

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
September 13, 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
Mrs. Susan Poston

BOARD MEMBERS NOT PRESENT:

None

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 August 9, 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 Eric Keel for a Conditional Use Permit to allow the existing single-family residential dwelling to be used as a short term rental. The approximate 0.19 acre parcel is located at 1108 Donner 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.

Vice-Chairman Miller asked the location of the closest short term rental to the site. Mr. Schwartz showed the location on a PowerPoint slide.

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

Mr. Eric Keel stated that he was there to answer any questions.

Mrs. Poston asked if he had lived in the house. Mr. Keel replied that he had lived in the house for ten years.

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 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. Mr. Weltzer seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

2. Request of 10485 Blacksmith PL LLC, per Matthew Hassert, for a Conditional Use Permit to allow the existing single-family residential dwelling to be used as a short term rental. The approximate 0.20 acre parcel is located at 10485 Blacksmith Place, 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. Poston asked how many turns does it take from an arterial street to get to the site.

Mr. Schwartz replied that it takes one turn from Mt. Zion Road to get to the site.

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

Mr. Matthew Hassert stated that he was there to answer any questions.

Mrs. Poston asked if he had lived in the house. Mr. Hassert replied that he and his wife currently live in the house.

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.

Mr. Weltzer made a motion to approve the proposed Conditional Use Permit, subject to the condition that 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. Vice-Chairman Miller seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

3. Request of William P. Massie for a Conditional Use Permit to allow the lower level of the existing single-family residential dwelling to be used as a short term rental. The approximate 6.0 acre parcel is located at 575 Chambers 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 staff had made the applicant aware of the capacity issue.

Mr. Schwartz replied no, however, the application states that the short term rental will be for 8 people maximum.

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

Mr. Will Massie stated that he and his family will be living in the upstairs portion of the house. He stated that it is their desire to renovate the lower level of the house for a future accessory dwelling unit. He stated that they would like to recoup some

of their construction costs by having the short term rental until they need the accessory dwelling unit for an elderly parent. He stated that he is acceptable to the limitation of eight (8) persons at any given time. He stated that they will be targeting families. He stated that their listings will indicate that the owner will be living in the upper floor of the house and that will mitigate any parties or bad behavior. He stated that all parking will be to the back of the house and will not be visible from the street or from any adjacent property.

Vice-Chairman Miller asked if he has spoken to any of his neighbors about the use of the property as a short term rental because of an email that was received by staff.

Mr. Massie replied that he has spoken to a couple of his neighbors.

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

Mr. R. J. Brunner stated that he is an adjacent property owner and he has concerns about guests bringing their pets and guns.

Mr. Schwartz stated that there is no zoning regulation regarding the prohibition of pets or guns. Mr. Schwartz stated that the Board has the authority to attach conditions to their approval.

Mr. Wilson also informed the Board that they can attach appropriate conditions to their approval.

Mr. Massie stated that he is acceptable to a condition prohibiting pets and guns.

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) The capacity of the short term rental shall be limited to no more than eight (8) persons; (2) All listings shall stipulate that pets and guns shall be prohibited; and (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. Dr. Estes seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

4. Request of Ronald A. Clark for Freedom Song LLC, for a Conditional Use Permit to allow the existing single-family residential dwelling to be used as a short term

rental. The approximate 0.24 acre area is located at 1587 Meadow Hill 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), correcting the staff report by indicating that the maximum capacity would be six (6) persons.

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. Ronald Clark stated that he recently got engaged and they decided that they would live in her house rather than the house on the site. He stated that he has friends in the area that will be the emergency contact for the site. He stated that the two suggested conditions are acceptable. He stated that he has had four cars in the driveway and that there is sufficient off-street parking to accommodate the short term rental.

Mrs. Poston asked if parking was allowed in the cul-de-sac.

Mr. Clark replied no, but on-street parking is allowed just before the cul-de-sac.

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.

Mr. Weltzer made a motion to approve the requested Conditional Use Permit, subject to the following conditions: (1) The capacity of the short term rental shall be limited to no more than six (6) persons; 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. Vice-Chairman Miller seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

5. Request of Judy Bour, on behalf of Gary Munafo, for a Conditional Use Permit to allow the existing single-family residential dwelling to be used as short term rental. The approximate 0.80 acre parcel is located at 9874 Spruce Lane, 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 the applicant if they would like to provide the Board with any other information.

Ms. Judy Bour stated that she was there to answer any questions.

Vice-Chairman Miller asked if Mr. Munafo owned the house.

Ms. Bour replied yes, and that she will be sub-leasing the property from Mr. Munafo and that she will operate the short term rental.

Chairman Whitton asked if the suggested conditions were acceptable.

Ms. Bour replied that they are.

Mrs. Poston asked who is living in the house now.

Ms. Bour replied that Mr. Munafo was currently renting the house.

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

Ms. Diane Steffen stated that there are many neighbors that are opposed to the short term rental. She stated that there have been poor renters in the past. She stated that they have a close knit neighborhood and they are concerned for the safety of children in the area. She stated that the property is small and she is concerned with excess noise.

Ms. JoAnne Tholemeier stated that she is concerned that the owner is not going to be the one that operates the short term rental. She stated that she is familiar with the interior of the house and that there are only three bedrooms, not four. She stated that the fourth bedroom off of the kitchen was a study/office and may not meet the requirements for a bedroom. She stated that she would like to see the condition prohibiting pets and guns. She stated that she is concerned that sex offenders will be at the short term rental.

Chairman Whitton asked staff to clarify the number of bedrooms in the house.

Mr. Schwartz stated that the application shows four bedrooms and the Boone County Building Code has regulations as to what constitutes a bedroom. Mr. Schwartz stated that the Board could attach a condition requiring documentation from the Boone County Building Department indicating how many bedrooms are in the house.

Ms. Tholemeier stated that the house is on an older septic system and that it may not have the capacity for eight people.

Vice-Chairman Miller asked if it was legal that a lessee operates the short term rental rather than the property owner.

Mr. Schwartz replied that there is no zoning regulation prohibiting this situation. Mr. Schwartz stated that the property owner is ultimately the responsible party.

Chairman Whitton asked if it would be acceptable for two additional conditions regarding the prohibition of pets and guns and requiring documentation as to the number of bedrooms.

Ms. Bour replied that those additional conditions were acceptable.

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 Conditional Use Permit, subject to the following conditions: (1) Documentation from the Boone County Building Department shall be provided indicating the number of bedrooms that are in the house; (2) The capacity of the short term rental shall be limited to no more than eight (8) persons, unless it is determined that there are only three bedrooms in the house, in which case the maximum occupancy shall be adjusted accordingly; (3) All listings shall stipulate that pets and guns shall be prohibited; 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. Ms. Poston seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

6. Request of Kyle Weber for a Variance reducing the side yard setback from ten (10) feet to 2.5 feet to allow for a building addition. The approximate 0.38 acre parcel is located at 2920 Gallatin Street, Boone County, Kentucky and is zoned Suburban Residential Two/Small Community Overlay (SR-2/SC).

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. Kyle Weber and Ms. Trisha Weber stated that they were 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.

OTHER

None.

ADJOURNMENT

Chairman Whitton asked for a motion to adjourn the meeting. Ms. Poston made a motion to adjourn and Dr. Estes seconded the motion.

Chairman Whitton called for the vote and the meeting was adjourned by unanimous consent at 7:05 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Director, Zoning Services