

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING**

June 11, 2014

6:00 P.M.

Mr. George Whitton called the meeting to order at 6:01 P.M.

BOARD MEMBERS PRESENT:

Mr. George Whitton
Mrs. Sherry Hempfling
Mr. Richard Miller
Mr. Bradley Shipe

BOARD MEMBERS NOT PRESENT:

Mrs. Phyllis Sparks

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

APPROVAL OF MINUTES

Mr. Whitton stated that the Board members received copies of the minutes of the Boone County Board of Adjustment meeting of April 9, 2014. He asked if there were any comments or corrections? There being no changes, Mr. Shipe moved that they be approved as written and Mrs. Hempfling seconded the motion. Mr. Whitton called for a vote and it carried unanimously.

ACTION ON REVIEWS

- 1. Request of Anthony Parnigoni for two Conditional Use Permits to allow: (1) A permitted vineyard and winery with a tasting room, walking trails, and gardens to be expanded into a resort with short term lodging. (2) Catered events (wedding receptions, family reunions, etc.) to take place on the properties with the serving of food and drinks. Alcohol will be limited to wine produced on the sites. The approximate 6.46 and 6.38 acre tracts are located at 14555 and 14611 Salem Creek Road, Boone County, Kentucky and are currently zoned Agricultural Estate (A-2).**

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

Mr. Miller asked if he had the Average Daily Trips on Salem Creek Road? Mr. Morgan replied that he did not have that information.

Mrs. Hempfling asked if an 18' wide road would be considered a two lane road? Mr. Morgan replied it would.

Mrs. Hempfling asked if vehicles have to pull over and stop to pass? Mr. Morgan replied that he drove down to the site about 4 or 5 times since the application was submitted and had the following experiences. Two cars can pass one another pretty easily unless they are passing in a curve. If a bigger vehicle, such as a large truck or service vehicle, is coming you need to slow down and pull over as far as you can.

Mrs. Hempfling asked how much Mr. Ryan's driveway will be used and if Mr. Parnigoni had received an easement to use the driveway? Mr. Morgan reviewed the PowerPoint slide which showed the proposal and indicated the parking near Mr. Parnigoni's house would probably be an overflow parking lot. He believes most people will park down by the wine tasting room/banquet barn. She asked if there will be a maintenance agreement? Mr. Morgan said he would let Mr. Parnigoni answer that question.

Mr. Anthony Parnigoni said Mr. Morgan gave a good overview of the proposal but he would like to clarify some points. He started by submitting a copy of the easement agreement into the record. The agreement was signed by Korey Ryan (see Exhibit 1). He said he is willing to agree to the following things which were not included in his letter:

- A. There will be sound proof insulation in the barn.
- B. There will be no music past 10:00 PM.
- C. No guests will be permitted on the properties past 11:00 PM.

He offered to answer the Staff questions which are found on page 5 of the Staff Report. Mr. Whitton said that would be a good idea.

- A. Has the State approved his Small Farm and Winery license?

That application and the national TTB license are in process.

- B. Which days of the week could events take place?

Events could take place any day of the week. He does not anticipate this will be a large income generator because events, such as wedding receptions, will be limited to 50 guests. There is not a huge market for small scale events. He anticipates that there could be a maximum of 2 events a week from Spring through Fall. He will not guarantee that because there could be 3 events one week and 0 the next week. He will have 26 parking spaces on site because the parking requirement is 25 stalls for a 50 person event. If he has 2 events a week this would put 50 additional cars on the road.

- C. Will restrooms be located in the wine tasting and banquet facility? Will any portable toilets be located on site when events are taking place?

Restrooms will be installed in the wine tasting and banquet facility and they will be ADA compliant. There will be no portable toilets setup anywhere on the properties.

- D. Will the owner or another supervisor be present at the events to make sure the property guidelines are being followed (no more than 50 people, alcohol limited to wine produced on site only, music in tasting room only, events ending by 11:00 PM)?

He said he lives on the property and he or another supervisor will be present.

- E. Will the guest cottage be rented as one unit or could an individual rent a single bedroom?

He said it will be rented as one overall unit because there is only one bathroom.

- F. Could the guest cottage be rented on a nightly basis?

Yes.

- G. The submitted plan shows that an overflow parking area will be provided next to Mr. Parnigoni's house at 14555 Salem Creek Road. The gravel driveway that runs to this parking area is on land that is owned by Corey Ryan. Has Mr. Ryan granted an easement that would allow Mr. Parnigoni and his guests the right to use this driveway?

He indicated that he has already submitted the easement agreement into the record. He said he has also worked out a couple other verbal agreements with Mr. Ryan. He said they will be sharing in the expense of the upkeep of the driveway. A gate will be installed to stop guests from traveling back to Mr. Ryan's house.

