

**BOONE COUNTY BOARD OF ADJUSTMENT  
BOONE COUNTY ADMINISTRATION BUILDING  
BOONE COUNTY FISCAL COURTROOM  
BUSINESS MEETING  
MARCH 9, 2016  
6:00 P.M.**

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Mr. Whitton called the meeting to order at 6:02 P.M.

**BOARD MEMBERS PRESENT:**

Mr. George Whitton, Chairman  
Mr. Richard Miller, Vice-Chairman  
Mr. Frank Bednar  
Mrs. Sherry Hempfling  
Mr. Bradley Shipe

**LEGAL COUNSEL PRESENT:**

Mr. Dale T. 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 February 10, 2016. He asked if there were any comments or corrections? There being no changes, Mr. Miller moved that they be approved as written and Mr. Shipe seconded the motion. Mr. Whitton called for the vote and it carried unanimously.

**ACTION ON REVIEWS**

1. Request of Rivers Pointe Development, LLC for a Variance to allow a house to encroach into the 60 foot front yard setback in an Agricultural Estate (A-2) zoning district. The future 2.809 acre lot (Lot 8, The Reserve at Rivers Pointe Subdivision) is currently part of a 17.279 acre tract that is located on the southwest side of River Road and directly across from 7150 River Road, Boone County, Kentucky.

Staff Member, Kevin T. Wall, presented the Staff Report which included a PowerPoint presentation (see Staff Report).

Mr. John Toebben said Mr. Wall explained the proposal very well. The constraint they are facing is the topography. They haven't finished the architecture on the house because they haven't figured a way to get it on the site without it being unbuildable. With the house positioned 37' from the cul-de-sac, the back of the home is actually 8' out of the ground. They are using a 10' foundation because it helps pickup some of the grade. With the back left corner of the house being 8' out of the ground (8' of foundation below the basement floor), they are probably looking at a deck coming off the basement level. If they construct the house at the required 60' front yard setback, the back left hand corner of the house will be out of the ground about 13 or 14'. They have tried to stretch the width of the house and minimize its depth so they can control the amount of sub-foundation. The property is located on a cul-de-sac and it's a large lot. They have had soil engineering tests done

by Thelen because of the sloping topography of the site. Thelen always encourages them to keep the front yard as level as they can to minimize hydrostatic pressure on the foundation. They have considered all these things and have to tried to get the house as far back as possible. This is where the 37' front yard setback proposal came from. The shape of the cul-de-sac bulb works against them a little with the setback.

Mr. Whitton asked if the Board had any questions for the applicant? There was no response.

Mr. Whitton asked if anybody in the audience wanted more information or wanted to speak regarding the request?

Mrs. Virginia Roena Moore said she and her husband own land to the north of the 17.279 acre tract. She read a prepared statement and submitted it into the record (See Exhibit 1). Mr. Whitton said he would address her concern. He indicated the Board doesn't arbitrarily approve variances. There have to be special or unique circumstances for the request to be approved. The subject property has a significant grade, which prohibits its use. Properties that do not have such limitations would be hard pressed to receive a variance.

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

There was no response.

**Mr. Whitton asked for a motion. Mrs. Hempfling made a motion to approve the request as submitted due to the hardship. Mr. Miller seconded the motion.**

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

2. **Request of Signarama for a Conditional Use Permit for Florence Baptist Temple to have an electronic message board on their freestanding sign in a Commercial Two (C-2) zoning district. The approximate 10 acre site is located at 1898 Florence Pike, Boone County, Kentucky.**

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

Mr. Miller asked how far the proposed sign was from KY 18? Mr. Morgan replied that the sign is approximately 380 feet from the KY 18 centerline.

Mr. Mike Fogle, with Signarama, said he has prepared another drawing, which shows the subject sign with 3 lines of text (see Exhibit 2). He said the proposed sign was never intended to run 8 lines of text because it would be hard to read. It has the capability of displaying 8 lines but will not be used that way. Most electronic message centers are capable of displaying animation and video and this sign has that capability. However, this sign will not be used that way. The church wants to advertise if they are having a revival or a special guest speaker. He said the sign will be noticed from KY 18. They want people to visit their campus and the congregation to grow. He acknowledged that the electronic message board looked like a television screen with the graphic being displayed. However, he believes they will only display text the majority of the time. The church has a lot of upwards basketball and other events.

