

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
DECEMBER 19, 2022
6:00 P.M.**

Chairman Whitton called the meeting to order at 6:02 P.M.

BOARD MEMBERS PRESENT:

Mr. George Whitton, Chairman
Mrs. Sherry Hempfling
Mr. Bill Weltzer

BOARD MEMBERS NOT PRESENT:

Mr. Richard Miller, Vice-Chairman
Mr. Chris Vaught-Hall

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 30, 2022. He asked if there were any comments or corrections. There were none. Mrs. Hempfling moved to approve the minutes. Mr. Weltzer seconded the motion. Chairman Whitton called for the vote and it carried unanimously.

ACTION ON REVIEWS

Mr. Schwartz announced that the 7th item on the agenda will not be heard tonight and will be deferred until the Board's January 11, 20223 meeting at the request of the applicant.

At the request of the applicant, Chairman Whitton changed the order of the agenda and took the last item first.

9. Request of Riegler Blacktop Inc, per Dan Riegler, on behalf of Riegler Investments LLC, for a Variance reducing the front yard setback from fifty (50) feet to twenty-six (26) feet. The approximate 7.1 acre area is located at 343 Weaver Road, 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.

There were none.

Chairman Whitton asked if the applicant wanted to address the Board.

Mr. Dan Riegler stated that the purpose for the request is to allow for the truck traffic to maneuver more easily. He stated that the concrete blocks would be removed and that any vegetation that is removed will be replaced. He also stated that a sanitary sewer extension will be placed along Weaver Road and the elevations will work better with the building being located closer to the roadway.

Chairman Whitton asked if there was anyone present 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. Weltzer made a motion to approve the Variance. Mrs. Hempfling seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

1. Request of Caledonia Cottage LLC, per Jeffrey Coppage, for a Conditional Use Permit to allow the existing single-family residential dwelling to be used as a short term rental. The approximate 0.67 acre parcel is located at 1500 Caledonia Court, 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.

Mrs. Hempfling asked if there was only one house to the right of the site. Mr. Schwartz replied that there is a house to the left of the site.

Chairman Whitton asked if the applicant wanted to address the Board.

The applicant was not present.

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

Mr. Dave Shushereba stated that he is the neighbor and that he moved into the home in May 2022. He stated that the property owners do not live in the country during much of

the year. He stated that the house is constantly full of tenants and they do not move their cars off the driveway so they use his yard to access the street.

Loretta Holbrook stated that she felt that it is inappropriate for a single-family residence to be used as a short term rental.

Chairman Whitton asked if there was any further discussion.

Mrs. Hempfling asked if the site has been used as a short term rental. Mr. Schwartz replied that staff has not issued any permit for a short term rental on the site.

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

Mr. Weltzer made a motion to deny the Conditional Use Permit on the basis that the applicant was not present to address the concerns that were stated during the public hearing. Mrs. Hempfling seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

2. Request of Brad Calhoun for a Variance reducing the rear yard setback from thirty (30) feet to fifteen (15) feet. The approximate 3,250 square foot area is located at 4 Boone Lake 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.

There were none.

Chairman Whitton asked if the applicant wanted to address the Board.

Mr. Brad Calhoun stated that the roads are private and maintained by the residents of the Boone Lake Club. He stated that his neighbor's house is ten feet from the lake and that his addition will be eighteen feet from the lake. He stated that there are 22 other houses that are 20 feet from the lake.

Ms. Sarah Rogers stated that she is the President of Boone Lake Club. She stated that she is in favor of the request and that she is in favor of any request that helps the residents to improve their properties.

Chairman Whitton asked if there was anyone present 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.

Mrs. Hempfling made a motion to approve the Variance. Mr. Weltzer seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

3. Request of Briere Properties LLC, per Martine Rose, for a Conditional Use Permit to allow three (3) existing single-family residential dwellings to be used as short term rentals. The approximate 5.4 acre parcel is located at 6199 East Bend 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.

Mrs. Hempfling asked if there was a regulation stating that the short term rental had to be in the principal structure only. Mr. Schwartz replied that the regulation states that the short term rental must be within a dwelling unit.

Chairman Whitton asked if the applicant wanted to address the Board.

Ms. Martine Rose stated that the property is large and lends itself to short term rental. She stated that they are far enough from the adjacent houses so as not to cause any nuisance.

Chairman Whitton asked if all of the buildings have a bedroom, kitchen, and bathroom.

Mr. Eric Rose replied that all of the buildings have those components and that they are upgrading them to be more modern.

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

Jeff Hansel stated that he lives in Rabbit Hash next to a short term rental run by the applicant and that they have had a wonderful experience. He stated that the Rose's are renovating the house in a manner which is consistent with its historic nature.

Chairman Whitton asked if the applicant agreed to the suggested conditions in the staff report. Mr. Rose replied that they will agree to those conditions.

Chairman Whitton asked if there was any further discussion.

Mrs. Hempfling asked if the property was listed as an historic property. Mr. Schwartz replied that he did not know the answer to the question.

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

Mr. Weltzer made a motion to approve the Conditional Use Permit, subject to the following

conditions:

1. There shall be no more than ten (10) guests at any given time in the main house (building 1).
2. There shall be no more than four (4) guests at any given time in the cottage house (building 2).
3. There shall be no more than four (4) guests at any given time in the carriage house (building 3).
4. 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.
5. At the time that a Zoning Permit is submitted to the Boone County Planning Commission, documentation shall be submitted verifying that the cottage house (building 2) and the carriage house (building 3) each has, at a minimum, a kitchen, a bathroom, and a bedroom area.

