

**BOONE COUNTY BOARD OF ADJUSTMENT  
BOONE COUNTY ADMINISTRATION BUILDING  
BOONE COUNTY FISCAL COURTROOM  
BUSINESS MEETING  
AUGUST 11, 2021  
6:00 P.M.**

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

**BOARD MEMBERS PRESENT:**

Mr. George Whitton, Chairman  
Mr. Chris Vaught-Hall  
Mr. Bill Weltzer

**BOARD MEMBERS NOT PRESENT:**

Mr. Richard Miller, Vice-Chairman  
Mrs. Sherry Hempfling

**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 July 14, 2021. He stated that he found one error on Page 6, Item 3, where his name is mentioned and he was not present at the meeting. The sentence should start with Mr. Vaught-Hall. He asked if there were any other comments or corrections. Mr. Vaught-Hall moved to approve the minutes as corrected and Mr. Weltzer seconded the motion. Chairman Whitton called for the vote and it carried unanimously, 3 to 0.

**ACTION ON REVIEWS**

Chairman Whitton stated that he was changing the agenda and would move Item 8 to the first Item on the agenda.

8. Request of Jakes Farm Real Estate Development Co., LLC, per Mark Jacobs, for

a Conditional Use Permit and Variances. The Conditional Use Permit is to allow the expansion of an existing structure for an event center, eating and drinking establishment, and retail sales. The event center would include outdoor seating area, farmers market, pergolas, food truck parking, and off-street parking areas. The variances would increase the height of a free standing sign from eight (8) feet to ten (10) feet and increase the maximum sign area of a free standing sign from thirty-two (32) square feet to forty (40) square feet. The approximate 50 acre area is located at the southeast corner of the intersection of Richwood Road with Schmidt Lane, including the properties at 731, 733, and 735 Richwood Road and the properties having Parcel Identification Numbers (PIDN) of 065.01-02-001.00 and 065.01-02-007.00, Boone County, Kentucky and is zoned Agricultural Estate (A-2).

Mr. Weltzer stated that he has a conflict of interest with this item since he has a family member who works for Viox and Viox, Inc., the engineering company for the project. He stated that he would not be present or participating or voting on this issue.

Chairman Whitton stated that since Mr. Weltzer has recused himself for this issue, they are left with two Board members, which does not constitute a quorum. He stated that this issue would be deferred until the Board's September 8, 2021 meeting at 6:00 pm. He apologized to those in attendance.

Mr. Schwartz reminded the audience that due to the Covid-19 situation, the September 8, 2021 meeting will likely be virtual and that anybody who is interested in this issue should contact the Planning Commission office for updates.

A member of the audience asked when the Board knew about Mr. Weltzer's recusal. Mr. Schwartz stated that regardless of when the Board knew, the Board had to announce the issue, have a recusal on the record, and inform everyone at the same time about the deferral and the next meeting date.

Another member of the audience asked if the public can submit additional comments relating to this issue prior to the next meeting.

Mr. Schwartz replied yes.

Mr. Tom Breidenstein stated for the record that he was present on behalf of the applicant and property owners and he and the property owners would be out in the hallway if anybody wanted to discuss their proposal.

1. Request of The Drees Company, per Matt Mains, for a Variance to increase the height of an entrance sign from eight (8) feet to thirteen (13) feet. The approximate 21.88

acre area is located along the southeast side of Camp Ernst Road, between Lucia Drive and Pebble Creek Way, approximately 240 feet northeast of Lucia Way, and across from the main entrance to YMCA Camp Ernst, Boone County, Kentucky and is zoned Suburban Residential One (SR-1).

Mr. Schwartz stated that this issue has been withdrawn by the applicant.

2. Request of Aztec Properties, per Gina Smith, on behalf of Aztec Properties, per Hans Filippo, for a Change of Nonconforming Use to allow: (1) a change from a barber shop to office space for a portion of the north building; (2) a change from limo service storage to storage for a roofing contractor for the southwest building; and (3) a change from storage for a roofing contractor to storage for a general contractor for the southeast building. The approximate 1.46 acre area is located at 2942 Park Street, 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).

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. Jenna Smith stated that she had no other comments and was present to answer any questions.

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

Mr. Jeff Simmons stated that he lives off of Park Street and that this street is the only access to his property. He stated that the existing businesses park their trucks in the street for loading, unloading, and washing of the trucks, making it difficult to get in or out of his neighborhood. He stated that he does not mind the storage activity, but he wants to make sure that the use is not being expanded.

Chairman Whitton stated that the Board does not have the authority to grant an enlargement of a nonconforming use. He stated that the Board makes their decision based upon whether the new request is more nonconforming than the existing conditions.

Mr. Simmons stated that he believes that the new business will be more

nonconforming than what was there in the past. He stated that his concern is that there will be more trucks, more traffic, and more storage, creating an enforcement issue.

Mr. Vaught-Hall asked if the trucks were blocking the entire roadway or just a portion of the roadway.

Mr. Simmons replied that they park their trucks, leaving a single lane on the roadway for the two-way traffic. He stated that he wants to be on record notifying the applicant that they cannot have any more activity than what was previously there. He asked if the Board could attach conditions to their action.

Chairman Whitton asked Mr. Dale Wilson to answer that question.

Mr. Wilson stated that the new use cannot be more objectionable than the previous use. If the Board makes a finding that the new use is more objectionable, the Board could attach conditions to their action.

Ms. Laticia Thompson stated that her property is located immediately to the north of the site. She stated that she has a fishing lake on her property that she maintains and she is concerned about what will be stored in the buildings and if any of that material will flow to her property and her lake.

