

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
June 14, 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
Mr. Bill Weltzer
Dr. Ryan Estes

BOARD MEMBERS NOT PRESENT:

Mrs. Susan Poston

STAFF MEMBERS PRESENT:

Mr. Michael Schwartz, Director, Zoning Services
Mr. Steve Lilly, 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 May 10, 2023. He asked if there were any other comments or corrections. Vice-Chairman Miller moved to approve the minutes and Mr. Weltzer seconded the motion. Chairman Whitton called for the vote and it carried unanimously.

ACTION ON REVIEWS

1. Request of Collin Johnson and Jessica Lightfoot for a Variance reducing the rear yard setback from thirty (30) feet to nineteen (19) feet to allow the construction of a deck. The approximate 0.24 acre parcel is located at 810 Crisp Court, Boone County, Kentucky and is zoned Suburban Residential One/Planned Development (SR-1/PD).

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.

Mr. Collin Johnson stated that they want to install a 14' x 20' deck.

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 Variance. Dr. Estes seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

2. Request of Bruce Hemmerich for a Conditional Use Permit to allow the existing single-family residential dwelling to be used as a short term rental. The approximate 4 acre parcel is located at 3594 Petersburg 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 if there were more than two bedrooms on the property.

Mr. Schwartz replied that there are three bedrooms and an area with a pull-out couch.

Vice-Chairman Miller asked if only two of the bedrooms would be used for the short term rental.

Mr. Schwartz replied that the submitted information by the applicant indicates that only two of the bedrooms would be used for the short term rental.

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

Mr. Bruce Hemmerich stated that the barn is on a separate parcel which he also owns. He stated that the house is on the upper level and the area to be used for the short term rental is on the lower level, which has its own entrance.

Vice-Chairman Miller asked if the property was already being rented.

Mr. Hemmerich replied no.

Vice-Chairman Miller asked if he would be living in the other part of the house.

Mr. Hemmerich replied yes.

Vice-Chairman Miller asked if the potential conditions stated in the staff report were acceptable.

Mr. Hemmerich replied yes.

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 with the following conditions: (1) There shall be no more than six (6) guests at any given time; and (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. Dr. Estes seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

3. 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.

Vice-Chairman Miller asked if Pleasant Valley Road had two lanes in each direction.

Mr. Schwartz replied that it has two lanes in each direction with a center left-turn lane.

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

Using a PowerPoint presentation, Mr. Thomas Wilson stated that he has done research and has not found any short term rentals with as large of a back yard as they have and with a privacy fence. He stated that the property meets all of the criteria outlined in the zoning regulations. He stated that the property has a self-contained septic system that was recently installed and certified by the Northern Kentucky Health Department. He stated that he recently installed a privacy fence along the property line as well as a gravel area where vehicles can turn around so that they are facing forward as they leave the property. He went over a list of items indicating why a short term rental is preferred over a long term rental. He went over a list of items of why a long term rental is inappropriate. He stated that he has spent \$500,000 improving the property. He stated that each guest will be screened before booking their stay. He went over his security features. He stated that he lives approximately 600 feet north of the site. He stated that the property manager lives 200 feet from the property. He stated that he has a petition of 207 signatures from residents of Boone County all of which are in favor of his application.

Vice-Chairman Miller asked if the applicant has ever lived in the house. Mr. Wilson replied no, he lives nearby, across Pleasant Valley Road.

Vice-Chairman Miller asked if he bought the property with the intent of turning it into a short term rental. Mr. Wilson replied that the property came to his attention and that Mr. George Rehkamp asked if he would purchase the property so that he would know the people that would be living there, knowing that Mr. Wilson would not rent to an undesirable element.

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

Mr. Charlie Rolfson stated that he lives near the property. He stated that he has known the applicant for years and spoke to his character. He stated that the site is perfect for a short term rental, due to its location on a recently improved arterial street and the site characteristics. He stated that he a Deputy Sheriff and if there were problems with the property, he would come to the property.

Mr. Jack Hinkel stated that he has three rental properties in the County. He stated that Mr. Wilson is a responsible individual and spoke to his good character.

Mr. Steven Freeman stated that he has known the applicant for years and spoke to his good character.

Ms. Anna Wilson stated that she is the mother of the applicant and that he is a special individual who has always put other first. She stated that the applicant will take good care of the property.

Mr. Steve Colangelo stated that he lives 490 feet from the property. He stated that he is in favor of the request.

Ms. Linda Riley stated that she lives across the street from the property. She stated that she is standing up for her property rights. She stated that the short term rental will affect her property for the coming years. She stated that there are security concerns and she does not feel that the screening process is sufficient. She is concerned about strangers coming to the property on a weekly or daily basis. She asked how the request will affect her property value. She stated that it is known that short term rentals do not have a good reputation. She stated that during the renovation of the home, Mr. Wilson had some debris in the front yard that sat there for six weeks and that tells her how he is going to maintain the property.

