

**FLORENCE BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
FEBRUARY 10, 2021
7:00 P.M.**

Chairwoman Begley called the meeting to order at 7:03 P.M.

She stated the meeting was being held via video teleconference pursuant to KRS 61.826, SB 150 and OAG 20-05. The public hearing format has been necessitated due to the state of emergency regarding the threats to public health presented by the novel Coronavirus (COVID-19) pandemic.

Mr. Morgan confirmed that all those in attendance could see and hear the proceedings. All those in attendance stated that they could see and hear the proceedings.

BOARD MEMBERS PRESENT:

Mrs. Dee Begley
Ms. Lois Evans
Mrs. Linda Schaffer
Mr. Kenneth Vaught

BOARD MEMBERS NOT PRESENT:

Mr. Duane Froelicher

STAFF MEMBERS PRESENT:

Mr. Todd K. Morgan, AICP, Senior Planner

LEGAL COUNSEL PRESENT:

Mr. Dale T. Wilson

APPROVAL OF MINUTES

Mrs. Begley stated the Board received copies of the minutes of the Florence Board of Adjustment meeting of January 13, 2021. She asked if there were any other comments or corrections. Mr. Vaught moved to approve the minutes and Ms. Evans seconded the motion. Mrs. Begley called for the vote and it carried unanimously.

ACTION ON REVIEWS

1. Request of Robert Wells for a Change in Nonconforming Use. The Change in Nonconforming Use is to allow (1) a 12' x 10' shed to be added to the rear of the property, (2) a trailer to be stored on a concrete pad to the east of the building; (3) a swing gate to be attached to the front of the building to screen the trailer from Spruce Drive; (4) outdoor storage of trash cans

and a grill; and (5) overnight parking of a van or pickup truck on the property. The approximate 0.28 acre site is located at 21 Spruce Drive, Florence, Kentucky and is zoned Suburban Residential Two (SR-2).

Staff Member, Todd Morgan, presented the Staff Report which included a PowerPoint presentation (see Staff Report). He added that he received an additional photo from the neighbor on Merravay Drive, an email from Rick Gendreau, and an email from Josh Hunt, with the City of Florence, after the Staff Report was finalized (see Exhibits 1, 2, and 3). He summarized the emails from Mr. Gendreau and Mr. Hunt for the Board.

Mr. Froelicher joined the meeting after the Staff presentation.

Mrs. Begley asked Mr. Wells if he would like to speak and address the Staff questions. Mr. Robert Wells said the gentleman that lives down the street that continues to take pictures hasn't liked him from day one because he wanted to buy the property. He continues to call the police but nobody has ever found him guilty of anything. Mrs. Begley asked if Mr. Morgan could read off his questions so Mr. Wells could address them.

Can the use of the building be defined and how often do business activities occur? Mr. Wells said he might come by the building once a day and pick something up. He added that the real estate agent he was using was storing stuff inside the building. He finally got all of his stuff out. He was the reason there was increased activity.

What will be stored in the 12' x 10' shed? Mr. Wells said has some generators and plumbing materials he'd like to put in there. Mr. Vaught asked if there was room in the existing building for that stuff? Mr. Wells said some of the materials are long and take up a lot of space.

Mrs. Schaffer asked if he could define his business. Mr. Wells said he does house inspections, plumbing work, and construction and uses the building for storage. He's a Master Plumber and has a lot of tools and materials. He's licensed with Kentucky. Mrs. Begley asked what is being stored inside the building? Mr. Wells replied that the man that sold him the building had cars in the building and they were ripped apart. Mrs. Begley asked what he would have in the building when the realtor's stuff is completely removed. Mr. Wells said he would like to store his work van in the building along with his tools and materials. He has tools, dyes, threaders, saws, drills, cameras, etc.

What size trailer is proposed to be stored on the concrete pad? Mr. Wells said it is a 5' x 4' metal trailer that would be used to haul equipment. He doesn't have it yet.

How many trash cans are proposed to be stored outside? Mr. Wells said it would be nice to throw something away and keep the trash cans outside. Mrs. Begley asked if the cans could be stored inside or behind the building. Mr. Wells said everybody in the neighborhood has the same brown Rumpke garbage cans. Mrs. Schaffer asked if there was any issue with him having a garbage can, keeping it in the building, and putting it out on garbage day. Mr. Wells replied he doesn't want to keep his garbage cans inside. Mr. Morgan said he doesn't believe there is any issue with residential trash cans being stored inside or outside the

building. He is recommending the Board should prohibit them from being stored in the front yard if they are permitted outside. He doesn't think that would be different than any other house in the area. Mrs. Begley said some neighborhoods have association rules and trash cans only be put out by the street on trash day. They are to be stored to the sides or rear of the building at other times.

