

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
FIRST FLOOR FISCAL COURTROOM
BUSINESS MEETING
April 9, 2008
6:00 P.M.**

BOARD MEMBERS PRESENT:

Mr. Terry Edwards
Mr. James McGruder
Mrs. Shirley Millar, Secretary/Treasurer
Mr. Walt Ryan, Vice Chairman
Mr. George Whitton, Chairman

All members were present

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Mr. George Whitton, Chairman, called the meeting to order at 6:04 PM.

Approval of the Minutes:

Chairman Whitton stated that the Board members received copies of the Minutes of the Boone County Board of Adjustment Meeting of March 12, 2008. He asked if there were any comments or corrections. Mr. Ryan stated that references to the "Avery" property should be the "Acree" property (Pages 2 and 3). Mr. Ryan moved to approve the minutes as amended. Mr. McGruder seconded the motion and seconded the motion and it carried unanimously.

Agenda Item:

Mr. Edwards stated that the adjoining properties owners to the subject property in Agenda Item #1 are his clients and friends and, therefore, he will not participate in regard to Agenda Item #1. He left the meeting room at this time.

- 1. The request of Douglas Homes for a Variance to allow a single-family residence to encroach into the 40-foot rear yard setback. The property is located at Lot #43, Sundance Estates (3103 Durango Court), Boone County, Kentucky and is currently zoned Rural Suburban (RS).**

Staff Member Todd Morgan, AICP, presented the Staff Report which included a Power Point presentation (see Staff Report).

Mr. Doug Meyer with Douglas Homes, 6581 Harrison Avenue, Cincinnati, OH stated that the house on Lot #43 is not a market home – it has been sold to the principal of Burlington Elementary. He stated that this subdivision has developed into an upscale community with larger homes than they anticipated. The subject lot is on a cul-de-sac and smaller than the other lots. He showed the Board a picture of the home they want to build on the lot and pictures of other homes in the subdivision. (The pictures are on file in the Staff Office). He stated that it would be difficult to put any of the homes in the community on this lot due to the larger footprints of the houses.

Chairman Whitton asked if Variances were needed for any other homes in the subdivision. Mr. Meyer responded that they did not need Variances for the other homes because the other lots in the community are deeper. Lots on the cul-de-sac are smaller because of the “ball” of the street. Chairman Whitton asked if the same problem would exist with the rest of the lots on the cul-de-sac. Mr. Meyer responded “yes”. Mrs. Millar asked if the proposed house would fit on any of the other lots on the cul-de-sac. Mr. Meyer responded “no”. He explained that there is only one other lot available on the cul-de-sac (Lot #41) and the house would not fit on that lot. He stated that they would have to request a Variance to build any of the other homes in the community on these two lots.

Chairman Whitton asked if there was anyone else present who wished to speak for or against this request or to ask any questions.

Charles and Roena Moore, owners of the 31-acre farm located behind the subject lot, were present. Mrs. Moore stated that they have farmed their property for 43 years and plan to continue to farm their property. She stated that moving a house 14 feet closer to their fields puts in within 26 feet of their line fence and it will be at risk from dust (from plowing, baling hay, and harvesting crops), as well as from chemicals such as lime and fertilizer. Granting the Variance would cause a permanent loss of their privacy and the privacy of any future building lots which may develop on their property when it is sold either by them or their children. Granting the Variance would devalue their property. They are not willing to give up even an inch of the little privacy they have left. They asked that the Variance be denied. Mrs. Moore submitted their written comments (see Exhibit 1).

The prospective owner of the house on Lot #43, Mr. David Sammons, 7078 High Point Drive in Florence, was present. Mr. Sammons stated that they want to obtain as much privacy as possible. They chose this lot because there is no development behind it and there will be less traffic on the cul-de-sac than on a through street.

Chairman Whitton asked if the house could be moved forward on the lot. Mr. Meyer stated that it could be moved forward, but it would then encroach into the front yard setback. He stated that the sideyard setbacks are 12 feet and 16 feet and, therefore, he believes the house could be moved forward five or six feet.

Mr. Morgan stated that the house is currently 41 feet off the front property line. A 40-foot front yard setback is required and ten-foot sideyard setbacks are required. He stated that a front yard setback Variance has not been advertised. Counselor Wilson asked if the advertisement was specifically for a rear yard setback. Mr. Morgan responded that he believes the advertisement was for "a Variance to reduced the rear yard setback". Counselor Wilson advised that the house could be moved forward a maximum of one foot without the applicant coming back and applying for a front yard Variance.

