

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
JANUARY 12, 2022
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 due to the threats to public health presented by the novel coronavirus (COVID 19) pandemic.

Mr. Schwartz confirmed that all those in attendance could see and/or hear the proceedings. All those in attendance stated that they could see and/or hear the proceedings.

BOARD MEMBERS PRESENT:

Mr. George Whitton, Chairman
Mr. Richard Miller, Vice-Chairman
Mr. Chris Vaught-Hall
Mrs. Sherry Hempfling
Mr. Bill Weltzer

BOARD MEMBERS NOT PRESENT:

None

STAFF MEMBERS PRESENT:

Mr. Michael Schwartz, Director, Zoning Services
Ms. Alaina Hagenseker, 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 December 8, 2021. He asked if there were any other comments or corrections. Vice-Chairman Miller moved to approve the minutes and Mrs. Hempfling seconded the motion. Chairman Whitton called for the vote and it carried

unanimously.

ELECTION OF OFFICERS

Chairman Whitton stated that this is the first meeting of the year and it was time to elect officers for 2022.

Chairman Whitton asked for nominations for Chairman. Vice-Chairman Miller nominated Chairman Whitton. With no other nominations, Chairman Whitton called for a vote and it passed unanimously.

Chairman Whitton asked for nominations for Vice-Chairman. Chairman Whitton nominated Vice-Chairman Miller. Mr. Weltzer nominated Mr. Vaught-Hall. A roll call vote found Chairman Whitton, Vice-Chairman Miller, Mrs. Hempfling, and Mr. Vaught-Hall voting for Vice-Chairman Miller and Mr. Weltzer voting for Mr. Vaught-Hall. By a 4 to 1 vote, Vice-Chairman Miller was nominated for Vice-Chairman.

Chairman Whitton asked for nominations for Secretary/Treasurer. Vice-Chairman Miller nominated Mr. Vaught-Hall. With no other nominations, Chairman Whitton called for a vote and it passed unanimously.

ACTION ON REVIEWS

1. Request of Potter House Group, per Lee Rickey, on behalf of Briand and Dianne Evans, for a Variance increasing the maximum front yard setback from 53 feet to 330 feet in order to construct a detached single-family residential dwelling. The approximate 10 acre parcel is located at 3130 Beaver Road, Boone County, Kentucky and is zoned Rural Suburban Estates/Small Community Overlay (RSE/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.

Vice-Chairman Miller asked if the new location would place the house in the area described as Developmentally Sensitive. Mr. Schwartz replied no.

Chairman Whitton asked the applicant if they would like to provide the Board with any other information. Mr. Lee Rickey stated that the house is located in the proposed location due to the topography of the site. He stated that the septic system has to be located on the flatter portion of the site, which would be in front of the house. He stated that the proposed setback is in line with other houses in

the area.

Chairman Whitton asked if there was anybody else in attendance that wanted to speak to this issue. Mr. Rob Depue stated that he is a neighbor to the proposed site and that he is in favor of the proposed variance. He stated that the required setback of 53 feet would be out of character with the area and that he would prefer to see the open area as he drives down the roadway. He stated that he believes that the proposed development will be a nice estate lot.

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.

2. Request of Jack Kells for a Variance to reduce the minimum spacing of curb cuts from five hundred (500) feet to nine (9) feet. The approximate 0.83 acre parcel is located at 1920 and 1930 American Avenue, 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. Chairman Whitton asked if the distance between the two driveways will be nine (9) feet. Mr. Schwartz replied yes.

Mrs. Hempfling asked what the reason was for having two driveways. Mr. Schwartz replied that the current design requires trucks to make an “S” movement to get to the new building. Also, as trucks leave the new building, the new driveway will allow for a straight approach.

Vice-Chairman Miller asked if the applicant could create one wide driveway. Mr. Schwartz replied that they could, however, they would have to ask for a variance to increase the maximum width of a driveway. Mr. Schwartz also stated that the proposed design creates less pavement area.

Chairman Whitton asked the applicant if they would like to provide the Board with any other information. Mr. Jack Kells stated that there could be a safety issue with two trucks having cross movement.

Chairman Whitton asked if there was anybody else 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 as submitted. Mr. Vaught-Hall seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

3. Request of Peter Rademacher, on behalf of Birkle Living Trust, per William Birkle, for a Conditional Use Permit to allow the construction of a small scaled workshop. The approximate 1.8 acre parcel is located at 2888 Front 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. There were none.

Chairman Whitton asked the applicant if they would like to provide the Board with any other information. The applicant was not present.

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

Chairman Whitton asked if there was any further discussion.

Vice-Chairman Miller asked if the proposed workshop would be for the applicant's personal use or would there be any sales from the site.

Since the applicant was not present, Mr. Schwartz stated that he believes that the proposed workshop is to work on small engines for the applicant's personal use as well as for friends and family.

Vice-Chairman Miller asked if the applicant was aware of the two stipulations regarding outside storage and hazardous substances. Mr. Schwartz replied that these are requirements of the zoning regulations and that it is staff's opinion that they should also be conditions so that it is clear.

Vice-Chairman Miller asked if the applicant would agree to a third condition that the activity be limited to private use. Mr. Schwartz replied that he cannot speak for the applicant. However, if the Board voted for that condition, and the applicant did not agree with it, he could file another application to the Board asking for that condition to be eliminated.

Vice-Chairman Miller stated that he has a concern of this activity being for commercial purposes due to the narrowness of the street and the affect of parking and signage on the adjacent residential properties.