He offered to answer the questions from the Staff Report.

**How will the sign be oriented? Is its primary purpose to advertise on KY 18?** The sign will be oriented towards KY 18. The other businesses in the area have their signs oriented towards KY 18. The sign orientation will let people see it when they are on KY 18 and McGrath Lane. The electronic message board is single sided and the fixed copy panel is double sided.

**The sign drawing that was submitted with the request shows a still photo and one line of text on the electronic message board. Can some other church message examples be provided?** He referred to Exhibit 2.

**The current proposal would allow 8 lines of 5.7" tall text to be displayed on the screen. How far away can 5.7" tall characters be seen?** He indicated that 5.7" tall text could be seen from 150 feet away. However, this size text will not be used.

**How tall and wide would the characters be if the electronic sign were limited to 2, 3, or 4 lines of text? How many characters could fit on a line with each option? How far away would the characters be seen?**

- Two lines of text - 24" tall characters would be used and 5 characters would fit across the screen. 24" characters can be seen from 600' away.
- Three lines of text - 16" tall characters would be used and 6.5 characters would fit across the screen. 16" tall characters can be seen from 360' away.
- Four lines of text - 12" tall characters would be used and 8.66 characters would fit across the screen. 12" tall characters can be seen from 305' away.

**Would the church consider doing a 10' tall, 100 square foot solid/monument style sign a masonry base and stencil cut graphics for fixed copy areas?** The church wants to construct the pole sign to get the messages up where people can see them. They currently have a monument sign. The sign code permits a 20' tall sign in a C-2 zone.

**Would the church be willing to hold a message for a minimum of 10 seconds?** The church would be willing to hold the message for 10 seconds if it's required. He is not sure why that would be required when other businesses do not comply with the standard. He doesn't believe most of the electronic boards on KY 18 comply with the 5 second standard and many show animated messages.

**Does the sign contain a photocell or dimmer?** The sign does have a photocell and will dim automatically at night.

Mr. Miller asked why they wouldn't be willing to lower the sign a little if the main intent is to advertise on Florence Pike? He believes the sign will cause a disruption on KY 18 if it's 20' tall. Mr. Fogle said he doesn't believe the sign will be any more distracting than other signs in the area. He said some of the signs in the area are more than 20' tall and are significantly larger in terms of square footage. He does not see the electronic board any differently than a standard sign cabinet if it complies with the 5 second hold time requirement. He asked why the church should be held to a higher standard than their neighbors? Mr. Morgan asked what specific neighbors and signs he was referring to? Mr.

Fogle said he was referring to some other businesses that have tall pole signs. Mr. Morgan replied that fixed copy signs are permitted by right if they meet the guidelines. The current proposal is for a Conditional Use Permit to allow the church sign to contain an electronic message board and the Board has the right to impose reasonable conditions. Mr. Fogle said he sees the sign as a fixed sign if the messages are held for 5 seconds. Mr. Morgan said he disagreed because the tall pole signs he is referring to do not have the ability of changing messages every 5 seconds. Mr. Fogle responded that the sign will display messages in a 19 mm pixel pitch. The letters will be very crisp and clear. Yesco electronic signs are the Cadillac of the industry. Over 90% of the electronic signs in Las Vegas, Nevada are Yesco boards. He said the sign will be visible from KY 18 but it will be no different than other signs in the area.

Mrs. Hempfling asked if the electronic sign at the Extension Office was a taller sign? Mr. Morgan reviewed the PowerPoint slide and said that sign is taller and was exempt from zoning.

Mr. Bednar asked if the house to the right of the church building was owned by the church? Pastor Cox replied that it was.

Mr. Miller asked if the church had any problem with messages being displayed on a green background? Mr. Fogle said the sign has the ability of using any colored background. He doesn't think that will be a problem but will let the church address it. They will be programming the sign.