Mrs. Hempfling seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

4. Request of McBride Dale Clarion, per Jonathan Wocher, on behalf of Walter Hayes, LLC, for a Conditional Use Permit to allow a truck stop. The approximate 8.3 acre area is located at 10018 Dixie Highway, Boone County, Kentucky and is zoned Commercial Services (C-3).

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. Jonathan Wocher stated that their facility will not include many of the components that atypical truck stop has, such as showers, hundreds of parking spaces, lounge areas, and service bays. He stated that QuickTrip intends to purchase the entire property and initially develop the western half. He stated that the proposal will not have a negative impact on the area.

Ehmet Hayes stated that he lives in the area and that his family has owned the property since the 1960's. He stated that he thinks it is appropriate to have truck fueling facilities in the area to accommodate the truck traffic in the area.

Chairman Whitton asked if there was anyone present 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.

Mrs. Hempfling made a motion to approve the Conditional Use Permit. Chairman Whitton seconded the motion.

A voice vote found Mrs. Hempfling and Chairman Whitton in favor of the motion and Mr. Weltzer opposed to the motion. The motion passed by a vote of 2 to 1.

3. Request of Patricia M. Miller, on behalf of Leon Hilton Green, for a Conditional Use Permit to allow the existing single-family residential dwelling to be used as short term rental. The approximate 38.6 acre parcel is located at 9379 Camp Ernst Road, Boone County, Kentucky and is zoned Agricultural One (A-1) and 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 if the applicant wanted to address the Board.

Patricia Miller stated that she is an experience property manager and that she is buying this property as a farm as well as to provide for a short term rental. She stated that there is plenty of parking and there is nobody around her. She stated that there will be no more than four people staying in the home at a time.

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

Patrick Parento stated that he is an adjoining property owner and asked if the sale of the property is pending based on the outcome of this hearing. He stated that the property has already been used as a short term rental. He stated that there has been gunfire from the property and that he has a concern about safety.

Kyle Green stated that he is an adjoining property owner and he is concerned about the safety for his children.

Michelle Mamo stated that she is the real estate agent and that Ms. Miller is in the process of purchasing the property. She stated that the current owner is the one that has been operating the short term rental illegally and not her client.

Ms. Miller stated that she will not allow guns on her property if the request is approved and that she will post the property with signs stating no hunting.

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 deny the request. Mrs. Hempfling seconded the motion. Mr. Dale Wilson stated that the motion needed to include findings of fact. Following a brief discussion, Mr. Weltzer rescinded his motion and Mrs. Hempfling rescinded her second.

Chairman Whitton made a motion to approve the Conditional Use Permit, subject to the following conditions:

1. There shall be no more than four (4) guests at any given time.
2. Guns shall be prohibited on the site.
3. 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 which found Chairman Whitton and Mrs. Hempfling voting yes and Mr. Weltzer voting no.

The motion passed by a vote of 2 to 1.

6. Request of George and Cristi Eten for a Variance reducing the front yard setback from thirty (30) feet to twenty-seven (27) feet. The approximate 0.20 acre area is located at 587 Buckshire Glen, 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.

George Eten stated that the concrete is already poured and is six feet from the left hand side of the bump out of the house. The requested variance is needed to make a more usable porch.

Chairman Whitton asked if there was anyone present 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.

Mrs. Hempfling made a motion to approve the Variance. Mr. Weltzer seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

8. Request of 7922 LLC, per Thomas Wilson, for a Conditional Use Permit to allow the existing single-family residential dwelling to be used as short term rental. The approximate 1.0 acre parcel is located at 7922 Pleasant Valley Road, Boone County, Kentucky and is zoned Rural Suburban (RS).

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.

Thomas Wilson stated that he lives in the area and he bought the property with the idea that he could use it as a short term rental and as a future home for his children. He stated that his partner is a neighbor and that he is also a neighbor. He stated that they have more control over the property as a short term rental rather than a month-to-month or yearly rental.

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

Karen Caldwell stated that she lives next door and has lived there since 1987. She stated that she has concerns that the tenants will not be screened and that there will be parties on the site. She stated that there is nothing to show where the property line is located and that the short term renters will get on her property. She stated that she is concerned that her sense of privacy will be gone. She stated that Pleasant Valley Road is dangerous due to speeding and that people who are unfamiliar with the area could cause additional traffic hazards. She stated that the current septic system may not be able to handle ten people.

Donna Baker stated that she is not comfortable with the change of people that a short term rental will bring to the area.

Linda Riley stated that she agrees with the comments made by Ms. Caldwell. She stated that the area is quiet and safe. She stated that the short term rental will change that feeling. She stated that she believes that there is an opportunity for a long-term rental.

Tom Riley stated that the short term rental will create excessive noise, possible vandalism, and garbage in the street.

Thomas Wilson stated that he is sympathetic to the issues brought up by the neighbors. He stated that he would do the appropriate background checks and that since he lives in the area, he is in a position to police the property. He stated that if the Board denies the request, he will rent the property on a long-term basis.

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 deny the Conditional Use Permit on the basis that there is a long established single-family residential character in the area and the proposed short term rental will negatively impact that character.

Mr. Weltzer seconded the motion.

Chairman Whitton called for the vote which found Mrs. Hempfling and Mr. Weltzer voting yes and Chairman Whitton voting no.

The motion passed by a vote of 2 to 1.

Members of the public asked if there is an appeal process.

OTHER

None

ADJOURNMENT

Chairman Whitton asked for a motion to adjourn the meeting. Mr. Weltzer 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 7:47 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Director, Zoning Services