

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
JULY 14, 2021
6:00 P.M.**

Mr. Vaught-Hall 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:

Mrs. Sherry Hempfling
Mr. Chris Vaught-Hall
Mr. Bill Weltzer

BOARD MEMBERS NOT PRESENT:

Mr. George Whitton, Chairman
Mr. Richard Miller, Vice-Chairman

STAFF MEMBERS PRESENT:

Mr. Michael Schwartz, Planner
Mr. Kevin Wall, AICP, CDT – Director, Zoning Services

LEGAL COUNSEL PRESENT:

Mr. Dale T. Wilson

APPROVAL OF MINUTES

Mr. Vaught-Hall stated the Board members received copies of the minutes of the Boone County Board of Adjustment meeting of June 9, 2021. He asked if there were any other comments or corrections. Mrs. Hempfling moved to approve the minutes and Mr. Weltzer seconded the motion. Mr. Vaught-Hall called for the vote and it carried unanimously, 3 to 0.

ACTION ON REVIEWS

1. Request of Standard Textile Co., Inc., through Walter Speigel, submitted by Sean S. Suder, Attorney, for an Appeal of the Zoning Administrator's interpretation regarding signage and the prohibition of signage on a roof, for an approximate 39 acre area located at 2960 Riverview Drive, Boone County, Kentucky and is zoned Industrial One (I-1).

Staff Member, Kevin Wall, presented the Staff Report which included a Powerpoint presentation (see Staff Report).

Mr. Vaught-Hall asked the Board if they had any questions for staff. There were non.

Mr. Vaught-Hall asked the applicant if they would like to provide the Board with any other information.

Mr. Sean Suder introduced Jim Lefevre, Director of Operations for Standard Textile, and Walter Spiegel, General Counsel for Standard Textile. Mr. Suder stated that Mr. Lefevre would speak first and then he would continue with his remarks.

Mr. Lefevre provided background of the company stating that Standard Textile was founded in 1940 in Cincinnati. He stated that the company started by selling textile products, then moved into distribution, and now is involved in manufacturing. He stated that the company is now in its fourth generation of ownership. He stated that they are one of the only company's left where you can purchase towels and sheets from that are made in the US. He stated that they operate three mills in the US and they continue to invest in US production. He stated that most people have not heard of Standard Textile but they are the number one provider of health care linens. He stated that they are also a provider of textiles to hospitality brands, including Marriott. He stated that the next phase of their growth is the home retail market and that is why they want to put their logo on the roof of the building. He stated that they are trying to expand their name and identity. He stated that they had been leasing space in the Hebron area for 26 years prior to them building their new facility which is the site in question. He stated that the new facility represents an investment of 30 million dollars. He stated that the location is one of the key reasons why they made the investment. He stated that the site is situated at the east most runway of the airport and they want to take advantage of that location by placing their logo on the roof membrane. He stated that they employ approximately 50 full time people. The facility operates as a distribution center, their online e-commerce operations, some light manufacturing, and a retail outlet

store that operates on Saturdays. He stated that the purpose of the logo is to get their brand name out there and to expand their business. He stated that there is a significant cost involved and that will deter others from doing the same thing. He then showed a picture of what they would like to do.



He stated that the picture represents one of the concepts that they were evaluating.

Mr. Suder stated they believe that the Zoning Administrator erred in his interpretation. He stated that the entire issue comes down to the definition of a sign. He stated that the interpretation of the reading of the plain letter of the law is that what they are proposing is not a sign and if it is not a sign, it is not regulated by the zoning ordinance and no permit is required. He stated that the Zoning Administrator agrees that signs are structures, as defined by the Boone County Zoning Ordinance and KRS 100.111(21). He stated that the Zoning Administrator then claims that a painted logo/mural is somehow constructed, erected, or made and is attached to a building and then concludes that the painted logo/mural is both a structure and a sign. He stated that a structure is not something that is painted on something. He stated that the Zoning Administrator ignores the plain language, the operative passage being "structure means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs." He stated that a structure is dependent on being on the ground, having

a foundation, base, or attachment. He stated that painting a logo on a roof membrane is not dependent on being permanently affixed in or on the ground. Therefore, a painted logo/mural on a roof membrane is not a sign and not subject to regulation by the county. He stated that signs that are located on buildings are positioned toward someone on the ground and if one cannot see something from the ground it cannot impact the public health, safety, and welfare, which is the basic purpose of zoning regulations. He stated that their painted logo/mural will only be directed towards the flying public, which is in the exclusive jurisdiction of the federal government, then how does their proposal have any bearing on the people of Boone County. He stated that since the proposal is only directed at the flying public, which is in the jurisdiction of the federal government, Boone County has no jurisdiction.

