

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
JANUARY 11, 2023
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
Dr. Ryan Estes

BOARD MEMBERS NOT PRESENT:

Mr. Bill Weltzer

STAFF MEMBERS PRESENT:

Mr. Michael Schwartz, Director, Zoning Services

LEGAL COUNSEL PRESENT:

Mr. Dale T. Wilson

Mr. Dale Wilson stated that Dr. Estes was sworn in prior to the start of the meeting.

ELECTION OF OFFICERS

Chairman Whitton stated that this is the first meeting of the year and it was time to elect officers for 2023.

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

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

Chairman Whitton asked for nominations for Secretary/Treasurer. Vice-Chairman Miller nominated Mrs. Hempfling. Chairman Whitton seconded the motion. With no other nominations, Chairman Whitton called for a vote and it passed unanimously.

APPROVAL OF MINUTES

Chairman Whitton stated the Board members received copies of the minutes of the Boone County Board of Adjustment meeting of December 19, 2022. 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.

ACTION ON REVIEWS

1. Request of Solgen Power LLC, per Melissa Dick, on behalf of Brian and Anastasia Smothers, for a Variance reducing the front yard setback from sixty (60) feet to zero (0) feet to allow for the installation of ground mounted solar panels. The approximate 8.6 acre parcel is located at 1330 Eads Road, 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.

Vice-Chairman Miller asked if the application was submitted after the solar array was installed.

Mr. Schwartz stated that staff received a complaint regarding the installation of ground mounted solar panels. Staff investigated and it was determined that there was no permit on file for the ground mounted solar panels. Once the property owner was informed, they submitted the application for the Variance.

Chairman Whitton asked the applicant if they would like to provide the Board with any other information. Mr. Brian Smothers stated that the solar array is offset by twenty (20) feet and the submitted drawing is incorrect as the array starts at the west end of the existing barn. He stated that he measured from the center of the roadway.

Vice-Chairman Miller asked why a permit was not submitted prior to the installation of the array. Mr. Smothers replied that the solar company that was installing the array was going to apply for the appropriate permits.

Mr. Wade Clyde, Solgen Power, LLC, stated that they originally were going to place the solar panels on the roof of an existing structure and no zoning permit was required to do that. He stated that the plans changed to provide for ground mounted solar panels. He stated that they applied for a building permit and they failed to recognize that they needed a zoning permit. He provided the Board with a drawing showing the measurements from the roadway, along with pictures of the existing array (see project file).

Vice-Chairman Miller asked if the Variance was denied, would it be possible to move the solar array. Mr. Clyde replied that it could be done, but at a great expense since much of the installed equipment would have to be scrapped, re-ordered, and re-installed.

Vice-Chairman Miller asked the owner if they would agree to the two potential conditions stated in the staff report. Mr. Smothers replied that he would agree to those conditions.

Dr. Estes asked what is the purpose of the setback. Mr. Schwartz replied that the setback provides safety for the roadway, provides for aesthetics, and provides for a clear viewshed in the rural part of the County.

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

Mr. Jerrod Smock stated that he has property directly across the street and that he objects to the request. He stated that the problem should not be placed on the neighbors. He stated that if the permit had been applied for, they would have known where to place the panels. He stated that he had a concern regarding the sun glare from the panels and the impact that might have on those driving on Eads Road. He stated that existing panels are an eyesore.

Mrs. Vicky Smock stated that she can see the panels from her house. She stated that if they were set back farther, she would not be able to see them as much. She stated that she also has a concern regarding potential glare from the panels. She stated that if the Variance is granted, it could set a precedent for future applications.

Mr. Sam Crissman stated that he is the neighbor to the east and that he has no problem with the request.

Mr. Clyde handed out study material indicating that the panels absorb light and do not reflect it (see project file).

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 request based on the testimony provided and that the appropriate permit was not applied for. Dr. Estes seconded the motion.

Chairman Whitton called for the vote which found Vice-Chairman Miller, Mrs. Hempfling, and Dr. Estes voting yes and Chairman Whitton voting no. The motion passed by a vote of 3 to 1 and the request is denied.

2. Request of Tony Berling, on behalf of Camp Ernst Road LLC, for a Variance reducing the rear yard setback from fifty (50) feet to forty (40) feet for an approximate 0.90 acre area, being lots 1-8 of Hawk's Landing Subdivision – Phase 4. The approximate 0.90 acre parcel is located along the north side of Longbranch Road, between Gordon Boulevard and Kroth Lane, approximately 1,600 feet east of Gordon Boulevard, and having a Property Identification Number (PIDN) of 039.00-00-024.00, 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 the applicant if they would like to provide the Board with any other information.

Mr. Tony Berling stated that the developer has a contract with Drees Homes. He stated that there will be nice landscaping along the roadway.

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.

Mrs. Hempfling 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.

3. Request of Fedders Construction, per Rebecca Volpe, on behalf of Meyers-Phu Inc., per Lan Phu, for a Variance reducing the rear yard setback from thirty (30) feet to 10.95 feet to allow for the construction of a building addition. The approximate 0.7 acre parcel is located at 1528 Resource Drive, 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. There were none.

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

Al Fedders stated that they conducted an ALTA survey which did not reveal the easement along the rear property line. He stated that they will look into that to determine if the easement has been abandoned. He stated that the proposed design maximizes the site and provides the owner with the space that is needed for his growing business.

Vice-Chairman Miller asked if the easement does exist, what are the options for the building expansion. Mr. Fedders replied that they would look at redesigning the addition to provide for the needed floor space while staying out of the easement.

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 Variance. Mrs. Hempfling seconded the motion.

Chairman Whitton called for the vote and it carried unanimously.

4. Request of HSH Holland Inc. for a Variance reducing the minimum corner clearance of a driveway from an intersecting street, being Richwood Road, from two hundred thirty (230) feet to one hundred four (104) feet and from seventy-five (75) feet to seventy (70). The approximate 1.1 acre parcel is located at 320 Richwood Road, Boone County, Kentucky and is zoned Commercial Four (C-4).

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. Brian Dunham stated that the Variances are needed due to the road widening. If the road was not being widened, no Variances would be needed. He stated that the Variance allows for a better and safer flow of traffic onto and through the site. He stated that KYTC has indicated that they are fine with the proposed design. He stated that the right-in only access onto Paddock Drive is more controlled than other access points. He stated that the County Engineer has looked at the design and has indicated that he has no issues with the location of the proposed curb cuts.

Mr. Dillon Adams, One Holland, stated that the proposed design provides for sufficient stacking distance which will be contained on the site.

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. Dr. Estes 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 Chairman Whitton seconded the motion.

Chairman Whitton called for the vote and the meeting was adjourned by unanimous consent at 6:45 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Director, Zoning Services