of the zoning ordinance. He stated that the proposed event center is innocuous to any adjacent property owner, other than the Mills who are part of the applicant's. He stated that the event barn will allow the farm to continue and will be designed to be visually consistent with other farm buildings. He stated that the indoor capacity would be approximately 250 people and the 300 number would include some potential outdoor overflow. He stated that the traffic issue has been dealt with by talking with Boone County Public Works and Verona Fire, both of which have given their approval of the proposed access. He stated that the cost to pave the approximate 1200 foot long driveway would be \$403,000.00.

Vice-Chairman Miller asked how many events a day would there be. Mr. Mackay stated that there would be no more than one event a day and that they do not anticipate an event every day.

Vice-Chairman Miller asked if a traffic impact study has been prepared. Mr. Dusing replied that a traffic study has not been done because it has not been justified. Based on the amount of traffic generated and the amount of traffic on Porter Road.

Chairman Whitton asked if there was anyone in attendance that wanted to speak in favor of this issue.

Mr. Ritchie Paik stated that he owns two properties in the adjacent subdivision and he is in favor of the request since it will not provide for additional housing on the street.

Chairman Whitton asked if there was anyone in attendance that wanted to speak against this issue.

Mr. Gary Heeman stated that the proposal is about 1,200 feet from a residential neighborhood and the events will be disruptive to the families in the area. He stated that the noise will carry through the valley. He stated that Porter Road is narrow and has a bend. He stated that two cars cannot pass one another. He stated that the road is very dark at night.

Ms. Andrea Walton stated that she was the first lot owner in Porter Plantation. She stated that Mr. Alfort has been a great neighbor, but is not in favor of the request. She stated that the intersection of Porter Road with Verona Mudlick Road does not

have a traffic signal, just a flashing light. She stated that the intersection is dangerous. She stated that Walton-Verona Elementary School is located at the beginning of Porter Road and the hours of the event center will conflict with bus traffic and drop off/pick up of the school children. She stated that a vehicle and a bus cannot pass one another on Porter Road without one of the vehicles going off the pavement into the grass area. She stated that there are no sidewalks along Porter Road and the proposed event center will be hazardous to those that run and walk along Porter Road. She stated that since there is no centralized sanitary sewer service, the portable bathrooms that are being proposed will create an odor that will be discernable from the subdivision. She stated that the noise from the event center will disturb the horses that are in the area.

Ms. Cindy Baker stated that she works for David Muller and she was speaking on his behalf. She stated that he has the same concerns that Ms. Walton stated.

Mr. Steve Schaefer stated that he has the same concerns about Porter Road. He stated that there are backups when the school day starts and ends making it difficult to get onto Verona-Mudlick Road.

Vice-Chairman Miller asked if there was a way to determine how many on-line had concerns regarding Porter Road. A visual count of those whose cameras were active came to approximately 10 people who shared that concern.

Ms. Melissa Barger stated that delivery trucks and catering trucks, being larger vehicles will compound the issues on Porter Road.

Ms. Bonnie Walton stated that she would like a policy so that the event barn would not have the beginning or ending of events at the same time that the school is opening or closing. Mr. Mackay replied that the applicant can accommodate that request.

Ms. Walton stated that she believes that a traffic study is necessary. She stated that she appreciates the cultural aesthetic of the event center building, but is concerned that the commercial activity of the event center will not be consistent with the cultural feel of the area.

Mr. Mackay replied that typically a traffic study is required by the owner of the road. In this case, that would be Boone County Public Works and they did not request a traffic study when they approved the access to the site.

Vice-Chairman Miller stated that he would want to see a traffic study prior to making a decision on this request. He asked if the Board could include a condition that a traffic study be prepared. Mr. Schwartz replied that the Board could take

action to approve the request with a condition that a traffic study be submitted. Mr. Schwartz stated that the traffic study would be evaluated by staff and other county departments and that the Board would not be part of that evaluation. Mr. Schwartz stated that an alternative would be that the Board could deny the request or defer action until a traffic study is prepared and submitted to the Board.

Ms. Suzi Francis stated that passing cars on Porter Road is a problem and that she agrees with previous comments.

Ms. Liselle Newberry stated that she agrees with other regarding the traffic on Porter Road. She stated that she is concerned about drunk drivers who be leaving the events.

Mr. Rick Sizemore asked if a business plan has been submitted. Mr. Schwartz replied that no business plan had been submitted and that it is not required to be submitted.

Mr. Sizemore asked if an alcohol permit would be required. Mr. Schwartz replied that that is not under the purview by this Board and that they would have to meet the requirements of the appropriate regulating authority.