Mr. Vaught-Hall asked if there was anyone in attendance that wanted to speak to this issue. There was none.

Mr. Vaught-Hall asked if there was any further discussion.

Mrs. Hempfling asked what is the intent of placing the painted logo/mural on the roof. Mr. Lefevre replied that is to get their name and branding out to the flying public. Mrs. Hempfling stated that it puts it in direct conflict with the definition of a sign which is a device designed to promote and identify an establishment or activity. Mr. Suder stated that what they want to do is not a device. Mrs. Hempfling stated that she does not agree with that statement.

Mr. Weltzer asked if the painted logo/mural could be seen from anyone on the Ohio side of the river. Mr. Lefevre replied that based on topography and foliage, he believes that it will not be able to be seen from the Ohio side of the river. Mr. Suder added that if can be seen by people in Ohio, they are out of the jurisdiction of Boone County.

Mr. Weltzer asked if the building is existing or proposed. Mr. Lefevre replied that the building is existing and that they are currently operating out of the building. Mr. Spiegel stated the building is a major investment by the company and that they are not walking away from the property.

Mr. Weltzer asked if this issue has ever come up before. Mr. Wall replied that he does not recall this issue coming up before, but we often get the question of whether a painted image is a sign and our response has always been yes, it is a sign.

Mrs. Hempfling asked what law is the Board being asked to interpret or apply. Mr. Wilson replied that what is before the Board is a decision/interpretation that has

been made by the Zoning Administrator, which is an interpretation of the Boone County Zoning ordinance. He stated that KRS 100 give the Zoning Administrator certain powers, but does not allow him to allow a use which is not allowed by the zoning regulations. He stated that in the Zoning Administrator's interpretation, there is no way that the proposal could be approved based on the zoning regulations, which is the law.

There being no other comments or questions, Mr. Vaught-Hall asked if the Board wanted to make a motion.

Mr. Weltzer moved to deny the request and uphold the Zoning Administrator's interpretation/decision. Mrs. Hempfling seconded the motion

Mr. Vaught-Hall called for the vote and it carried unanimously.

Mr. Schwartz stated that anyone who is aggrieved by the decision of the Board can appeal that decision to the Boone Circuit Court within thirty days from today's date.

2. Request of Triple Crown Developers, LLC, per Tony Berling, for a Variance reducing the rear yard setback from thirty (30) feet to twenty (20) feet in order to build a detached single-family residential dwelling and a deck. The approximate 0.29 acre parcel is located at 1184 McCarron Lane (northeast corner of McCarron Lane with Prat Court), Boone County, Kentucky and is zoned Suburban Residential One (SR-1).

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

Mr. Vaught-Hall asked the Board if they had any questions for staff. There were none.

Mr. Vaught-Hall asked the applicant if they would like to provide the Board with any other information.

Ms. Melanie Milson, Drees Homes, stated that she was in attendance with Ms. Donna Franky, Sales Manager. She stated that the proposed home design and size is consistent with other homes in the area. She stated that if the variance is denied, a different home design and size would have to be constructed, which might not meet the requirements of the Triple Crown guidelines and could be of less value of the other homes in the area.

Mr. Vaught-Hall asked if there was anyone in attendance that wanted to speak to this issue. There was none.

Mr. Vaught-Hall asked if there was any further discussion. There was none.

Mr. Vaught-Hall asked if the Board wanted to make a motion.

Mrs. Hempfling made a motion to approve the Variance. Mr. Weltzer seconded the motion.

Mr. Vaught-Hall called for the vote and it carried unanimously.

