

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
JULY 13, 2022
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
Mrs. Sherry Hempfling

BOARD MEMBERS NOT PRESENT:

Mr. Richard Miller, Vice-Chairman
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 June 8, 2022. He asked if there were any other comments or corrections. There were none. Mr. Vaught-Hall moved to approve the minutes. Mrs. Hempfling seconded the motion. Chairman Whitton called for the vote and it carried unanimously.

ACTION ON REVIEWS

1. Request of All Aboard LLC, per Timothy Marshall, for a Conditional Use Permit to allow the existing single-family dwelling to be used as a short term rental. The approximate 1,200 square foot area is located at 6447 Glendale Court, Boone County, Kentucky and is zoned Suburban Residential One/Planned Development (SR-1/PD).

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 if the applicant wanted to address the Board.

Mr. Timothy Marshall stated that he has four parking spaces and that there is no way to get to the five required spaces.

Mr. Vaught-Hall asked if he was admitting that he cannot meet the required five (5) parking spaces. Mr. Marshall replied yes, that his application showed four (4) parking spaces.

Chairman Whitton asked how many bedrooms will be used. Mr. Marshall replied that he thought that the Board would assign that number.

Mrs. Hempfling asked what is the unit currently being used for. Mr. Marshall replied that he is currently renting the unit out for long-term rentals, being 30 days or more.

Mr. Dale Wilson suggested that that the Chair ask the applicant if he wanted to make a presentation at this time.

Chairman Whitton asked Mr. Marshall if he had any sort of presentation to the Board.

Mr. Marshall stated that he did not have a formal presentation. He stated that he has been a part of the community renting for over five (5) years and has not had any problems. He stated that he is very responsive and attentive. He stated that if the application is approved, no other unit can have a short term rental due to the 1000 foot spacing requirement.

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

Mr. Michael Koseruba stated that the HOA rules designate only one space, other than the garage and driveway for each unit. He stated that he has observed tenants hang their laundry to dry in the back yard area. He stated that a significant number of people do not want this short term rental to occur. He stated that the HOA cannot police every situation that may arise from this use. He stated that the use is not needed since there are a sufficient number of hotel rooms within the area.

Ms. Judy Forbes and Ms. Barbara Scott stated that they are on the Board of the HOA and that the Board is against the request. They stated that they believe that the short term rental will be a nuisance. They stated that the streets are narrow. They stated that they consider this to be a business and not a residential use.

Mr. Dana Smith stated that he has been an owner for 30 years. He stated that he is concerned about the number of people that will be in the unit and the noise that will be created. He stated that this is a quiet neighborhood and that the noise will be disruptive.

Ms. Melinda McGriffin stated that each owner is equal in the association and that there are ways to change the HOA rules. She stated that each owner has to contribute to the association's umbrella insurance policy and that the short term rental use will increase

these insurance payments for everybody.

Chairman Whitton asked Mr. Dale Wilson to speak to the difference between zoning regulations and HOA regulations.

Mr. Wilson stated that HOA regulations are private covenants that cannot be enforced by the legislative body since they are not adopted by the legislative body.

Ms. Sheryle Pinson stated she has lived in the area for 18 years. She stated that she has swept empty beer bottles and chicken bones from the driveway of the site. She stated that she is concerned with security. She stated that she knows her neighbors and will not know who is occupying the unit.

Ms. Denise Newbolt stated that she is in the process of selling her home and that she is concerned with property values being reduced.

Chairman Whitton asked if the applicant wanted to respond to any of the public comments.

Mr. Marshall stated that he has more control over short term rentals than long term rentals. He stated that he lives in Ohio. He stated that he has been quick to rectify situations, whether here or at other sites that he owns. He stated that he hopes to rent to families. He stated that he currently has a family to rent the house for 35 days and then two sergeant trainees from New Mexico. He stated that he does not have to do this if his neighbors are against it.

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 deny the Conditional Use Permit based on the evidence and testimony that the Short Term Rental will not be in character with the rest of the area and it will be detrimental to other properties and residents of the area. He made other findings including:

1. The proposed short term rental is not in accord with the Comprehensive Plan which identifies the area for residential uses, not a commercial enterprise.
2. The proposed short term rental does not meet all of the requirements of the zoning regulations and any improvements to the property that will bring the site into compliance with the zoning regulations will not be in character with the surrounding area.

To bring the property into compliance with the parking requirements, additional parking spaces will have to be added. There is insufficient space to accommodate additional parking spaces.

3. Due to the location of the site, and its proximity to the collector and arterial street system of the current roadway network, the proposed short term rental at this

location is not adequately served by essential public facilities.

4. Based on the off-street parking requirement, all of the required short term parking spaces will be located in community spaces that are not reserved for the site in question. As such, there is no assurance that these spaces will be available for the site. Additionally, other community spaces that might be available are not within a reasonable distance of the site.

Ms. Hempfling seconded the motion and stated that Overall Goal A, Objective 4, from the comprehensive plan states that a balance should be struck between landowners and the rights of neighbors and that this request is not balanced with the rights of the neighbors.

Chairman Whitton called for the vote and it carried unanimously.

2. Request of Shelly and J.T. Hale, for a Variance reducing the front yard setback from thirty (30) feet to fifteen (15) feet to allow for a covered porch. The approximate 0.31 acre parcel is located at 888 Edgehill Road, 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 if the applicant wanted to address the Board.

Shelly Hale and James Hale stated that they want to improve their property, make the home more functional, and improve their property value.

Chairman Whitton asked if there was anyone present 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.

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

Chairman Whitton called for the vote and the meeting was adjourned by unanimous consent at 6:50 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Director, Zoning Services