Mr. Sizemore asked how grey water would be handled. Mr. Dusing replied that they will comply with all regulations of the appropriate bodies.

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 defer action until such time as a traffic impact study is conducted and submitted to the Board for its review. That motion died for a lack of a second.

Mrs. Hempfling made a motion to approve the Conditional Use Permit, subject to the conditions suggested by staff. Mr. Vaught-Hall seconded the motion.

Mr. Schwartz asked if an additional condition was to be included regarding the timing of events and the timing of the opening and closing of the school and if the motion should include a basis/findings of fact.

Mrs. Hempfling clarified that her motion is to approve the Conditional Use Permit, subject to compliance with the following conditions: (1) Development shall be consistent with the plans and material submitted as part of the application; (2) That the driveway and off-street parking area be paved with asphalt concrete or

Portland cement concrete, unless a waiver is granted by the zoning administrator; (3) If a waiver is granted by the zoning administrator, allowing a gravel driveway, the first nineteen (19) feet of the driveway, starting where it intersects with Porter Road, shall be paved with asphalt concrete or Portland cement concrete; (4) That the parking spaces immediately adjacent to any building meet the minimum requirements of the zoning regulations; (5) The event center shall not schedule the beginning or ending of an event at the same time that Walton-Verona Elementary School conducts their opening or closing; and (6) A Site Plan shall be submitted to, and approved by, the Boone County Planning Commission prior to any construction. The basis for the motion is: (1) that the submitted application, along with the conditions, meets the requirements of Sections 262 and 623 of the zoning regulations; (2) given the location of the proposed activity, the use will not be a hazard or nuisance to adjacent properties; (3) the applicant has provided sufficient information as to how they intend to provide access to the site; (4) the proposed design allows for the continued agricultural activity on the site; and (5) the use will not be visible from the adjacent street system, nor will it be visibly intrusive to adjacent properties to the north, east, or west of the site. Mr. Vaught-Hall agreed and again seconded the motion.

Chairman Whitton called for the vote which found Chairman Whitton, Mrs. Hempfling, Mr. Weltzer, and Mr. Vaught-Hall in favor of the motion and Vice-Chairman Miller against the motion. Chairman Whitton stated that the motion passed by a vote of 4 yes and 1 no.

4. Request of Gregory and Linda Dorning, for a Variance to reduce the minimum rear yard setback from twenty-five (25) feet to twenty-three (23) feet in order to build a deck and sunroom. The approximate 0.27 acre area is located at 1266 Strathmore Court, Boone County, Kentucky and is zoned Residential Planned Development (RPD).

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. Gregory Dorning stated that there will be no deck and that they want to install a 12 by 12 sunroom. He stated that based on dimensions that he was given by his contractor, he needs a 6-inch variance for the gutter line.

Mr. Schwartz stated that he talked with the contractor and based on the GIS information, a 12 by 12 building addition would extend two feet into the required rear yard setback. That is why the application is submitted.

Chairman Whitton asked if there was anyone in attendance that wanted to speak to this issue.

Mr. Kerry Tarvin stated that a Champion representative told them that there would only be a 6 inch variance request. He stated that he had not met the applicant and asked Mr. Dorning if he had gone around the neighborhood with a petition regarding his request and if he had come to their house. Mr. Dorning replied that he had gone to their house on three occasions, but no one answered the door. Mr. Tarvin stated that they were against the request. Mr. Tarvin stated that the back yards appear to be smaller than they actually are. Mr. Tarvin stated that two relators have told him that the proposed addition will lower his property value. Mr. Tarving asked if the addition could be smaller and meet the minimum rear yard setback.

Mrs. Brenda Tarvin stated that if the variance is granted, he will still need 6 inches for the gutter line. She stated that the rear yard appears smaller than it actually is.

Mrs. Linda Dorning stated that the addition will be built up to the level of the first floor so that there will be no steps.

Chairman Whitton asked if there was any further discussion.

Mr. Vaught-Hall stated that a previous deck application was denied. He asked what the setback showed on that application. Mr. Schwartz replied that the deck would have been 15'-3" from the rear property line.

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

Mr. Weltzer made a motion to approve the Variance. Vice Chairman Miller seconded the motion.

Chairman Whitton called for the vote which found Chairman Whitton, Mrs. Hempfling, Mr. Weltzer, and Vice-Chairman Miller in favor of the motion and Mr. Vaught-Hall against the motion. Chairman Whitton stated that the motion passed by a vote of 4 yes and 1 no.

OTHER

None.

ADJOURNMENT

Chairman Whitton asked for a motion to adjourn the meeting. Mr. Weltzer 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 8:09 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Planner