

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
DECEMBER 8, 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

BOARD MEMBERS NOT PRESENT:

Mr. Chris Vaught-Hall
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 November 10, 2021. He asked if there were any other comments or corrections. Vice-Chairman Miller and Mrs. Hempfling stated that there were several typographical errors. Vice-Chairman Miller moved to approve the minutes, as corrected and Mrs. Hempfling seconded the motion. Chairman Whitton called for the vote and it carried unanimously, 3 to 0.

Mr. Schwartz informed the Board that Jakes Farm, LLC has paid for a transcript of the Board's meeting for their issue. Pursuant to KRS 100.221(3), that transcript has been received and will be filed with the Board's official minutes.

ACTION ON REVIEWS

1. Request of ABC Signs, Inc., per Meghan Meyer, on behalf of Givaudan Flavors Corp., per Rachel A. Mowad for two Variances. The Variances are to: (1) increase the height of a directional sign from five (5) feet to 8'-7"; and (2) to increase the sign area of a directional sign from ten (10) square feet to 25.84 square feet. The approximate 20.65 acre parcel is located at 9500 Sam Neace Drive, Boone County, Kentucky and zoned Industrial Two

(1-2).

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 the existing sign is in compliance. Mr. Schwartz replied that it is not. Vice-Chairman Miller asked how did the sign get there if it is not in compliance. Mr. Schwartz replied that no permit was issued for the existing sign. Vice-Chairman Miller asked for clarification that the proposed sign was an internal directional sign. Mr. Schwartz replied that is correct.

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

Ms. Meghan Meyer, ABC Signs, stated that they already have a permit to change the face of the existing monument sign along with painting the base of the existing monument signs. She stated the reason for the request is to provide better direction to truck drivers and motorists entering the property. She stated that the proposed sign is set back far from Sam Neace Drive and will not be visible from Sam Neace Drive.

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

Chairman Whitton closed the public hearing and asked the Board if there was any further discussion. There was none.

Vice-Chairman Miller made a motion to approve the requested Variances as submitted. Mrs. Hempfling seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

2. Request of Podium Automotive, per Matt Amann, on behalf of Petersburg Road, LLC, per Andrew Schaeff for a Conditional Use Permit. The Conditional Use Permit is to remove a condition from a previously approved Conditional Use Permit limiting the servicing of vehicles to only those being sold on the site. The approximate 0.17 acre parcel is located at 1938 Petersburg Road, Boone County, Kentucky and zoned Commercial Two/Small Community Overlay (C-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.

Mrs. Hempfling asked if the building has only two bays. Mr. Schwartz replied yes.

Vice-Chairman Miller asked how many parking spots are on the property. Mr. Schwartz replied that since the parking area is not striped, staff does not know how many parking spaces are on the site.

Vice-Chairman Miller asked if the applicant was intending to continue the auto sales operation. Mr. Schwartz replied yes.

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

Mr. Matt Aman stated that auto service is already taking place on the site, just for the cars that are being sold on the site. He would like to open that service up to anybody. He stated that they would operate a small, two-bay shop servicing approximately 5 vehicles a day. He stated that there are other auto service shops within a quarter mile of this site and they want to be competitive with those shops.

Vice-Chairman Miller asked how many cars will they usually have on the site. Mr. Aman replied that they intend to have approximately five cars on the site for servicing and sell approximately 3 to 5 cars a month.

Vice Chairman Miller asked if a restriction of a maximum of ten cars on the site any given time would be acceptable. Mr. Aman replied yes. He also stated that they are contractually obligated to make some exterior improvements to the property. He stated that their application included the statement that all cars parked on the outside of the building will not be in disrepair.

Mrs. Hempfling asked how many vehicles can be worked on inside the building at the same time. Mr. Aman replied two.

Mrs. Hempfling asked how they would address the parking issue. Mr. Aman replied that they are willing to paint parking space lines on the pavement.

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

Chairman Whitton closed the public hearing and asked the Board 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, subject to the following conditions: (1) That the parking spaces be striped; and (2) No vehicles in disrepair shall be allowed to be parked or stored outside of the building. Mrs. Hempfling seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

3. Request of Paul and Marlys Arlinghaus for a Conditional Use Permit. The Conditional Use Permit is to allow the existing single-family residential dwelling to be used as a short term rental. The approximate 0.23 acre parcel is located at 7674 Cloudstone Drive, Boone County, Kentucky and 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.

Mrs. Hempfling asked about the staff report and the staff concerns where insufficient information has been submitted. She asked how these can be achieved or met. Mr. Schwartz replied that the applicant could have submitted a statement with their application agreeing to all of the stipulations or that the statement can be submitted with their permit, should the Board approve the request.