Ms. Evans asked the purpose of the grill? Mr. Wells replied that he can come back to the storage building to get some stuff with some other guys during lunch and they may want to grill a couple burgers. Mr. Vaught asked if the grill could be stored behind the swing gate or to the rear of the building if it's left outside. Mr. Wells replied that he would be alright with that.

Mrs. Begley said it seems like some residential components are being added to the building with the trash cans and grill. Mrs. Schaffer said it seems to be becoming more of a business office to her than just simply storage. Mr. Morgan said it is not uncommon for industrial zoned properties to have trash can and grills. Mrs. Schaffer agreed but said those businesses have employees and offices. This building is grandfathered as storage only. It seems like the use would be expanded if they allowed the shed and trailer. She doesn't have any problem with the garbage cans because they will have garbage. It sounds like the business will be expanded with employees. Mr. Wells said he doesn't have any employees. He can have subcontractors that work with him on a job and sometimes they store stuff inside the building. They might come back to the building to get stuff and eat lunch.

Ms. Evans asked Mr. Wells if he still had his office on Cavalier Drive. Mr. Wells replied that he did. He makes phone calls and does paperwork there. His office is at the end of the street near the Huff building.

Mrs. Begley asked if he could explain why he needs to have a van or pickup truck parked on the driveway overnight. She also heard him mention earlier that he would like to keep a van or pickup truck inside the building. Mr. Wells said he cannot fit the vehicle at his residence. Mrs. Schaffer said the building has two bays and he could keep a vehicle inside each bay. There is no reason to park on the driveway. Mr. Wells said he can continue to park in front of neighboring houses but thinks that is ridiculous. He doesn't understand why he can't park vehicles on the driveway. He needs to park his vehicles somewhere. He doesn't want to use both bays for parking. He needs storage space. Ms. Evans asked what he will store inside the building once the realtor gets all his stuff out. He said he will be moving more of his stuff inside the building. He has two storage lockers full of stuff.

Mrs. Begley said she would like some clarification. She has heard him say that that he runs two or three different businesses out of there and has tools and materials and a work vehicle. Mr. Wells said he doesn't run the businesses out of this building. He usually runs his businesses out of his truck. Mrs. Begley said it sounds like he has a personal vehicle that he drives to this location and get his service vehicle. Mr. Wells responded that he drives his car or rides his bike to get the service vehicle. Mrs. Begley said she wanted to get clarification and confirm he doesn't have a fleet of vehicles that he wants to keep on site.

Mrs. Begley asked if the Board had any other questions or observations? Mr. Vaught responded that he is okay with the shed because the neighbor next door has something

similar. However, he cannot approve the trailer because Mr. Wells indicated that he doesn't own one. He is okay with the swing gate, trash cans, and grill. He would like to see the service vehicle stored inside one of the bays at night. He has no problem with his personal vehicle or a bicycle being kept on the driveway.

Mrs. Begley asked if there was anymore discussion. There was no response. She asked for a motion.

Mr. Vaught made a motion to approve the application with the following conditions:

1. The 12' x 10' shed can be constructed in the rear yard of the property as proposed.
2. The trailer shall not be stored outside.
3. A swing gate can be attached to the front of the building as proposed.
4. Two trash cans and a grill can be kept outside but they must be stored to the sides or rear of the building.
5. The overnight parking of any service vehicle is prohibited on the driveway. Service vehicles include but are not limited to vans, pickup trucks, box trucks, etc. One automobile may be stored on the driveway overnight.

Ms. Evans seconded the motion. Chairwoman Begley called for a roll call vote. Chairwoman Begley – “yes”; Ms. Evans – “yes”; Mr. Froelicher – “yes”; Mrs. Schaffer – “no”; and Mr. Vaught – “yes”. The motion carried by a 4-1 vote.

Mr. Wells asked what he needed to do if he wanted to store a trailer on site? Mr. Morgan said the Board's action doesn't allow the trailer to be stored outside. There is nothing that would prohibit the trailer from being stored inside the building. He could submit another Change of Nonconforming Use application at a later date and this Board would act on it. Mr. Wells replied he was trying to get the trailer issue resolved tonight. Mr. Morgan replied the Board just voted and found that part of the application to be an expansion of the nonconforming use or more objectionable than the pre-existing condition. As a result, that part of the application was not approved. Mr. Morgan reviewed the 5 conditions.

2. Request of Peach and Cake Auto Sales for a Conditional Use Permit. The Conditional Use Permit is to allow sales of used cars and light trucks. The approximate 0.8 acre site is located at 19 Lendale Drive, Florence, Kentucky and is zoned Industrial One (I-1).