Mrs. Hempfling stated that she agreed with Vice-Chairman Miller's comments and that this activity could get out of hand if it is opened up to friends of the applicant.

Chairman Whitton asked again if the applicant was on-line and wanted to address the Board. The applicant was not present.

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 hazardous or toxic substances; (2) There shall be no outside storage; and (3) The workshop shall only be for personal or family use. Mr. Vaught-Hall seconded the motion.

Mrs. Hempfling asked if there should be a fourth condition that only one of the three options can be built. Mr. Schwartz replied that the applicant is limited to one of the three options and cannot propose anything differently without coming back before the Board.

Chairman Whitton called for the vote and it carried unanimously.

4. Request of Collen Phillips for a Variance to reduce the minimum front yard setback from sixty (60) feet to twenty (20) feet. The approximate 1.3 acre parcel is located at 10113 Canoe Drive, 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. There were none.

Chairman Whitton asked the applicant if they would like to provide the Board with

any other information. Mr. Collen Phillips stated that his house would be in line with those of his neighbors. He stated that the front of the property slopes off and then it planes out and the back of the property slopes down. He stated that if the structure has to meet the 60 foot setback, he will have to get an engineered foundation wall and that would be cost prohibitive. He stated that it is a family owned road and his parents live across the street.

Chairman Whitton asked if a 30 foot front yard setback would work. Mr. Phillips replied no. He also stated that he had a petition with 8 of the 11 property owners on the street in favor of his request.

Chairman Whitton asked if there was anybody else 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. Mr. Weltzer seconded the motion.

Mr. Granville Hollan asked if he could speak. He stated that he did not hear Chairman Whitton earlier.

Chairman Whitton allowed Mr. Hollan to address the Board. Mr. Hollan stated that he is the neighbor to the south and that his house sits very close to the road. He stated that there is no problem with where he wants to build. He stated that it will not affect property values. He stated that he is in favor of the request.

Chairman Whitton called for the vote and it carried unanimously.

5. Request of Sven Investments Enterprises, Inc., per Sven Khan, for a Conditional Use Permit to allow the existing single-family residential dwelling to be used as a short term rental. The approximate 0.36 acre parcel is located at 3731 Avalon Drive, 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. Chairman Whitton asked for clarification regarding the required parking. Mr. Schwartz replied that two parking spaces needed to be provided for the house, regardless of how it is used, and one space for each bedroom. Since the house has three bedrooms, a total of five parking spaces are required and the site can legally accommodate

four vehicles, two in the garage and two on the driveway.

Chairman Whitton asked the applicant if they would like to provide the Board with any other information. The applicant was not present.

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

Vice-Chairman Miller asked for clarification regarding the public hearing and that no action will be taken at this meeting. Mr. Schwartz replied that there was an error in the legal advertisement and that rather than inconvenience those that have already been notified, the Board would begin the public hearing tonight and continue it to their next meeting in February and that action on the issue would take place at their February meeting.

Mr. Larry Snyder stated that he lives next door to the site and that he is against the request. He stated that he has concerns about what kind of people could be using the house. He stated that he has observed the workers who are renovating the house and that they have obscene stickers on their trucks. He stated that if these are the type of people that he hires, he can only imagine the type of people he would rent to. He stated that the owner lives in Florida. He stated that there is five-star bed and breakfast 0.9 miles away and that this type of use is not needed in this residential neighborhood.

Mr. Brett Hayes stated that he agrees with the comments made by Mr. Snyder. He stated that he lives across the street from the site. He stated that he believes that the owner's sister will be the one who manages the property. He stated that he is concerned about safety and that there will be parties at the house. He stated that there are not enough regulations that would control this type of use to make it safe for the neighborhood. He stated that he strongly opposes this project.

Mr. Keith Cahill stated that he agrees with the previous two speakers. He stated that the proposed short term rental will not be a good fit for the area. He stated that he would like to see the request denied.

Chairman Whitton asked if there was any further discussion. Vice-Chairman Miller asked if there was any evidence that the property has ever been used as a rental. Mr. Schwartz replied that he did not know the answer to the question. Mr. Snyder stated that the property has never been used as a rental and that the previous owner, who lived in the house, recently sold the property. Mr. Hayes stated that he has lived in his house for 16 years and in all that time the property was owner occupied.

Vice-Chairman Miller asked how the Board should proceed since the public hearing will be continued next month. Mr. Schwartz replied that when all comments have been taken at tonight's meeting, the Chair will state that the public hearing will be continued on February 9, 2022 at 6:00 pm and that any action on this issue will be deferred until that meeting. At their next meeting, the Chair will continue the public hearing and take additional comments and testimony.

Mr. Hayes asked if the public attending tonight's meeting will get another invite to next month's meeting. Mr. Schwartz replied yes, the three gentlemen who spoke tonight, along with any other emails staff has obtained, will get notified of the next meeting, which will be virtual, and that they will get a new Zoom link to that meeting.

Mr. Snyder asked if staff could notify others in the neighborhood. Mr. Schwartz replied that all required notification has been done. He stated that if others in the neighborhood want to attend the next meeting, they can contact staff and provide their email address. He stated that those in attendance tonight could forward the Zoom link to others in the neighborhood.

Chairman Whitton asked if there was any more comments. There were none.

Chairman Whitton stated that the public hearing will be continued on February 9, 2022 at 6:00 pm and that action on this issue will be made at that meeting.

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 7:01 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Director, Zoning Services