

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
March 13, 2024
6:00 P.M.**

Chairman Whitton called the meeting to order at 6:00 P.M.

BOARD MEMBERS PRESENT:

Mr. George Whitton, Chairman
Dr. Ryan Estes, Vice-Chairman
Mrs. Susan Poston
Mr. Don Volland

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 February 26, 2024. He asked if there were any other comments or corrections. Mrs. Poston moved to approve the minutes and Vice-Chairman Estes seconded the motion. Chairman Whitton called for the vote and it carried unanimously.

ACTION ON REVIEWS

1. Request of Patrick Muldoon for an Appeal of the Zoning Administrator's decision denying a zoning permit for a barn with a residential dwelling unit. The approximate 14.5 acre parcel is located at 1728 Elijah Creek Road, 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. Patrick Muldoon stated that he started this project in 2006 and that Dave Goehegan, Kevin Wall, and Kevin Costello were aware that a barn with a dwelling unit was going to be built on the property. He stated that he does not understand why it is a problem now. He stated that he received a building permit for the structure.

Chairman Whitton asked Mr. Wilson if he had any comments.

Mr. Wilson stated that Mr. Goehegan and Mr. Wall have both retired. He stated that he did not know if Mr. Costello knew of any pre-existing protection relative to the property and the building.

Mr. Muldoon stated that since the property is agricultural, there are some protections from zoning.

Chairman Whitton asked Mr. Schwartz why nothing was said prior to now and how did a building permit get issued.

Mr. Schwartz replied that he could not answer the question as to what happened prior to 2018 nor could he answer why a building permit was issued.

Mr. Volland asked if there were single-family dwellings across the street.

Mr. Muldoon replied yes.

Mr. Wilson asked if the applicant had presented any information as to whether an agricultural exemption would apply.

Mr. Schwartz replied no, except that the permit for the structure under review was approved using the agricultural exemption.

Mr. Schwartz stated that the Board could approve the request by finding that the property has an agricultural exempt status and that the proposed dwelling unit is accessory since it occupies less than half of the building's square footage.

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.

Mr. Volland asked how long has the property been under your ownership and what type of agriculture is taking place on the property.

Mr. Muldoon replied that he has owned the property since the early 1990's and that he grown corn or soybeans.

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

Mr. Muldoon replied that his son, his daughter-in-law, and their children live in the existing house and that he and his wife would live in the new dwelling unit.

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

Vice-Chairman Estes made a motion to overturn the Zoning Administrator's decision and to allow the dwelling unit on the basis that the property has an agricultural exempt status and that the dwelling unit is an accessory function. Mr. Volland seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

2. Request of Robert J Lightner Foundation LLC for a Conditional Use Permit to allow the construction of a Family Life Center. The approximate 50 acre parcel is located north of Beaver Road, between Riddles Run Road and Victory School House Road, approximately 2,500 feet west of Riddles Run Road, and having a Parcel Identification Number (PIDN) of 021.00-00-010.00 and being immediately east of 5194 Beaver Road, Boone County, Kentucky and is zoned Recreation (R).

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 Vornberger stated that he is the Ranch Director at Potter's Ranch. He stated that they need additional capacity to feed those who come to their facility.

Mr. Volland asked if the property floods, will access be cut off from the building.

Mr. Vornberger replied that the access drives will be constructed so that they are above the flood level.

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

Ms. Sheryl Bunger stated that she is representing an adjoining property to the east of the site. She stated that she is concerned about lighting, noise, capacity, building height, and whether the existing trees will be retained.

Mr. Vornberger and Mr. Steve Gastright replied that lighting will meet the requirements of the zoning regulations, the capacity would be less than 300 people, any events would normally end by 10:00 pm since they cater to the Christian community, and that they will retain as many trees as possible.

Mr. Schwartz commented that the Board could impose conditions as to hours of operation and lighting limitations.

Mrs. Poston asked if there are lighting and noise requirements.

Mr. Schwartz replied that the zoning regulations do contain lighting standards which would be evaluated at the Site Plan stage of development and that noise complaints are handled by the County through their nuisance regulations.

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 Estes made a motion to approve the proposed Conditional Use Permit, subject to the condition that a Major Site Plan application shall be processed with the Boone County Planning Commission, which shall meet the minimum requirements of the Boone County Zoning Regulations. Mrs. Poston seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

3. Request of Burlington Baptist Church for a Conditional Use Permit to allow the construction of a 2,800 square foot bus garage. The approximate 3.81 acre parcel is located at 3031 Washington 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. Don Ahlman stated that they have a need to keep their bus vehicles out of the weather.

Mr. Volland asked if any maintenance activity would occur in the building.

Mr. Ahlman replied no.

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 were none.

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

Mrs. Poston made a motion to approve the proposed Conditional Use Permit. Vice-

Chairman Estes seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

4. Request of BRG Realty Group, LLC, per Brent Van Lieu, on behalf of BRG Parkway Trails, LLC, per Brent Van Lieu, for a Variance reducing the Buffer Yard width from thirty (30) feet to fifteen (15) feet along a portion of the east property line. The approximate 11.2 acre parcel is located at 4951-5005 Aero Parkway, Boone County, Kentucky and is zoned Urban Residential Three (UR-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 was none.

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

Mr. Brent Van Lieu stated that this is the only viable location for a storage building.

Mr. Volland asked if the proposed building will affect stormwater drainage.

Mr. Van Lieu replied that there is an existing private stormwater pipe, with catch basins, which runs along the hill within the drainage swale and that the proposed building will not affect that drainage.

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. Mr. Volland seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

5. Request of Angela Smith for a Conditional Use Permit to allow the existing single-family residential dwelling to be used as a short term rental. The approximate 0.51 acre parcel is located at 12892 Ryle 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. 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 they will limit the capacity to six people.

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. Mr. Volland asked if the property was on a septic system.

Ms. Smith replied yes and that it was sized for both houses.

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

Mr. Volland made a motion to approve the proposed Conditional Use Permit, subject to the following conditions: (1) occupancy shall be limited to a maximum of eight (8) guests; 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. Mrs. Poston seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

6. Request of Zachary R. Hicks for a Change of Nonconforming Use increase the size of a previously existing single-family residential dwelling. The approximate 13.1 acre parcel is located at 6058 Burlington Pike, Boone County, Kentucky and is zoned Industrial Three Surface Mining (I-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 the applicant if they would like to provide the Board with any other information.

Mr. Zachary Hicks stated that the former house was a log cabin, built in 1978, that had rotted and that it was more reasonable to rebuild than it was to renovate. He stated that all the adjacent property is family owned.

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 Change of Nonconforming Use.

Vice-Chairman Estes seconded the motion.

Chairman Whitton called for the vote which passed unanimously.

7. Request of Riegler Blacktop Inc, per Dan Riegler, on behalf of Riegler Holdings LLC, for a Variance reducing the front yard setback from fifty (50) feet to twenty-five (25) feet. The approximate 9.5 acre parcel is located at 260 Weaver Road, Boone County, Kentucky and is zoned Rural Suburban Estates (RSE) and 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.

Mrs. Poston asked if the vegetation along Weaver Road will be retained.

Mr. Schwartz replied yes.

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

Mr. Dan Riegler stated that they have their main asphalt plant on the other side of Weaver Road and that this site is used as a fill site. He stated that they want to keep this structure as close to Weaver Road as possible so that it does not restrict the truck movements on the property. He stated that the existing vegetation along Weaver Road will be retained.

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. Volland made a motion to approve the proposed Variance. Vice-Chairman 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. Vice-Chairman Estes 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

7:08 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Director, Zoning Services