Ms. Karen Coldwell stated that her driveway is right next to the driveway to the site and that a short term rental will have a negative impact on her property. She stated that she is concerned about security and theft from unknown individuals who could rent the property. She stated that she is concerned about parties taking place on the property. She stated that traffic is bad on Pleasant Valley Road and that unfamiliar guests may have trouble maneuvering in and out of the property. She stated that she has a concern about the resale value of her home, being next to a short term rental. She stated that she received a letter from the applicant which included the statement that if he did not get the Conditional Use Permit tonight, he would keep coming back to the Board month after month until he gets the approval. She stated that she took this as a form of intimidation.

Vice-Chairman Miller asked the applicant if he had a copy of the letter referred to

by Ms. Coldwell. Mr. Wilson replied that he did not have a copy but the statement was not meant as intimidation, it was meant as a fact that he has the right to keep making applications to the Board.

Mr. Weltzer asked if the permit would have to be renewed each year. Mr. Schwartz replied that the County license needs to be renewed yearly and that the Conditional Use Permit does not have a yearly renewal.

Mr. Dale Wilson stated that he is not related to the applicant and referred to KRS 100.237 as it relates to the approval and enforcement of Conditional Use Permits.

Mr. Tom Riley stated that he lives across the street from the site. He stated that he has concerns regarding safety and not knowing who is going to be there day to day. He stated that people who deal in drugs, weapons, or human trafficking could occupy the house. He asked what changes have been made since the application was denied in December to change the Board's previous action.

Vice-Chairman Miller stated that he was not at the December 2022 meeting and asked if there is a history of drug use and guns in the area. Mr. Riley replied not to his knowledge.

Vice-Chairman Miller asked if there was anything to support the comments about safety or were the comments his opinion. Mr. Riley replied that his comments were based on experience and items he has read in the news.

Chairman Whitton asked the applicant how he is going to do the background checks. Mr. Wilson replied that he is going to use a third party service such as Safely.

Vice-Chairman Miller asked if it would be appropriate to include a condition requiring third party background checks. Mr. Dale Wilson replied that the Board could include such a condition.

Dr. Estes asked if individuals who use Air BNB and VRBO can only pay by credit card, not be cash or check. Mr. Wilson replied that is correct.

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 following conditions: (1) There shall be no more than ten (10) guests at any given time; (2) The applicant shall utilize a third party service to conduct background checks on each potential renter; (3) All solicitations shall

include a statement that ‘there shall be no parties or loud noises and that violators are subject to immediate eviction’. This statement shall be put in place prior to the issuance of a zoning permit and shall continue as long as the applicant operates the short term rental; and (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, on the basis that the applicant has met all of the requirements of Section 205.H of the zoning regulations. Mr. Weltzer seconded the motion.

Chairman Whitton called for the vote which found Vice-Chairman Miller, Mr. Weltzer, and Dr. Estes voting yes and Chairman Whitton voting no.

The motion passed by a vote of 3 to 1.

4. Viox and Viox, per Eric Ball, on behalf of Florence MHC LLC, for a Variance increasing the height of a fence from six (6) feet to twenty-five (25) feet. The approximate 1.2 acre area, being in the northeast corner of an approximate 26.3 acre area is located at 10367 Garden Drive, Boone County, Kentucky and is zoned Mobile Home Park (MHP).

Mr. Weltzer stated that he has a conflict with this issue and was recusing himself.

Mr. Weltzer left the room.

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 existing white fence was nonconforming since it is located between the property line and the front yard setback line. Mr. Schwartz replied that the existing white fence meets the requirements for a fence within the front yard and that the proposed fence is not in the front yard, so it can be a mesh net.

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

Ms. Jody Gable stated that the fence is there for safety. She apologized for putting the fence in prior to getting the Board’s approval.

Vice-Chairman Miller asked if the applicant knew the ramifications if the Variance is denied. Ms. Gable replied that she understands the consequences.

Mr. Eric Ball, Viox and Viox, stated that he was there to answer any questions.

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 requested Variance. Dr. Estes seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

Mr. Weltzer returned to the meeting.

5. Request of Angela Smith for a Conditional Use Permit to allow the existing single-family residential dwelling to be used as short term rental. The approximate 0.19 acre parcel is located at 1022 Bloomfield Court, 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.

