

**BOONE COUNTY BOARD OF ADJUSTMENT  
BOONE COUNTY ADMINISTRATION BUILDING  
FIRST FLOOR FISCAL COURTROOM  
BUSINESS MEETING  
December 9, 2009  
6:00 P.M.**

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Mr. George Whitton, Chairman, called the meeting to order at 6:03 P.M.

**BOARD MEMBERS PRESENT:**

Mr. George Whitton, Chairman  
Mrs. Shirley Millar, Secretary/Treasurer  
Mr. Terry Edwards  
Mr. Richard Miller  
Mrs. Jennifer McConnell

**LEGAL COUNSEL PRESENT:**

Mr. Dale Wilson

**Approval of the Minutes:**

Mr. Whitton stated that the Board members received copies of the Minutes of the Boone County Board of Adjustment Meeting of November 16, 2009. He asked if there were any comments or corrections.

There being no changes to the minutes, Mr. Miller moved that they be approved as mailed. Mrs. Millar seconded the motion. Mr. Whitton asked for a vote and it carried unanimously.

**Agenda Items:**

- 1. Request of Joyce McNeely for Washington Square Café & Catering for a Conditional Use Permit to allow a building addition on the north side of the Dugout restaurant building. The site is located at 5981 N. Jefferson Street, Boone County, Kentucky. The property is currently zoned Suburban Residential Two/Small Community Overlay (SR-2/SC).**

Staff Member, Todd Morgan, AICP, presented the Staff Report which included a PowerPoint presentation (see Staff Report). He passed out copies of the site survey (exhibit 1) and the site survey with the proposed addition scaled in (exhibit 2). He noted that the roof overhang of the addition would probably encroach into the county's sidewalk easement. He will need the county to sign off on the potential encroachment.

Ms. Joyce McNeely indicated that Mr. Morgan had reviewed everything and that she was clear on the recommendations.

Mr. Whitton asked if the recommended window change was different than her plan. Ms. McNeely replied that there is no issue with removing the middle window. Mr. Morgan added that the support column already exists. He and Ms. McNeely agreed that removing the middle window would create a better aesthetic from inside the restaurant and the road. Mr. Whitton asked the approximate distance between the window and the column. Ms. McNeely replied that the column would be up against the window.

Mrs. Millar asked Ms. McNeely to address the days and hours of operation. Ms. McNeely indicated that the business would be open for breakfast, lunch, and dinner. Most nights they will be open until 10:00 P.M. and during the weekends they may stay open a little later. Initially, they do not plan on operating on Sundays but during Spring, Summer, and Fall months they will be open seven days a week.

Mrs. McConnell asked if there would be any additional lighting on the outside of the building. Ms. McNeely responded that there would be some additional lighting on the back of the building because the trash receptacles are located back there and it is dark. She does not see the need for any additional lighting on the front of the building but if any were proposed it would be minor.

Mr. Morgan stated that a photometric plan would need to be prepared if any wall packs or spot lights were proposed on the building. A photometric plan would not be needed if the proposal was for standard light fixtures that used 60 watt light bulbs or less.

Mr. Miller asked what would be done if the County parking lot could not be used. Ms. McNeely replied that all the businesses in Burlington are reliant on the County parking lots. Mr. Morgan indicated the County employees largely use the parking lot that is located between Garrard Street and Orient Street in an effort to free up the spaces in the Administration Building parking lot.

Mr. Miller asked if the addition would cause the trees in the side yard to be removed. Mr. Morgan replied that the trees should not be disturbed.

Mrs. Jackie Steele said she was present on behalf the Historic Burlington Business Association. They have been an association for about a year and have been working with the County to try and solve some of the problems in Historic Burlington. She passed out copies of their purpose and their roster (see Exhibits 3 and 4). She stated that they have 26 members now. The Association got started because of the parking problems in Burlington. They have grown and have several nice events now, such as the Chalk Arts Festival and a Christmas event. They had over 800 people at the Chalk Arts Festival and are trying to make Burlington the place to be and do things. She read over the Association's purpose and indicated that they were here to support Ms. McNeely and her restaurant. They want to see all the empty buildings occupied and busy.

Ms. Arlene Jones said she is one of the owners of the building. She asked for a clarification on the easement because she only thought it was only supposed to be 10 feet wide. Mr. Morgan responded that the recorded exhibit shows the easement ranges between 10 and 20 feet wide. Mr. Morgan told Ms. Jones to contact Robin Curry, in the Judge Executive's Office, if she thought the easement was recorded incorrectly.

Ms. Jones asked if the County has the right to say that there cannot be an encroachment in the sidewalk easement when they do not own the property. Mr. Wilson replied that it depends on what rights were encompassed in the written easement agreement. He stated that the Board is not trying to enforce the easement rights but is making the applicant and property owner aware that they need talk to the county if the addition encroaches into the easement.

Ms. Jones indicated that the building addition is appropriate. She said it would be difficult for the business to get enough business with the limited seating that they have currently. She is in support of the addition and believes that Burlington needs this. She hopes the Board will support the project.

Mr. Whitton asked if anybody else in the audience would like to speak. There was no response.

**Mr. Miller moved that the request be approved with the following Staff recommendations:**

- 1. The approval is based on the submitted elevation drawings.**
- 2. The middle window shown on the front facade shall be removed to provide a better aesthetic from N. Jefferson Street. One window is required on each side of the support column.**
- 3. All umbrellas set up on the outside seating area shall not have any text or advertisements.**
- 4. The development shall not have any neon window signage.**
- 5. A Minor Site Plan shall be submitted to the Boone County Planning Commission before construction proceeds. The plan will analyze the proposed building materials and if the addition is located outside the sidewalk easement.**

**Mr. Edwards seconded the motion.**

**Mr. Whitton asked for a vote and it carried unanimously.**

Mr. Whitton asked for a motion to adjourn. Mrs. Millar so moved and Mr. Edwards seconded the motion. Mr. Whitton asked for a vote and the meeting was adjourned by unanimous consent at 6:27 P.M.

**APPROVED**

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**George Whitton, Chairman**

**Attest:**

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**Todd K. Morgan, AICP  
Senior Planner, Zoning Services**

**Exhibits**

1. Site Survey
2. Site Survey and Proposed Addition
3. Historic Burlington Business Association - Purpose
4. Historic Burlington Business Association - Roster