Vice-Chairman Miller asked if the site was being used for a short term rental prior to this application. Mr. Schwartz replied that he 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. Paul Arlinghaus stated that he was aware of all of the requirements and that he will meet those requirements, except for the parking issue. He stated that he was not aware of the issue and that four cars can park on the driveway.

Mr. Schwartz stated that only two cars can legally park on the driveway. The other two cars extend into the right-of-way.

There was a discussion regarding the use of the bedrooms and the number of parking spaces that will be required.

Mr. Arlinghaus asked if there is enough space for an additional parking pad. Mr. Schwartz replied that it appears that there is space.

Vice-Chairman Miller asked if the site was previously being used for a short term rental. Mr. Arlinghaus replied that the property has not been used for a short term rental, but has been used for long term rental, 30 days or more.

Vice-Chairman Miller asked how long they have been renting out the property. Mr. Arlinghaus replied 2 – 3 years.

Ms. LeAnn Arlinghaus asked if the parking regulation can be changed. Mr. Schwartz replied that the Fiscal Court would have to submit a text amendment application for a public hearing review and legislative action. She stated that they do not intend to have more than four cars on the site at any given time.

Mrs. Hempfling asked how they would control the number of cars on the site. Ms. Arlinghaus replied that they would put that stipulation in their contracts and if a tenant did not comply, they could immediately evict them.

Chairman Whitton asked if they are agreeable to the eight suggested conditions listed in the staff report. Ms. Arlinghaus stated that they are agreeable to those conditions.

Ms. Laticia Reed and Mr. Reed stated that they believe that the area should be used as residential and not short term rental. She stated that the short term rental will decrease their property value.

Vice-Chairman Miller asked if there have been any issues with the long term rental of the property. Ms. Reed replied no.

Mr. Richard Biggs stated that the property has been well maintained, however, short term rental is not appropriate in a family-friendly neighborhood. He stated that he has a concern with transient traffic in and out of the area.

Ms. Kim Bogard stated she believes there is no need for a short term rental in a residential neighborhood. She asked if there are any other short term rentals in the area. Mr. Dale Wilson stated that the existing regulations prohibit short term rentals from being within 1,000 feet of one another. She stated that she has a concern over safety.

Ms. Tammy Tomasello stated that she has concerns about noise and having designated quiet times. She asked about enforcement of the regulations. Mr. Schwartz gave a brief description of the enforcement provisions in the County permit regulations. She asked if there is a prohibition on the keeping of pets. Mr. Schwartz replied that there is no prohibition as part of the county regulations.

Ms. Arlinghaus gave a description of how short term rentals are operated and regulated in general and how they specifically regulate their short term rental units.

Mr. Biggs asked if the short term rental can continue if the current owner sells the property. Mr. Schwartz replied that the Conditional Use stays with the land, not the owner. However, the new owner would have to receive a Short Term Rental permit from the County.

Mrs. Hempfling asked if the occupants of the short term rental could have a birthday party. Mr. Schwartz replied that the prohibition on parties was meant to prohibit parties where outside visitors are in attendance.

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, subject to the following conditions: (1) There shall be no external on-site or off-site advertising signs or displays indicating the property is a short term rental; (2) Any advertisement of the

property as a short term rental and all rental contracts must contain language that specifies that the maximum occupancy shall not exceed seven (7) guests; (3) Either; (a) A hard surface parking pad, at least nine (9) feet in width and eighteen (18) feet in length shall be provided along the existing driveway, without widening the existing curb cut; or (b) The short term rental be limited to only two of the three bedrooms; (4) Any advertisement of the property as a short term rental and all rental contracts must contain language that specifies that the maximum number of vehicles shall not exceed three (3); (5) Any advertisement of the property as a short term rental and all rental contracts must contain language that specifies that on-street parking shall be prohibited; (6) Construction of additional exterior ingress/egress doorways shall be prohibited and access to individual guest rooms or suites shall be from the interior of the structure; (7) A written prohibition against the use of a short term rental for having a party must be provided in every advertisement, listing, or other publication offering the premises for rent; and (8) A Zoning Permit shall be submitted to, and approved by, the Boone County Planning Commission prior to any use of the property as a short term rental. Mrs. Hempfling seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

4. Request of Janson and Amanda Cahill, on behalf of Joseph and Julie Naas for a Variance. The variance is to reduce the front yard setback from sixty (60) feet to forty-four (44) feet in order to construct a detached single-family residential dwelling. The approximate 2.5 acre parcel is located at 1491 Grapevine Ridge, being immediately south of the property located at 1485 Grapevine Ridge, Boone County, Kentucky and zoned Agricultural Estate (A-2).