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 Change of Nonconforming Use, as submitted. Mr. Vaught-Hall seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

3. Request of Jack Kells for Variances: (1) to reduce the side yard setback from ten (10) feet to 3.3 feet in order to construct a warehouse building; and (2) to reduce the minimum Buffer Yard A width from ten (10) feet to 3.3 feet. The approximate 0.83 acre area is located at 1930 American Avenue and the parcel having a Parcel ID of 059.00-06-255.00, Boone County, Kentucky and is zoned Industrial One (I-1).

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. Brian Kells stated that he was present on behalf of the applicant and he also has with him Don Stegman, the engineer for the project.

Mr. Stegman stated that the area is an old subdivision and that most of the properties have been purchased by the airport. He stated that the property owner is trying to have the two lots work together and utilize the existing curb cut. He stated that all of the bay doors on the new building will be oriented toward the interior of the development, towards the existing building. He stated that the new building had to be pushed to the east so that there would be enough maneuvering space for trucks between the two buildings. He stated that the owner to the east, who would be most affected by the request, has submitted a letter stating that he approves of the request. He stated that the new building would be built into the existing mound on the site, so as not to change the topography from the roadway. He stated that even with the reduced setback, there is sufficient room to provide maintenance to that side of the building.

Mr. Kells stated that he has never had any contact with the airport regarding the use of their property and its effect on airport property. He stated that he does not know why the airport provided those comments to the Board.

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 Variances. Mr. Weltzer seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

4. Request of Erik Frey, on behalf of Christine Lynn Frey, for Variances: (1) to reduce the rear yard setback from thirty (30) feet to twenty-three (23) feet in order to construct a warehouse building; and (2) to reduce the minimum Buffer Yard A width from ten (10) feet to four (4) feet. The approximate 0.22 acre area is located along the south side of Cessna Place, approximately 800 feet east of American Avenue/Piedmont Court, having a Parcel Identification Number (PIDN) of 059.00-

06-245.00, Boone County, Kentucky and is zoned Industrial One (I-1).

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. Eric Frey stated that there are no neighbors to his property and that he realizes that the access to the site is from an unimproved right-of-way. He stated that the shape of the lot is restrictive to the development of the site. He stated that he believes that his application meets the requirements for granting a variance.

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 Variances. Mr. Weltzer seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

5. Request of Smith Welding and Fabrication, Inc., per Bill Smith, on behalf of MRS Properties, LLC, per Amanda Smith, for Variances: (1) to reduce the front yard setback from fifty (50) feet to twenty (20) feet; and (2) to reduce the rear yard setback from thirty (30) feet to twenty (20) feet in order to construct building additions. The approximate 0.73 acre area is located at 1575 Production Drive, Boone County, Kentucky and is zoned Industrial One (I-1).

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. Richard Carr stated that he was present on behalf of the applicant. He stated that the new owners would be improving the property by cleaning it up, removing the trucks that are parked in the front of the building and replacing portions of the existing fence. He stated that the site is located on the outside of the curve and there will be no impact on sight distance as a result of the requested variance. He stated that the area to the rear of the site is a steep hillside and that it would probably never be developed.

Chairman Whitton asked if Mr. Carr could speak to the Building Department's comment pertaining to the requirement of an indoor sprinkler system.

Mr. Carr replied that they will be keeping the area of the office function below 5,000 square feet, which is the limit that requires a sprinkler system. He stated that they will comply with all Building Code requirements.

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 Variances. Mr. Vaught-Hall seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

6. Request of Chris and Erin Saunders, for a Variance to reduce the rear yard setback from twenty-five (25) feet to twenty (20) feet in order to build a covered patio. The approximate 0.42 acre area is located at 1302 Rivermeade Drive, 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. Chris Saunders stated that he did get letters of support from the neighbors, specifically, the neighbor immediately to the west of 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.

Mr. Vaught-Hall made a motion to approve the Variance. Mr. Weltzer seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

7. Request of Hermes Construction Co., per Tyson Hermes, on behalf of Lebanon House, Inc. per Wym Portman, for a Conditional Use Permit to allow a church. The approximate 3.04 acre area is located along the northwest side of Turfway Road, between Cox Avenue and Olympic Boulevard, approximately 600 feet northeast of Cox Avenue, and being directly southwest of the property located at 3444 Turfway Road, Boone County, Kentucky and is zoned Industrial One (I-1).

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 he was present on behalf of the developer. He stated that he had a meeting with the Assistant Chief of the Point Pleasant Fire District who took the issue of an easement to their Board earlier this morning. He stated that Fire Department's primary concerns are: (1) the ability to get out of their facility when an emergency call is received; and (2) drafting a maintenance agreement where the church would share in the cost of maintaining the driveway. He stated that the Fire Department felt that they could work with the church since there would be at least one lane available for emergency egress for the fire equipment vehicles. Mr. Hermes stated that the primary reason for using the shared driveway with the Fire District is to protect the creek by not having another crossing.

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 with the following conditions:

1. Development shall be consistent with the plans and material submitted as part of the application.
2. The development shall meet the minimum requirements of the Boone County Zoning Regulations.
3. A Site Plan shall be submitted to, and approved by, the Boone County Planning Commission prior to any construction.
4. That the ingress/egress easement be recorded prior to the submittal of a Site Plan application.

Mr. Weltzer 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 Mr. Weltzer seconded the motion.

Chairman Whitton called for the vote and the meeting was adjourned by unanimous consent at 7:08 p.m.

**APPROVED**

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**Chairman George Whitton**

**ATTEST:**

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**Michael D. Schwartz**  
**Planner**