Mrs. Hempfling asked if there were any concerns about limiting the sign to a 10' tall, 100 square foot monument sign? Mr. Fogle said they made the sign to the county's specifications. The church is interested in having the tallest sign they can. He added that the sign is approximately one-half of the square footage that is permitted. He added that the pole will have an aluminum skirt and look nice. The pole could be enclosed in brick if required.

Mr. Whitton asked if the Board had any questions for Mr. Fogle? There was no response.

Mr. Whitton asked if anybody in the audience wanted to speak for the request?

Wayne Cox said he has been Pastor of the church since 1973. They currently have a monument sign and do not want another. They have been on the site since 1974 and want to bring it up to modern day and get away from the monument sign. As a church family, they were excited when Signarama presented the sign drawings to them. They would like to stay with the sign that has been presented.

Mr. Whitton asked if the letters would be removed from the monument sign once the new sign is constructed? Pastor Cox said they would be. The existing letters are glued onto the wall and it should be an easy process to remove them.

Mr. Shipe asked if the church could live with limiting the sign to 3 lines of text? Pastor Cox said their intent is to modernize the sign and not to distract traffic on KY 18. Their main intent is for motorists to see the sign when they turn on McGrath Lane. Mr. Kevin McCord, with Signarama, added that they would like to have the flexibility to display 4 lines of text. Three lines of text would limit them because of the size of the words that would be displayed on the board. Pastor Cox said they have relied on Signarama to design the sign.

They would like to have whatever they are permitted for community outreach. For example, they just completed an upwards basketball program and had 350 participants. They would like to be able to advertise such events. They want to get away from the old monument sign because it's archaic. The church has already voted on the new sign.

Mr. Miller asked if the church would be willing to accept restrictions on the number of lines that can be displayed, length of time of message will be held, and the colors that will be used? Pastor Cox said the church wants to comply with the Board's wishes. However, they would like to stay with a pole sign instead of a monument sign.

Chairman Whitton said he doesn't find four lines of text any more objectionable than 3 lines of text. He said four lines of text may even be less objectionable from his view.

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

Mr. Morgan asked if the applicant would be agreeable to installing some filler cabinets on the top and sides of the electronic message board if the architectural freestanding design is approved? He believes they would give the sign a more integral and finished appearance. Mr. McCord said they could either move the message board up or install filler cabinets. They can make it look like one cabinet. Mr. Shipe asked if there would be a major price difference? Mr. McCord said there would not.

Mr. Mike Bryan said he was a member of Florence Baptist Temple. He thinks it will be good for the church to reach people for Jesus. The sign will allow them to advertise their outreaches.

Mr. Shipe asked if the church had an opposition to the filler cabinet idea? Pastor Cox said he had no objections. Mr. Whitton asked for clarification that Mr. Morgan was asking for the sign to have the appearance of one integral sign? Mr. Morgan said that was correct. He believes it will help with the overall appearance of the sign. Mr. Shipe said he liked the idea.

Mr. Whitton said he would entertain a motion.

Mr. Miller made a motion to approve the request with the following conditions:

1. The sign shall be constructed so it has the appearance of an integral sign.
2. No more than four lines of text shall be displayed on the electronic message board at any time. The background color shall be limited per Staff's recommendation.

Mr. Morgan said he only recommended black colored backgrounds. The messages could be any color but the background would be black to prevent glare issues. Mr. Fogle said the condition would really limit the church. He said there are a lot of colored backgrounds that would not draw attention. He recommended changing the condition to prohibit bright colored backgrounds. He said it would be a shame to limit the sign to black backgrounds when it has the ability to do so much more. Mrs. Hempfling asked how the condition would limit the use of the sign? Mr. Fogle replied the electronic message board wouldn't be used to its full potential. He said the Boone County Extension Office sign down

the road uses blue and other colored backgrounds with white letters. The only reason the library and Walgreen's don't use colored backgrounds is their signs are single colored message boards. Mr. Shipe asked for guidance on how they would word such a condition. Mr. Fogle said the colors that are going to be brightest are yellows and oranges. He believes colors such as green, blue, and red make good background colors and are pleasing to the eye. Mr. Whitton asked how they word the condition so a bright orange or yellow background isn't displayed? Mr. Fogle said it could be worded that bright colors will not be used as a sign background. He added that the sign will automatically dim at night. Mr. Miller asked if a list of background colors with contrasting colored letters could be sent to Staff for approval? Mr. Morgan said he believes the condition could be worded to prohibit bright colored backgrounds. It could also contain language that the church would be willing to work with Planning Commission Staff to resolve any lighting, brightness, or glare issues that are caused by the sign. Mr. Fogle said the church is very easy to work with and he doesn't see that as an issue.

