

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
OCTOBER 13, 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. Richard Miller, Vice-Chairman
Mrs. Sherry Hempfling
Mr. Chris Vaught-Hall

BOARD MEMBERS NOT PRESENT:

Mr. Bill Weltzer

STAFF MEMBERS PRESENT:

Mr. Michael Schwartz, Director, Zoning Services

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 11, 2021. Vice-Chairman Miller stated that he found several typographical errors. He asked if there were any other comments or corrections. Mr. Vaught-Hall moved to approve the minutes as corrected and Vice-Chairman Miller seconded the motion. Chairman Whitton called for the vote and it carried unanimously, 4 to 0.

ACTION ON REVIEWS

1. Request of Joe and Sue Kate Berkshire for a Variance to reduce the minimum required frontage from sixty-five (65) feet to zero (0) feet. The approximate 1.004 acre area is located at 2460 Preservation Way, being at the terminus of Preservation Way, 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.

Vice-Chairman Miller asked what is the process for dedicating an unimproved right-of-way. Mr. Schwartz replied that the applicant would have to submit a Preliminary Plat, an Improvement Plan, and a Final Plat, rather than a Conveyance Plat.

Vice-Chairman asked if the Variance was approved, would the existing fence have to be removed. Mr. Schwartz replied that since the fence was installed as part of an Agricultural exemption, the fence could stay and if it did not meet the zoning requirements, it would be considered a nonconforming structure.

Vice-Chairman Miller asked where the author of the email, Mr. Wuellner, lived. Mr. Schwartz stated that he is an adjoining property owner and showed the location on the screen.

Mr. Vaught-Hall asked if the existing chain link fence runs along the property line of the proposed lot. Mr. Schwartz replied that staff does not know the exact location of the fence.

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

Mr. Joe Berkshire stated that they have had a lot of trouble with kids trespassing on their property. He stated that they need the fence for security. He stated that the property has been in his family for 200 years and the intent of the request is to provide a lot for his grandson who currently lives in the house.

Mr. Vaught-Hall asked if a more aesthetically pleasing fence was ever considered. Mr. Berkshire replied that he needs a fence that cannot be scaled.

Vice-Chairman Miller asked what type of fence is allowed. Mr. Schwartz replied that a 6-foot high fence is allowed in the side and rear yard and that a 4-foot high ornamental fence is allowed in the front yard.

Vice-Chairman Miller asked what happens to the fence if the Board approves the Variance request with no conditions. Mr. Schwartz replied that the fence could stay where it is and any portion of the fence that does not meet the zoning

requirements would be considered a nonconforming structure.

Mr. Wilson stated that the submitted email referenced the application as a zone change. Mr. Wilson clarified, for the record, that the request is for a Variance.

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

Chairman Whitton asked if there was any further discussion. Mrs. Hempfling asked if this situation has come up before. Mr. Schwartz replied that this situation is unusual and is not often encountered.

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

Mr. Vaught-Hall made a motion to approve the Variance, as submitted. Mrs. Hempfling seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

2. Request of CPB Land works, per Phil Burkhart, on behalf of Toebben Ltd., per Jake Toebben, for a Conditional Use Permit to allow auto sales. The approximate 3.69 acre area is located along the west side of Toebben Drive, between Mt. Zion Road and Fleet Boulevard, approximately 2,100 feet south of Mt. Zion Road, and being immediately south of the property located at 10149 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.

Mr. Vaught-Hall asked if this was going to be an open air lot. Mr. Schwartz replied that the submitted concept plan shows a portion of the building to be used for auto sales activity and a parking lot.

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

Mr. Phil Burkhart stated that the automobiles will be within the building and not in the parking lot.

Chairman Whitton asked if there would be any outdoor display of cars. Mr. Burkhart replied no.

Vice-Chairman Miller asked what type of cars would be for sale. Mr. Burkhart replied that they would be high end, gently used cars.

Mr. Vaught-Hall asked how many cars would be for sale at any given time. Mr. Burkhart replied approximately ten (10).

Vice-Chairman Miller asked what use would be in the remaining part of the building. Mr. Burkhart replied that it would be a retail distribution facility for tools and fasteners.

Mr. Vaught-Hall asked what type of signage they were contemplating. Mr. Burkhart replied that they were thinking about a sign on the building with no free-standing signs.

Vice-Chairman Miller asked if they were agreeable to all the potential conditions listed in the staff report. Mr. Burkhart replied that he was agreeable to all the conditions, except condition 4. They would like to repair/service the vehicles. Chairman Whitton asked if the condition stated, 'The servicing/repair of vehicles shall be limited to only those that are being sold.' Would be acceptable. Mr. Burkhart replied that he can agree to that condition.

Mr. Jake Toeppen asked how the 25/75 percent ratio would be administered if the building is built in phases. Mr. Schwartz replied that when the Site Plan is submitted for review, the entire building would be shown, noting the phasing of development. The 25/75 percent ratio would be based on the entire building, not just the first phase. Mr. Burkhart stated that he was comfortable with the 25/75 percent ratio.

Chairman Whitton asked if there was anyone in attendance 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 Conditional Use Permit with the following conditions: (1) No more than twenty-five (25) percent of the building square footage can be devoted to the Conditional Use of auto sales; (2) No more than twenty-five (25) percent of the parking area can be devoted to the auto sales inventory; (3) Any automobile in disrepair shall be kept in a completely enclosed building; (4) The servicing/repair of vehicles shall be limited to only those that are being sold; (5) The development shall meet the minimum requirements of the Boone County Zoning Regulations; and (6) A Site Plan shall be submitted to, and approved by, the Boone County

Planning Commission prior to any construction. Mr. Vaught-Hall seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

3. Request of Melissa Baker, on behalf of William and Melissa Baker for a Variance to reduce the minimum required front yard setback from eighty (80) feet to 57.8 feet. The approximate 23.8969 acre area is located at 4435 Beaver Road, being along the south side of Beaver Road, approximately 5,000 feet west of Ryle Road and immediately to the west of 4417 Beaver Road, Boone County, Kentucky and is zoned Agricultural One (A-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.

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

Ms. Melissa Baker stated that she had nothing more to add.

Mr. William Baker stated that they want to build a ranch house out of the floodplain and this area is the only area on the site that is not in the floodplain.

Chairman Whitton asked if there was anyone in attendance 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.

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

Chairman Whitton called for the vote and it carried unanimously.

4. Request of Revisions Redevelopment Company, LLC, per Robert Fohl, for a Variance to reduce the front yard setback from forty-eight (48) feet to twenty (20) feet. The approximate 0.538 acre area is located at 3059 Torrid Street, Boone County, Kentucky and is zoned Suburban Residential Two/Small Community Overlay (SR-2/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.

Chairman Whitton asked what is the difference between the previous submittal and the current submittal. Mr. Schwartz replied that the two submittals are almost identical, except that the buffer yard width is now being met and the internal parking areas have been revised.

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

Mr. Robert Fohl stated when he made the previous submittal, he did not know the dimensions of the proposed buildings. He now knows what they are. To provide for better internal parking, the buildings need to be located closer to the front property line.

Vice-Chairman Miller asked if the potential condition in the staff report was acceptable. Mr. Fohl replied that he agrees to the condition.

Chairman Whitton asked if there was anyone in attendance 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 Variance, subject to the condition that prior to construction, a Major Site Plan shall be submitted to the Boone County Planning Commission for review and approval. 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. Vice-Chairman Miller made a motion to adjourn and Mr. Vaught-Hall seconded the motion.

Chairman Whitton called for the vote and the meeting was adjourned by unanimous consent at 6:42 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Director, Zoning Services