

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
FIRST FLOOR FISCAL COURTROOM
BUSINESS MEETING
December 21, 2009
6:00 P.M.**

Mrs. Shirley Millar, called the meeting to order at 6:01 P.M.

BOARD MEMBERS PRESENT:

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

BOARD MEMBERS ABSENT:

Mr. George Whitton, Chairman

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Approval of the Minutes:

Mrs. Millar stated that the Board members received copies of the Minutes of the Boone County Board of Adjustment Meeting of December 9, 2009. She asked if there were any comments or corrections.

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

Agenda Items:

- 1. Request of Greg Wright for a Variance to reduce the 150 foot lot frontage requirement so a property can be subdivided into two lots of record. The property is located at 1435 and 1447 Production Drive, Boone County, Kentucky. The site is currently zoned Industrial One (I-1).**

Staff Member, Todd Morgan, AICP, presented the Staff Report which included a PowerPoint presentation. He added that there was a propane tank located near the proposed property line. He made the applicant aware that he needed to contact Boone County Building Department to see if the tank could remain in its present location.

Mr. Steve Stubbs, with Cardinal Engineering, said he was representing the applicant. He stated he analyzed the possibility of adding parking on lot 43B and seven additional parking spaces could be provided by extending the existing row of parking toward Production Drive. He stated that the owner would rather add parking than record a shared parking agreement. Mr. Morgan indicated a Minor Site Plan would be required for any parking improvements and that a 10 foot street frontage buffer would be required between the front property line and first parking stall.

Mr. Stubbs indicated that there is no problem with providing a shared storm water easement. The Final Plat would show storm water easements on both lots.

Mr. Wilson asked the applicant if he was aware of any private restrictive covenants that applied to the industrial subdivision. Mr. Stubbs said he did not locate any private covenants in his research. Mr. Wilson indicated that the Board could not grant any relief from private covenants if they were to exist. Mr. Stubbs agreed.

Mr. Miller asked the applicant the underlying reason for wanting to divide the property into two lots. Mr. Stubbs indicated that the property owner wants to sell the lot and the buildings are currently occupied by two different tenants. Each of the tenants has expressed an interest in purchasing a lot.

Mr. Miller asked what the parking requirement was for the smaller lot. Mr. Morgan asked Mr. Wright to explain the tenant that uses the smaller building. Mr. Wright said the tenant recycles oil and they only have two employees. Mr. Morgan indicated that the parking requirement can be different for each tenant. The parking requirement is based on the amount of office space, number of employees that work on the largest warehouse shift, and number of company vehicles that are kept on site. Planning Commission Staff determines if there is adequate parking on site or if shared parking agreements exists at the time a new occupant proposes to move into a building or tenant space.

Mrs. McConnell asked if the current tenant met the parking requirements. Mr. Wright informed the Board the present tenant had been in the building for more than 10 years. Mr. Morgan replied that the Tenant Finish Permit application did not exist at that time and he is not sure if the current tenant meets the parking requirement.

Mr. Miller asked if the property owner could sell the buildings without selling the land. Mr. Morgan replied that the applicant needs to create lots that meet the requirements found in the Boone County Zoning Regulations.

Mr. Edwards asked if the shared storm water agreement was going to be an easement. Mr. Stubbs said a storm water easement would be shown on both lots. Mr. Edwards asked if the easement would be referenced in the Deed. Mr. Stubbs replied that it would be shown on the Plat and would carry with the properties forever.

Mr. Miller asked if voting on the request was premature because of the propane tank. Mr. Morgan replied that the Building Department will inform the applicant whether the tank can stay in its present location or has to be moved. Mr. Wilson added that tank location is under the purview of the Building Department.

Mrs. Millar noted for the record that there was nobody else in the audience to speak for or against the request and asked for a motion.

Mr. Edwards moved to approve the request on the basis that it will not alter the essential character of the area. He added the buildings already exist and the proposed property line will not be noticeable to the public. He recommended the following conditions with the approval:

- 1. Shared parking and shared storm water agreements shall be recorded at the time the lot is subdivided.**

2. **The parking lots (lots 43A and 43B) shall be striped in accordance with the zoning regulations. A Minor Site Plan application shall be approved by the Boone County Planning Commission before the lots are striped off.**

Mr. Miller seconded the motion.

Mrs. Millar asked if there was any discussion. Mr. Morgan indicated the applicant brought up the possibility of adding additional parking on lot 43B. He asked Mr. Edwards if he wanted to give the applicant the flexibility of adding additional parking on lot 43B or recording a shared parking agreement which allows lot 43B to use the parking on lot 43A.

Mr. Miller asked if the parking addition would enable the existing tenant or future tenants to meet the parking requirements. Mr. Morgan replied that existing tenant is grand-fathered because they have been in the building for more than 10 years. Any future user would have to go through the Tenant Finish Permit application process to determine if adequate parking existed on the site. If the parking was insufficient they could still pursue a shared parking agreement with a neighboring lot.

Mr. Edwards amended his motion. He commented that it would better for lot 43B to have more parking and there be no need for a shared parking agreement. However, if this is not possible he would like to see lot 43B have a shared parking agreement with lot 43A.

The conditions were amended as follows:

1. **A shared storm water agreement shall be recorded at the time the lot is subdivided.**
2. **The property owner shall provide additional parking on lot 43B or record a shared parking agreement which allows lot 43B to use the parking on lot 43A.**
3. **The parking lots (lots 43A and 43B) shall be striped in accordance with the zoning regulations. A Minor Site Plan application shall be approved by the Boone County Planning Commission before the lots are striped off.**

Mr. Miller seconded the amended motion.

Mrs. Millar asked for a vote and it carried unanimously.

Mrs. Millar asked for a motion to adjourn. Mr. Edwards so moved and Mr. Miller seconded the motion. Mrs. Millar asked for a vote and the meeting was adjourned by unanimous consent at 6:20 P.M.

APPROVED

Shirley Millar

Attest:

Todd K. Morgan, AICP
Senior Planner, Zoning Services