3. Request of Matador Performance, per Edwin Reyes, on behalf of Schoonover Family Trust, per Rich Kopser, for a Conditional Use Permit to allow an automotive repair facility. The approximate 3.2 acre area is located at 10537 Dixie Highway, Boone County, Kentucky and is zoned Commercial One (C-1).

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

Mr. Vaught-Hall asked the Board if they had any questions for staff. There were none.

Mr. Vaught-Hall asked the applicant if they would like to provide the Board with any other information.

Mr. Edwin Reyes stated that he had nothing further to add and that he would be happy to answer any questions from the Board.

Mr. Vaught-Hall asked if there will be any exterior lighting. Mr. Reyes replied that they intend to provide lighting around the perimeter for safety and security. He stated that any lighting would not glare onto adjacent properties or the roadway.

Mr. Vaught-Hall asked if there would be any outside storage of materials or vehicles. Mr. Reyes replied that there will be no outside storage of materials.

Mr. Vaught-Hall asked if any vehicles will be stored on site, and if yes, how many. Mr. Reyes replied that no vehicles will be permanently stored on site, but there will be some vehicles parked that are either waiting to be serviced or waiting to be picked up by the owner.

Mr. Vaught-Hall asked if any noise will be generated from the business. Mr. Reyes replied that there will be normal operational noise from the business, but all activities will be conducted indoors and their operating hours will be Monday to Friday, 9:00 am to 5:00 pm. Mr. Reyes stated that they will be install insulation in the building to reduce noise levels. Mr. Reyes stated that the placement of the

building was done so that it kept the most distance between their business and the adjacent residential properties.

Mr. Vaught-Hall asked if any service vehicles will be stored on site. Mr. Reyes replied that there will be no service vehicles stores on site. However, on occasion, there will be a tow truck bring in a vehicle for service. After delivery, that tow truck will leave the premises.

Mr. Vaught-Hall asked if the tow truck delivery would be done after hours or during business hours. Mr. Reyes replied that it is their intention to have those deliveries only during business hours.

Mr. Vaught-Hall asked if there was anyone in attendance that wanted to speak to this issue. There was none.

Mr. Vaught-Hall asked if there was any further discussion. There was none.

Mr. Vaught-Hall asked if the Board wanted to make a motion.

Mr. Weltzer made a motion to approve the Conditional Use Permit. Mrs. Hempfling seconded the motion.

Mr. Schwartz asked if the motion included the conditions contained in the staff report, which he read into the record.

Mr. Weltzer restated that his motion is to approve the Conditional Use Permit subject to the following conditions:

1. Development of the site shall meet all of the requirements of the Boone County Zoning Regulations.
2. A Site Plan shall be submitted to, and approved by, the Boone County Planning Commission prior to any construction.
3. A minimum twenty-five (25) foot wide cross access easement shall be provided from Dixie Highway, centered along the proposed driveway, for a minimum distance of twenty (20) feet and then from the proposed driveway to the south property line of the site.
4. An encroachment permit shall be obtained from the Kentucky Transportation Cabinet and submitted as part of the required Site Plan application.
5. The proposed 10' x 10' storage area shall be fully enclosed and built with materials that are consistent with the principal structure.

6. No unlicensed vehicles shall be kept on the property.
7. No disabled vehicle shall be kept on the property for more than thirty (30) consecutive calendar days.
8. All vehicles waiting to be serviced, or those that have been serviced, excluding any vehicle parked within the building, shall be parked in a striped parking space.

Mrs. Hempfling confirmed that her second also included those conditions.

Mr. Vaught-Hall called for the vote and it carried unanimously.

OTHER

Mr. Schwartz stated that the next meeting of the Board would be on Wednesday, August 11, 2021 at 6:00 pm. He stated that the meeting would be in person and that one issue has already been submitted.

ADJOURNMENT

Mr. Vaught-Hall asked for a motion to adjourn the meeting. Mrs. Hempfling made a motion to adjourn and Mr. Weltzer seconded the motion.

Mr. Vaught-Hall called for the vote and the meeting was adjourned by unanimous consent at 6:59 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Planner