Mrs. Hempfling said she doesn't think there is any question about the integrity of the company or the quality of the sign. Her concern is the aesthetic of the sign because it will be located on a church campus. She would hate to see the church have a glaring sign that doesn't fit in with the community. Mr. Fogle said Signarama will work with the church to make sure the messages are aesthetically pleasing.

Mr. Whitton asked Pastor Cox if he understood the Board's concern about the brightness of the sign? He added that he doesn't want to restrict colors as long as they aren't objectionable or harsh to the eye. Pastor Cox said he understands and they would comply with whatever they need to.

Mr. Miller said he would start his motion over. He made a motion to approve the request with the following conditions:

1. The sign shall be constructed so it has the appearance of one integral sign.
2. Bright colored sign backgrounds shall not be used on the electronic message center. The property owner shall work with Planning Commission Staff to resolve any lighting issues (brightness/glare) issues that are caused by the subject sign on public rights-of-way.
3. The electronic message center shall display no more than four (4) lines of text at any time.
4. Electronic messages shall be held for a minimum of ten (10) seconds.

He asked for clarification that they didn't need to add a condition requiring a photocell or dimmer because it's a code requirement. Mr. Morgan responded that was correct. He added that the code also prohibits electronic messages from having any type of apparent visual motion.

Mr. Whitton asked Mr. Miller about the 10 second hold time condition. He feels that 10 seconds is pretty long.

Mr. Bednar asked about limiting the sign to four lines of text. He feels the church should have the ability to display scripture and have a few more lines of text. Mr. Miller

responded the words would be small. Mr. Bednar said he feels the condition would be restrictive. Mr. Morgan said he worded the condition regarding the number of lines of text as a safety measure. The idea is to keep the driver's eyes on the road and limit to time they look at the sign. Mr. Miller said he would keep the motion with four lines of text and a 10 second hold time.

Mr. Dick Weber said he is a member of the church. He asked if the Board would consider going with the wording in the code and allow messages to be displayed for 5 seconds. He feels that 10 seconds is a long time.

**Mr. Shipe asked Mr. Miller if he would consider an amendment to the motion? He asked if he would be agreeable to changing the hold time to 5 seconds? Mr. Miller said he would be willing to amend his motion to a minimum 5 second hold time. Mr. Shipe said he would second the motion.**

**Mr. Shipe asked Mr. Miller if he would be willing to add another condition which would only permit the sign to advertise church business? Mr. Miller said he was agreeable. Mr. Whitton summarized the conditions:**

1. **The sign shall be constructed so it has the appearance of one integral sign.**
2. **Bright colored sign backgrounds shall not be used on the electronic message center. The property owner shall work with Planning Commission Staff to resolve any lighting issues (brightness/glare) issues that are caused by the subject sign on public rights-of-way.**
3. **The electronic message center shall display no more than four (4) lines of text at any time.**
4. **Electronic messages shall be held for a minimum of five (5) seconds.**
5. **The sign shall only be used to advertise church business.**

Mr. Weber asked if the church could continue to use the brick monument wall if the Florence Baptist Temple letters were removed and a cross were installed? Mr. Morgan said that should be permitted as freedom of expression. He suggested the change be shown when the sign permit application is submitted for the electronic sign.

**Mr. Whitton asked for a second to the amended motion. Mr. Shipe seconded the motion. Mr. Whitton asked if there was any additional discussion before the vote? There was no response. Mr. Whitton called for a 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 7:05 p.m.

**APPROVED**

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**Mr. George Whitton, Chairman**

**ATTEST:**

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

**Exhibits**

1. Letter Submitted by Roena Moore
2. Drawing Submitted by Mike Fogle