Ms. Angela Smith stated that she agreed with the presentation made by Mr. Wilson and would have included them in her presentation. She stated that she lived in the house with her children and now that they are grown and moved away, she will be moving with her partner. She stated that short term rental will provide her with the most flexibility. She stated that most of her renters will be people coming to the area for Fidelity Investments, which is where she works, and other people that she knows. She stated that she currently has three cameras posted on the exterior of the house and she plans on installing two more. She stated that she will also install a decibel meter. She stated that she is looking at Safely for background checks. She stated that she has two girlfriends who are local and will keep an eye out on the property.

Vice Chairman Miller asked if she looked into selling the property rather than renting it. Mr. Smith replied that she did not want to sell the property as it is a long

term investment.

Vice-Chairman Miller asked if she has a property manager and custodial service to manage and maintain the property. Ms. Smith replied that she currently has both.

Vice-Chairman Miller asked if similar conditions were imposed, would she agree to them. Ms. Smith replied that she had no problem with the conditions imposed on Mr. Wilson.

Vice-Chairman Miller asked about an issue of having furniture on the driveway. Ms. Smith replied that furniture is on the driveway because it was not picked up as scheduled. She stated that the furniture will be removed tomorrow.

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

Ms. Laura Stricker-Simmons stated that her back yard shares the back yard of the site. She stated that she is concerned about safety. She reviewed Air BNB's background check policy and stated that it is not reliable. She stated that a background check is only made on the renter and not the rest of the party. She stated that there was a drug related shooting last year and a registered sex offender who lives on the street and does not want other renters in the area.

Ms. Lindsay Boker stated that she is against the request for the same reasons previously stated. She stated that the neighborhood's MMC recently voted to prohibit any further rental properties.

Mr. Dale Wilson stated that the Board deals with public regulations and not private homeowners' association laws or regulations.

Ms. Jessica Williams stated that the request should be denied. She stated that parking is problematic along the street. She noted common problems with short term rentals.

Ms. Barbara Oney stated that she lives across the street from the site. She stated that the prior drug related shooting was very scary and disturbing. She stated that the proposal will be hazardous.

Ms. Paula Reitsma stated that she is opposed to the request for the same reasons previously stated. She stated that there is one way into the subdivision and one way out of the subdivision.

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 Conditional Use Permit based on the evidence and testimony that the request does not meet the requirements of Section 205.H of the zoning regulations.

Chairman Whitton called for a second. There was none.

Chairman Whitton asked the Board if they wanted to make another motion.

Mr. Weltzer made a motion to approve the proposed Conditional Use Permit with the following conditions: (1) There shall be no more than eight (8) guests at any given time; and (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. Dr. Estes seconded the motion.

Chairman Whitton called for the vote which found Chairman Whitton, Mr. Weltzer, and Dr. Estes voting yes and Vice-Chairman Miller voting no.

The motion passed by a vote of 3 to 1.

6. HSH Holland Inc., per Wayne Cunningham, on behalf of Hebron Deposit Bank, for a Variances: (1) reducing a one-way drive aisle width, with 60-degree angle parking, from twenty (20) feet to fifteen (15) feet; and (2) reducing a one-way drive aisle from fourteen (14) feet to 12.5 feet. The approximate 1.5 acre parcel is located at 2652 North Bend Road, Boone County, Kentucky and is zoned Commercial Two (C-2) and 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.

Chairman Whitton asked if the bank would still have a drive-up window. Mr. Schwartz replied yes.

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

Mr. Michael Chandler, Viox and Viox, introduced himself.

At this time, Mr. Weltzer stated that he has a conflict with this issue and recused

himself.

Mr. Weltzer left the room.

Mr. Chandler stated that the site is tight and they did their best to design the property with as few variances as possible. He stated that the proposed drive aisle width will still provide for sufficient space and that with the pavement striping, turning movements can be achieved.

Mr. Dillon Adams, HSH Holland Inc. gave some background of his company and that they do not want a site that does not function properly.

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 Variances. Dr. Estes seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

Mr. Weltzer returned to the room.

7. Request of Jamie Ornburn for a Conditional Use Permit to allow a Home Business (chiropractor) to be conducted out of the existing single-family residential dwelling. The approximate 0.21 acre parcel is located at 8563 Cranbrook Way, Boone County, Kentucky and is zoned Suburban Density 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. Schwartz stated that the applicant was not present due to a previously scheduled family vacation.

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. Mr. Weltzer seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

OTHER

Mr. Schwartz informed the Board that the audio and video system in the Fiscal Courtroom will be updated in July and that the Board's July 12, 2023 meeting has been cancelled.

The next regularly scheduled meeting of the Board will be on August 9, 2023.

ADJOURNMENT

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

Chairman Whitton called for the vote and the meeting was adjourned by unanimous consent at 8:06 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Director, Zoning Services