Staff Member, Todd Morgan, presented the Staff Report which included a PowerPoint presentation (see Staff Report). He added that he received an email from Josh Hunt, with the City of Florence, regarding the request (see Exhibit 3).

Mr. Joshua Honaker, with Peach and Cake Auto Sales, asked if the questions could be read off again and he would go over them one by one.

The signs that have been installed for the business indicate that window tinting and auto services will occur on site. Can the auto services be defined? Mr. Honaker said they only do window tinting right now. They would change the oil out on the cars they are selling. Any major repairs would be outsourced to another business or mechanic. This could change in the future.

Will all repairs be made inside the building? Mr. Honaker replied that all oil changes they do would be inside the building.

How much used vehicle inventory could be on site at any given time? Mr. Honaker said roughly 20 to 30 vehicles at any given time. Mrs. Begley said it seems like the current site could not accommodate that many vehicles with other repair work going on. Mr. Honaker replied there are only three employees. They could easily fit 20 vehicles in the rear of the site unless they have to have individual parking spaces. Mrs. Schaffer asked if the cars would be sold on-line or if customers will be coming to the site? Mr. Hanker replied customers would be coming to the site and that they would get their vehicles from repossession auctions.

Will any vehicle parts, fluids, tires, or other accessories be stored outside the building? Mr. Honaker replied they have plenty of room inside the building for that.

How will the vehicles be displayed for sale? Would it be a piece of paper on the windshield, banner, streamers, etc. Mr. Honaker said there will be some kind of marking on the windshield. The vehicles will also be displayed for sale on social media. Mr. Morgan asked if the display on the windshield will be the sales prices all the way across the windshield or a price on a 11" x 17" piece of paper. Mr. Honaker responded it would be an 11" x 17" piece of paper.

How will the two sheds in the back of the building be used? They will be used for car storage for vehicles that are being sold.

What are the proposed business hours? Monday – Sunday from 10:00 A.M. – 7:00 P.M.

How many employees will work from site? They have 2 employees right now and a subcontractor that works on window tinting. They do not have any plans to hire anyone else right now.

Will any additional exterior lighting be added to the site? No.

Will any freestanding signage be added to the site? No.

Mrs. Begley said they mentioned doing oil changes inside the building. Do they have plans on disposing the waste oil safely? Mr. Honaker said they have called several waste companies about doing waste oil on a larger scale. They are looking to get drums setup. Mrs. Begley asked if the exterior lighting was sufficient to see the cars at night and if they had security? Mr. Honaker said the lighting is sufficient because the gym building next door also has lighting. They have security cameras that cover the building and parking lot.

Mr. Andrew Rosano said he was owners of Peach and Cake Window Tinting and that is how the building is being used right now. The lighting that is out there now is more than sufficient. There are also 16 cameras that are recording 24/7.

Mr. Froelicher asked what zone car lots are permitted in? Mr. Morgan said they are principally permitted in C-3 zones and Conditional Use in C-2 and I-1. Mr. Froelicher asked if they were buying or leasing the building? Mr. Rosano said he has a 5 year lease. Mr. Froelicher asked if their lease included the equipment storage lot across the street. Mr. Rosano said their lease does not include that property. Mr. Morgan said the applicants would need to come back for another Conditional Use Permit if Riegler Blacktop agreed to lease them that property.

Mrs. Begley asked how the used cars will be transported in? Will they be driven in one at a time or would a car hauler be used? Mr. Rosano replied they will probably be driven in one or a couple at a time from the dealer auctions. They will probably start out with a couple cars for sale and will then work up to 20 vehicles. The window tinting company has been on site for about half a year and they are now venturing out into other businesses.

Mrs. Begley asked if they had any concerns about traffic or traffic counts when they get fully operational with the vehicle sales. Mr. Rosano replied he is on site everyday running the window tinting company and there are no traffic issues. Mrs. Begley asked if the window tinting business work occurred by doing one or two vehicles at a time. Mr. Rosano said it did. She asked if the parking lot would be able to accommodate the traffic once they get up to 20 vehicles for sale. Mr. Rosano said he thinks the lot could accommodate that many vehicles.

Mrs. Begley asked if the Board had any other questions. Mr. Morgan said he had one thing he'd like to go over. He believes some of the vehicles for sale will need to be double stacked if the Board allows 20-30 vehicles for sale on the lot. The Planning Commission and Fire Department always want to see that a business has proper driveway aisles so emergency vehicles can navigate the site. Thirty vehicles for sale really concerns him on this lot. Mr. Rosano said he doesn't believe they would get up over 10 cars for sale for the first few years. He understands the safety and aesthetic concerns. Mr. Morgan said he would prefer not to see any double stacking in the front yard. Mr. Rosano said that would be acceptable to them. He believes they have room for 16 vehicles on site without double stacking anywhere. Mrs. Schaffer asked how many sales vehicles Staff is recommending? Mr. Morgan replied they have room for about 21 vehicles on site now without double stacking but they will have customers, employees, vehicles for sale, and vehicles being repaired. They also mentioned they could do more than window tinting down the road. Mr. Rosano said the window tinting is done by appointment only.