Mr. Parnigoni said he knows several people in the audience are opposed to the request. He said he wants to be a good neighbor and he offered his phone number to any person that wanted it. That way people could contact him if things were not going the way they wanted. He added that he would be the closest residence to all the activities.

Mr. Whitton asked if anybody in the audience wanted to speak regarding the requests?

Mr. John Herbstreit said he had lived at 14746 Salem Creek Road since 1978. He said one thing Mr. Morgan failed to mention about Salem Creek Road is that the County fails to maintain the shoulders of the road. When a car falls off the shoulder it can drop a foot or more into a ditch. These ditches can throw a car into a tree and cause a substantial accident. This happened to him one winter. If you are off the pavement your in trouble. As a property owner he is curious why any agricultural/rural property owner would want to be subjected to the smells of a winery, added traffic, noise, and other things that accompany a commercial business? The whole thing does not make any sense to him. He bought in a rural residential area 28 years ago to get away from these types of things. He is vehemently opposed to the proposal.

Mr. Jerry Sewell said he has lived at 14640 Salem Creek Road since 2007. His property is located to the south of Mr. Parnigoni's property. There is a really bad curve right there and it is an adventure to pull out of his driveway anytime there are leaves on the trees. He said the road narrows in the curve to a little under 17 feet. There is a drop off on the east

side of the road that goes down about 10 feet to a creek. One vehicle has fallen into this portion of the creek since he has lived on his property. He and his wife welcome the winery because it is permitted by state law and it keeps with the agricultural and rural character of the area. He and his wife have many concerns about the Conditional Use Permit requests. First they deliberately moved to their property because it was rural and quiet. He believes the requests do meet the conditional use permit criteria that are listed on page 2 of the Staff Report. He read the following passage: "the activity is an integral part of the agricultural or residential use of the land, and the activity is not of scale, nature or other character which will detract or conflict with the principal purposes of the district." Mr. Parnigoni's requests to have commercial uses is in violation of the passage because the uses will change the principal character of the area. He added that he was a State Trooper in Ohio for about 12 years near Morrow, Ohio. The Morrow Winery is located up there on US Highway 22 and the road is straight and 22 feet wide. Even with the wider and straighter roadway the accidents there would quintuple when the annual wine festival was going on. He said it would almost be impossible for somebody to come out of Mr. Parnigoni's property and travel south. If a guest is inebriated the likelihood of an accident will be even greater. There have not been that many accidents on the road over the last two years but this proposal would add commercial establishments where people are consuming alcoholic beverages. He is not opposed to people drinking but does have a concern with people drinking and driving. He realizes Mr. Parnigoni's intention is to have some sort of supervision to prevent people from drinking alcohol that isn't produced on site. He experiences that people will sneak alcohol into events. He doesn't believe Mr. Parnigoni can guarantee this will not happen.

Mr. Mark Krummen said he lives at 1140 Cape Cod Circle and can see this property from the top of the hill. He said he appreciated the Staff Report with the additional questions. He said that traffic is a concern to him. A standard school bus is 8' wide and the road in most areas is 18' wide. Mr. Parnigoni talked about the facility being used various times throughout the year. He assumes some of the events will take place on weekdays when school is in session. There are school busses running up and down the road 6 different times throughout the day. High school and middle school busses run one route, elementary school runs a route, and Kindergarten runs another. The residents that live in the area can testify to the fact that you need to pull over and stop your car on Salem Creek Road when a school bus is approaching you. Most times the school bus driver is experienced but some times they have substitute drivers. There have been occurrences where mirrors have been broken on stop signs and on trees that are located near the road.

He is glad that Mr. Parnigoni is not proposing any portable toilets on site. They are on septic systems in this part of the County. He asked if the septic system would be large enough to accommodate 50 people? Have the Fire Department, Building Department, and Health Departments looked at the plans yet? He added that the subject properties are a total of 12 acres. Many of the neighbors are worried about guests trespassing because it does not take a lot for someone to walk across 12 acres. Mr. Ryan lives behind Mr. Parnigoni and runs a landscaping business. People on the road have to avoid his trucks and trailers. He said he believes that the photos of the road showed a lot of the straight stretches. There are many curves and blind spots. The County just bush hogged some areas to the side of the road so residents can leave their properties safely. He indicated that there were a lot of issues on the road when Mr. Parnigoni constructed his house. A lot of water will stand at the bottom of the driveway when it rains hard. The County will probably need to address this in the future.

Mr. Mike Howell said he lives at 1135 Cope Cod Circle and sees the subject property from his back door. His major concern is traffic. He said residents that are traveling out there will need to stop if they encounter a limousine. If a limousine driver does not know to stop there will be an accident. He said he really did not like the pictures of the road that were taken.

