

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
April 12, 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. Susan Poston

BOARD MEMBERS NOT PRESENT:

Mr. Bill Weltzer
Dr. Ryan Estes

STAFF MEMBERS PRESENT:

Mr. Michael Schwartz, Director, Zoning Services

LEGAL COUNSEL PRESENT:

Mr. Dale T. Wilson

Mr. Schwartz stated that Mrs. Hempfling has been replaced by Mrs. Poston and that Mr. Wilson administered the oath of office to Mrs. Poston prior to the start of the meeting.

APPROVAL OF MINUTES

Chairman Whitton stated the Board members received copies of the minutes of the Boone County Board of Adjustment meeting of March 8, 2023. He asked if there were any other comments or corrections. Vice-Chairman Miller moved to approve the minutes and Mrs. Poston seconded the motion. Chairman Whitton called for the vote and it carried unanimously.

ACTION ON REVIEWS

1. Request of Nidal Owda and Brigid Schwartz for a Variance reducing the rear yard setback from ten (10) feet to zero (0) feet to allow for a building expansion. The approximate 0.70 acre parcel is located at 10051-10053 Dixie Highway, Boone County, Kentucky and is zoned Commercial One (C-1).

Mr. Schwartz stated that he is not a relative of the applicant.

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 in attendance.

Vice-Chairman Miller asked what options does the Board have.

Mr. Schwartz replied that the Board could take action to approve the request, approve the request with conditions, deny the request, or defer the request until the Board's next meeting.

Mr. Wilson read a KRS 100 statute regarding variances.

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

Mr. Garrett Cuzick stated that the applicant services church equipment and helps the community. He stated that they strive to keep their site clean and that he has been good to the Gathering Place Church.

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 defer the request until the Board's May 10, 2023 meeting. Mrs. Poston seconded the motion.

Chairman Whitton called for the vote which passed 2 to 1, with Vice-Chairman Miller and Mrs. Poston voting yes and Chairman Whitton voting no.

2. Request of Gabriel Silva Munoz for a Variance reducing the front yard setback from thirty (30) feet to nineteen (19) feet to allow for a covered porch. The approximate 0.20 acre parcel is located at 619 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 the applicant if they would like to provide the Board with any other information.

Mr. Gabriel Munoz stated that he wants the covered porch for a safety reason. He stated that they cannot use their front door when it snows.

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. Poston made a motion to approve the proposed Variance. Vice-Chairman Miller seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

3. Request of Tony Berling, on behalf of Joyce Robinson Foundation, Inc. for a Conditional Use Permit to allow the conversion of an existing industrial building for an addition to the Gathering Place Church facility. The approximate 2.7 acre parcel is located at 10336 Dixie Highway, 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.

Mr. Garrett Cuzick stated that they were before the Board in 2019 to add the 6,000 square foot fellowship hall/school. He stated that in 1983 his grandparents started the church and that he is now the pastor. He stated that his grandfather built C&J Trucking. He stated that the site and the church property have always been connected with the family. He stated that the church purchased the site about 8 months ago. He stated that the intent of the project is to make one continuous church campus and that approval of the request will eliminate the semi-trucks from the area.

Vice-Chairman Miller asked if the applicant would agree with the suggested condition by staff. Mr. Cuzick replied that they would agree to that condition.

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 proposed Conditional Use Permit subject to the condition that a Buffer Yard A landscaping shall be installed along Dixie

Highway, between the curb cut and the south property line. Mrs. Poston seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

4. Request of Don Fromme, on behalf of Alexandra Fromme DVM and Christine Bartley DVM for a Conditional Use Permit to allow horse related uses and a veterinary clinic. The approximate 6 acre parcel is located at 6588 and 6590 East Bend Road, Boone County, Kentucky and is zoned Rural Suburban Estates (RSE).

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 about the need for five acres for an agricultural use. Mr. Schwartz replied that the five acre requirement was for an agricultural exemption. However, since horse related uses and veterinary care are specifically identified as Conditional Uses within the district, the five acre requirement is not applicable.

Vice-Chairman Miller asked if the two lots met the minimum lot area requirements for the RSE district. Mr. Schwartz replied yes.

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

Mr. Don Fromme stated that the two doctors were also in attendance. He stated that the barn has been on the property for approximately 20 years and that it had horse boarding in it. He stated that the veterinary care is not for dogs and cats, but for a more specialized purpose. He stated that the veterinary care will not be a conventional clinic with constant drop-offs and pick-ups. He stated that the horses would be stabled and then taken away after their treatment. He stated that there is a large boarding facility adjacent to the site and other horse related facilities in the area. He stated that their request would be compatible with the area. He stated that the request would further a state goal of recruiting large animal veterinarians.

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 proposed Conditional Use Permit. Mrs. Poston seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

5. Request of Brad Stephens for a Conditional Use Permit to allow the existing single-family residential dwelling to be used as a short term rental. The approximate 1.9 acre parcel is located at 6433 Cottontail Trail, Boone County, Kentucky and is zoned Rural Suburban Estates (RSE).

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 there was a maximum number of parked cars that would be allowed. Mr. Schwartz replied that there is no maximum requirement.

Mrs. Poston asked if there were any deed restrictions. Mr. Schwartz replied that deed restrictions are private covenants and that the Planning Commission and the Board had no jurisdiction in enforcing deed restrictions.