Ms. Evans asked Mr. Rosano if this was his primary business. Mr. Rosano replied that it was his primary business and his only location. Ms. Evans asked if he had any experience selling used vehicles? He replied he didn't. All of his experience is in window tinting.

Mrs. Schaffer asked Mr. Morgan his thoughts on how much used vehicle inventory they should allow on this site. Mr. Morgan replied he was surprised to hear 20-30 vehicles. He is struggling for the appropriate number because the applicant has indicated that they could do more than window tinting repairs in the future. He thinks 10 to 15 vehicles would be a safe

number. The applicant could always come back before the Board if they are successful and they have room on site. Mr. Rosano said he would be fine with 10-15 vehicles and they could reanalyze it later if they are successful. It's also possible that they could outgrow this site in 5 years. Mrs. Schaffer said she hopes they are successful.

Ms. Evans asked if there would be any tires stored on site? Mr. Rosano said no tires will be stored on site. A vehicle that needs tires will go to a tire store.

Mr. Froelicher asked how many vehicles could fit on the lot now? Mr. Morgan replied there are 10 striped stalls in the front lot, 7 vehicles could fit in the sheds, and at least 4 more could fit in the garage bays. Mrs. Begley and Mrs. Schaffer said they would be okay with 12 vehicles for sale.

Ms. Evans asked if they would be permitted to have temporary advertising? Mr. Morgan replied businesses are allowed to get 5 Temporary Advertising Display Permits in a calendar year for banners, balloons, streamers, etc. The temporary advertising is only permitted on the site where the business operates and each permit is valid for 14 days. The business would be eligible for these permits unless the Board imposes a condition stating otherwise. Ms. Evans asked for clarification that they could advertise on Pleasant Valley Road. Mr. Morgan said that was correct because they cannot advertise off site.

Mrs. Begley asked if somebody wanted to make a motion:

Mr. Froelicher made a motion to approve the application with the following conditions:

1. No more than twelve (12) used vehicles can be for sale on the site at any given time.
2. Automobiles, pick-up trucks, and vans are the only types of vehicles that can be sold from the site. Commercial and/or industrial vehicles, recreational vehicles, or equipment shall not be sold.
3. Any vehicle in a disassembled state shall be kept in a completely enclosed structure.
4. All vehicle repairs shall be made in a completely enclosed structure and all waste fluids shall be stored and disposed of properly.
5. For sale advertisement on any vehicle shall be limited to an 11" x 17" piece of paper.
6. Outside display or storage of car parts or accessories is prohibited.
7. All vehicle parking shall occur in striped parking stalls, the garage bays, or the sheds. Double stacked vehicle striping shall only be permitted in the rear parking lot as long as the parking does not obstruct required driveway aisles.
8. The front parking lot shall be restriped and contain a van accessible handicapped parking stall.

Mr. Vaught seconded the motion. Mrs. Begley asked for the vote and it carried unanimously.

OTHER

Mrs. Begley asked if there was any update on future training? Mr. Morgan said the Board may be seeing the first Conditional Use Permit applications for short term rentals next month. The City of Florence approved a text amendment and added them as Conditional Uses in residential zoning districts. Josh Hunt, with the City of Florence, has asked the Planning Commission to provide the Board with some kind of training before the first application is heard. That may simply be providing the Board with a copy of the regulations or getting everybody on a Zoom call. It has yet to be determined. Mr. Froelicher said he is a little confused. He knows Florence City Council approved the use so why does the Board need to be involved. Mr. Morgan replied that they allowed the use as a Conditional Use in certain zoning districts. The Conditional Use applications will be heard by this Board. The Board will determine if this use is appropriate at the subject location. Mr. Froelicher said he thought there was a 1,000 foot spacing rule between short term rentals. Mr. Morgan replied that was correct but that a Conditional Use Permit and City license still need to be approved.

ADJOURNMENT

Mr. Froelicher made a motion to adjourn the meeting and Mrs. Schaffer seconded the motion. Mrs. Begley called for the vote and the meeting was adjourned by unanimous consent at 8:39 P.M.

APPROVED

Mrs. Dee Begley

ATTEST:

Todd K. Morgan, AICP
Senior Planner

Exhibit 1 – Photo From Neighbor on Merravay Drive
Exhibit 2 – Email from Rick Gendreau
Exhibit 3 – Email From Josh Hunt