Mr. Ryan questioned how far forward the house could be moved if the applicant were to apply for a front yard Variance. Mr. Morgan responded that it would depend on where the house is located on the lot, but they would still need a rear yard Variance. Chairman Whitton asked if the house is buildable if it is moved far enough forward that a rear yard Variance would not be required.

Mr. Meyer responded that even with a front yard Variance, they would still need a Variance on the rear yard setback. He stated that, since all parties are present, he believes a six-foot front yard Variance could be discussed at this time. Counselor Wilson advised that there may be someone who would have attended the meeting this evening if a front yard Variance had been advertised and, therefore, the law does not allow the Board to proceed with a front yard Variance request at this time.

Mr. Ryan stated that the Board would need to determine whether moving the house forward six feet would be satisfactory to Mr. and Mrs. Moore.

Mrs. Millar stated that she visited the site and a house is currently being built on the lot next to this lot. She asked, if every house they build on the cul-de-sac lots would require a Variance, how is that house being built on the adjacent lot? Mr. Meyer responded that they are building that house. He stated that they would have to request Variances to build houses on the remaining lots (Lots #41 and #43). He stated that if Mr. Sammons wanted to build his house on Lot #41, they would still have to apply for a Variance – however, Lot #41 is deeper and it would probably only be a request for a Variance of five or six feet.

Mr. Ryan noted Mrs. Moore's comments in regard to privacy. He asked if a privacy fence or berm would satisfy their concerns. Mrs. Moore responded that the house would still be sitting in their field. Mr. Moore stated that when they go through their field with a lime buggy, the house will be white. Mrs. Moore questioned why their needs should be secondary to the developer's needs.

There being no further discussion, **Mr. Ryan moved to deny the request due to the loss of privacy for the landowners to the rear. Mrs. Millar added that no hardship has been identified and there are no special circumstances that apply to this request since the lot is flat. Mr. Ryan included Mrs. Millar's comments in the basis for the motion. Mrs. Millar seconded the motion. Mr. Ryan, Mr. McGruder, Mrs. Millar and Chairman Whitton voted in favor of the motion and it carried. Mr. Edwards was not present.**

Mr. Edwards returned to the meeting at this time.

- 2. The request of Automotive Service Products for a Variance to allow a warehouse addition to encroach into the 50-foot front yard setback. The property is located at 1574 Production Drive, Boone County, Kentucky and is currently zoned Industrial One (I-1).**

Staff Member Todd Morgan, AICP, presented the Staff Report which included a Power Point presentation (see Staff Report).

Chairman Whitton asked for the applicant's presentation.

Mr. Jerry Noran with Cardinal Engineering in Wilder, KY stated that this is an industrial subdivision with all rectangular lots and rectangular buildings – except for this lot. He stated that half of the lot fronts on the street and the 50-foot front yard setback cuts into the lot. He stated that warehouses are large rectangular buildings – but it is difficult to put a rectangular building on this lot. He stated that the strict application of the regulations would allow the building on this lot, but they would have to cut down the corner of the building on the side where they would stack the racks causing them to lose two 20-foot high racks, which cuts down on the efficiency of the building. They do not want to move the entire building closer to the street – just the little corner, which is about the size of a parking space -- but it means a lot to the efficiency of the inside of the building. They need to be able to get their tow motors through the building. He stated that the present owner bought the existing building. The radius of the road and the way it curves causes them to be in a situation of encroaching into the setback. He stated that the size of the building is based on the racking system. They will do everything possible to match the paint color of the siding to the existing building, but it may be difficult since the existing siding has faded.

Mr. McGruder asked if the corner where they are requesting the Variance has employee ingress/egress near the street. Mr. Noran responded that they showed egress in that location, but if they obtain the Variance, they will probably move the door to be in an aisle area rather than in a racking area.

Chairman Whitton asked if there was anyone else present who wished to speak for or against this request or to ask any questions. There was no response.

There being no further discussion, **Mr. McGruder moved to grant the request on the basis that it will not alter the essential character of the area. Mr. Ryan seconded the motion and it carried unanimously.**

There being no further business to come before the Board, Mr. Ryan moved to adjourn. Mr. Edwards seconded the motion. The meeting was adjourned by unanimous consent at 6:48 PM.

APPROVED:

George D. Whitton, Chairman

Attest:

Jan Hancock, Recording Secretary

Exhibit 1 - Written comments submitted by Charles and Roena Moore