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

Mr. Brad Stephens stated that if the neighbors had any concerns, he would be happy to address them.

Vice-Chairman Miller asked who would be the contact if there are any problems. Mr. Stephens replied that he would be the contact and that he lives 5 minutes away from the site.

Ms. Molly McEvoy Boh, Ziegler and Schneider, stated that Mr. Stephens hopes to use the site as his retirement home and that until that time, the short term rental will provide for some income to maintain the property. She stated that the short term rental license can be revoked by the County and the Board, unlike other Conditional Use Permits.

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

Mr. Jacob Cardwell asked how long will it be until the applicant retires to the site. Mr. Stephens replied that he hopes that will be in about 10 years.

Mr. Alan Walters stated that he has owned his property since 1996. He stated that the street is serene and peaceful and that there is no outlet so there is no cut-through traffic. He stated that all the neighbors know one another. He stated that he is against the request and that he is concerned that the property will have parties and create a lot of noise and garbage. He stated that he believes that the short term rental will diminish the value of the homes in the area. He stated that there is no public water or sewer within the area. He asked how many cars could be parked on the property.

Mr. Schwartz replied that there is room for about 21 cars.

Chairman Whitton asked if a restriction could be placed on the application. Mr. Schwartz replied that the Board could include a condition regarding the number of cars allowed on the site.

Mr. Andy Pierce stated that he is against the request and that it is a residential street. He stated that the proposed short term rental will have a negative impact on adjacent areas. He asked where is the nearest approved short term rental.

Mr. Schwartz replied that it is approximately 5,500 feet northwest of the site.

Mr. Greg Ruehl stated that he does not want any more traffic on the road. He stated that he believes the purpose of the short term rental is for those who have motorcycles as they go to Rabbit Hash, which is nearby.

Mr. James Schmidt stated that he agrees with what has already been said. He stated that the area is not for businesses. He stated that he has a concern about property values. He stated that he has a concern about creating a precedence.

Ms. Sandra Harney stated that there were by-laws prohibiting commercial uses. She asked who would determine if a complaint was valid.

Mr. Schwartz replied that since the County Ordinance included the fines, it would be County staff that would determine if the complaint was valid.

Ms. Harney stated that the County would not be receiving its proper share of hotel room tax. She stated that the area does not need the increased traffic that will be the result of the short term rental.

Ms. Sheryl Walters stated that there is nothing more that she can say that was not already stated other than her concern about how background checks are conducted on potential renters and that they could be people with drug or sex convictions.

Mr. James Treadway stated that a short term rental is not needed in the area.

Ms. Jessica Wainscott stated that she and her husband are real estate professionals. She stated that she has a concern regarding safety. She stated that she wants to keep the area as a rural designed neighborhood. She stated that there is an increased risk of noise when a short term rental moves into a neighborhood. She stated that since the property has open land areas, there is the potential for large gatherings and parties. She stated that instead of a short term rental, Mr. Stephens could rent the property for long-term rentals. She asked if the Mr. Stephens will be allowing pets on the property, given that there is no fence on the property.

Mr. Stephens stated that his rentals would be for a minimum one night. He stated that pets will not be allowed on the property. He stated that his house rules will prohibit parties and if a guest violates that rule, he will evict them immediately.

Vice-Chairman Miller asked if he would accept a condition restricting the number of vehicles allowed on the property. Mr. Stephens replied that he would accept that condition as long as the limitation was reasonable, such as four or five cars.

Mr. Stephens stated that he plans to screen his guests by their ratings and profiles on websites such as AirBnB and that the guest must sign the house rules agreement.

Mrs. Poston asked if a guest could be told to leave the property. Ms. McEvoy Boh replied that a guest can be told to leave the premises immediately if they violate the terms of the house rules agreement.

Ms. McEvoy Boh stated that the house will not be occupied all of the time and that there will be less traffic than if the house were occupied full time by a family. She stated that if the request is granted, another short term rental will not be allowed within 1,000 feet of the site.

Mr. Eris Rose stated that he owns the short term rental in Rabbit Hash and Burlington. He stated that his experience has shown that the concern of noise and parties is non-existent. He stated that people who want to do that will go to Mainstrasse in Covington or to Over the Rhine in Cincinnati. He stated that 95% of his guests are retirees and older people who want to go to the Creation Museum and the Ark Encounter. The other 50% are people who want to get away to a quiet area and work remotely. He stated that in the 2 years that they have been in operation, they have had zero parties, damage, or complaints. He stated that all short term rentals are required to pay the hotel room tax.

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 more than eight (8) guests at any given time.
2. There shall be no more than four (4) vehicles on the property at any given time.
2. 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.

Chairman Whitton seconded the motion.

Chairman Whitton called for the vote which passed 2 to 1, with Vice-Chairman Miller and Chairman Whitton voting yes and Mrs. Poston voting no.

OTHER

None.

ADJOURNMENT

Chairman Whitton asked for a motion to adjourn the meeting. Vice-Chairman Miller made a motion to adjourn and Mrs. Poston seconded the motion.

Chairman Whitton called for the vote and the meeting was adjourned by unanimous consent at 7:24 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Director, Zoning Services