Staff Member, Michael Schwartz, presented the Staff Report which included a Powerpoint presentation (see Staff Report). Mr. Schwartz stated that four emails were received and that copies have been distributed to the Board members and will become part of the record (see project file).

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. Amanda Cahill stated that they want to build a house on the property and that her father-in-law would be their builder. She stated they would like to have a usable back yard, possibly with a pool, and they would need to move the house closer to the road due to the hillside. She stated that they have revised their house plans to make it less deep so as to ask for the least possible variance.

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

Mr. Greg Selby stated that the hardship on the other site was that the house was approximately 75% built when they applied for their variance and that it was impractical to

raze the house and start over. He stated that the variance that was denied had the same topographical issues and they spent the money to reinforce the foundation and built a house meeting the required setback. He stated that all of the properties in the area have hillsides in their back yards and that the 60 foot front yard setback adds to the character of the area. All of the other homeowners have spent the money to put in the property foundations and walls and to meet the required setback.

Mr. Joe Besheer stated that he agreed with the previous speaker and that the 60 foot setback is appropriate. He stated that the neighbor would be looking at the front and side of the proposed house if the variance is approved.

Ms. Cariss Shipe stated that she has spoken with the applicant and they have modified their plans to make it fit on the property. She stated that she is in favor of the request.

Mr. Nelson Hyland stated that he wanted the proposed house to be in line with his house and that the variance should be denied.

Ms. Cahill stated that due to their revised house plans, they would agree to a variance reducing the front yard setback from 60 feet to 51 feet.

Mrs. Hempfling asked if the pool is a must. Ms. Cahill replied that a pool would be nice, but they will eliminate it if necessary.

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 deny the Variance on the basis of the evidence and testimony provided at the public hearing.

A roll call vote showed Vice-Chairman Miller and Mrs. Hempfling voting yes and Chairman Whitton voting no. The motion to deny passed by a vote of 2 to 1.

5. Request of KLB3 Investments, Inc., per Ken Brown, for a Conditional Use Permit. The Conditional Use Permit is to remove a condition from a previously approved Conditional Use Permit prohibiting outdoor storage. The approximate 2.18 acre parcel is located at 2983 Phyllis Court, Boone County, Kentucky and zoned Commercial Two (C-2).

Staff Member, Michael Schwartz, presented the Staff Report which included a Powerpoint presentation (see Staff Report). Mr. Schwartz stated that an email was received and that copies have been distributed to the Board members and will become part of the record (see project file).

Chairman Whitton asked the Board if they had any questions for staff. Vice-Chairman Miller asked about the current violation status on the site. Mr. Schwartz replied that staff operates on a complaint basis. If a complaint is registered with our office, our Code Enforcement Officer follows up on it.

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

Mr. Ken Brown stated he is currently storing recreational vehicles on the site and that the Code Enforcement Officer has told him that he can continue to do so while this application is in process. He stated that he can only accommodate eight spaces and that he wants to be competitive with other self storage facilities near him.

Vice Chairman Miller asked if he was willing to revise the internal circulation to accommodate one way traffic. Mr. Brown replied that he is willing to paint arrows on the pavement to direct the traffic.

Mr. Brown stated that he has had no issues while the existing recreational vehicles have been on the site.

Vice Chairman Miller asked if there will be designated spaces. Mr. Brown replied that they are essentially designated spaces now. Vice-Chairman Miller asked if these spaces could be striped. Mr. Brown replied that he is willing to do that.

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, subject to the following conditions: (1) The recreational vehicle spaces shall be designated and striped; and (2) A site plan shall be submitted to, and approved by, the Boone County Planning Commission prior to allowing any outdoor storage. Mrs. Hempfling seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

6. Request of Tony Berling on behalf of Triple Crown Developers, LLC, per James Berling for a Variance. The Variance is to reduce the front yard setback from thirty (30) feet to twenty-five (25) feet in order to construct a detached single-family residential dwelling. The approximate 0.36 acre parcel is located at 604 Coaltown Court, Boone County, Kentucky and 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.

Mr. Tony Berling distributed a drawing showing the distance between the proposed house and the adjacent houses (see project file). He stated that the property is under contract pending approval of the variance. He stated that variance is necessary due to the storm drainage easement in the rear yard and that only the garage will project into the required front yard setback.

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. Mrs. Hempfling seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

OTHER

There was a brief discussion regarding the Appeal filed by Mr. Mohamed Fall. Mr. Wilson asked if any of the Board members were served prior to Thursday, December 2, 2021. Each member responded no. No action was taken.

ADJOURNMENT

Chairman Whitton made a motion to adjourn the meeting. Vice-Chairman Miller seconded the motion.

Chairman Whitton called for the vote and the meeting was adjourned by unanimous consent at 7:34 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Director, Zoning Services