Mr. Whitton said he visited the site and drove the road. He asked what other Board members had done so? Mr. Shipe and Mr. Miller said they did and Mrs. Hempfling replied she did not.

Mr. Wilson asked Mr. Howell if he had any additional photos of the road that he wanted to introduce into the record? He said he did not but asked for the bridge photos near Courtney's Tree Farm to be reviewed again. Mr. Morgan reviewed two slides of the bridge. Mr. Howell said one photo shows the severity of the curve and the other does not.

Mr. Mark Rachford said he lived at 1008 Eads Road. He said the area where the bridge photos were taken will flood when there are heavy rains and the bridge cannot be used at these times. Sometimes it floods so badly that a Boone County Sheriff Deputy will come out and block the road. He said if that were to happen when an event was going on guests would have to take a back way out. Guests will not know how to do that.

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

Mr. Miller asked Mr. Parnigoni asked how many people he expected to attend the wine tasting and sales functions that are permitted under the Small Farm and Winery license? Mr. Parnigoni indicated that the winery will not be open to the public Monday through Friday although the license would allow it to be. He expects that he could have 50 people visit the wine tasting room on a typical Saturday or Sunday.

Mr. Miller asked if he expected to generate any traffic during the weekdays when there would be school bus traffic? Mr. Parnigoni replied there could be an event, such as a wedding, through the week. However, he does not believe any one would get married Monday through Friday during school hours.

Mr. Wilson indicated that 3 of the 4 Board members present indicated that they had visited the site and drove the road. He asked if they would like to put their observations into the record?

Mr. Miller said he drove the road this afternoon. It is a well paved road but it is narrow. There are some significant horizontal and vertical curves. There are also some sight distance issues as you drive the road. However, in the area of the winery the road is fairly straight. He said he did not drive too far past the winery. He asked if there was another way out? Mr. Morgan replied that Eads Road connects on KY 16 near the center of Verona.

Mr. Shipe said he had the same observations as Mr. Miller.

Mr. Whitton said he had the same observations. He added that there wasn't much traffic on the road when he was there. He was there sometime in the middle of the morning.

Mr. Miller asked Mr. Parnigoni if he would be willing to accept a condition which limited events to Friday night, Saturday, and Sunday? Mr. Parnigoni said he would rather not, but would agree if that was the only way the Board would approve it. Mr. Miller asked if he would be agreeable to a condition which prohibited events from taking place during the day Monday through Friday. Mr. Parnigoni said he would be agreeable to that condition because nobody is going to book an event during the day Monday through Friday.

Mr. Shipe suggested the condition read that no events shall take place before 4:30 PM Monday through Friday because the school busses will be finished running by then.

Mrs. Donna Herbstreit said she has 5 children that drove the road and everyday she prayed that they got off it safe. A few of her children wrecked on the road and they are not the only ones. The road is dangerous. She has had people side swipe her and takeoff. They have lived there 36 years. Hardly anybody used the road when they first moved there but it's different now. She has grandchildren that come to visit her now and she is concerned for their safety.

Mrs. Hemplfing said somebody testified earlier that they were concerned about people getting off the trails and trespassing onto neighboring properties. She asked Mr. Parnigoni if he could mark the trails? Mr. Parnigoni said guests will be provided a map of the trails and property. He already has an agreement with his neighbor to the north that he will extend the fence if anybody ever wanders onto his property.

Mr. Shipe asked if the main entrance is lit? Mr. Parnigoni replied a commercial style light is affixed to the tool barn and shines out towards the entrance. It is probably located 40 yards from the road.

Mr. Whitton asked for a motion.

Mr. Miller made a motion to approve the Conditional Use Permit applications with the following conditions:

- 1. The approval is based Mr. Parnigoni's letter found in the Staff Report and the modifications he made this evening.**
- 2. Events (wedding receptions, family reunions, etc.) that take place on a Monday, Tuesday, Wednesday, Thursday, or Friday shall not start before 4:30 PM.**

Mr. Shipe seconded the motion.

Mr. Whitton asked if the Board wanted to discuss the motion? There was no response.

Mr. Whitton called for the vote and it carried unanimously.

ADJOURNMENT

Mr. Whitton asked for motion to adjourn the meeting. Mr. Miller made the motion to adjourn and Mr. Shipe seconded the motion. Mr. Whitton called for the vote and the meeting was adjourned by unanimous consent at 6:54 p.m.

APPROVED

Mr. George Whitton, Chairman

ATTEST:

Todd K. Morgan, AICP
Senior Planner, Zoning Services

Exhibits

1. Easement Agreement Signed by Korey Ryan