

**WALTON BOARD OF ADJUSTMENT
WALTON SENIOR CENTER
BUSINESS MEETING
July 24, 2014
6:30 P.M.**

Mr. Turner, Chairman, called the meeting to order at 6:30 P.M.

BOARD MEMBERS PRESENT:

Mr. Steve Turner, Chairman
Mr. Robin Baker
Mr. Jim Bridges
Mr. Edward Sedor

BOARD MEMBERS NOT PRESENT

Mr. Thomas Luebbe

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

APPROVAL OF MINUTES:

Mr. Turner stated that the Board members received copies of the minutes of the Walton Board of Adjustment meeting of January 10, 2013. Mr. Bridges moved that they be ratified and Mr. Sedor seconded the motion. Mr. Turner asked for a vote and it carried unanimously.

Mr. Wilson said Mr. Baker and Mr. Sedor have taken the oath of office and are qualified to act on the agenda items.

AGENDA ITEMS:

- 1. Request of Takenaka Corporation for a Conditional Use Permit to allow Best Sanitizers to construct up to a 127,000 square feet of building additions, add additional parking, and mix and store additional chemicals on site. The approximate 10.69 acre property is located at 154 Mullen Drive (lots 8, 9, 10, and 11 of N. Walton Commerce Park), Walton, Kentucky and is currently zoned Industrial One (I-1).**

Staff Member, Todd Morgan, AICP, presented the Staff Report which included a PowerPoint presentation (see Staff Report). He added that he received emails from James Wenstrup and Deputy Chief Allen Roberts after the Staff Report was finalized. These emails are part of the record (see exhibits 1 and 2).

Mr. Baker asked if there was only one access point to the industrial and residential subdivisions? Mr. Morgan replied that was correct. You have to drive through the

industrial subdivision to get to the residential subdivision. The industrial subdivision existed first and the developer applied for a rezoning to allow the residential subdivision. Mr. Bridges asked if the fire department was given the total quantity of flammable materials that would be kept on site? Mr. Morgan replied that the applicant's cover letter provides the overall quantity of alcohol based hand and surface sanitizers, hand soap and cleaners, empty plastic containers, and packaging materials that would be kept on site. The letter is attached to the Staff Report and was reviewed by Walton Fire Protection District.

Mr. Turner asked if the applicant would like to make a presentation?

Mr. Naoki Hirose, with Takenaka Corporation USA, said he is representing Best Sanitizers. His company is the construction company for the project. He said he would start by addressing the questions found on page 4 of the Staff Report.

- A. Could additional production rooms or H-3 storage rooms be added to the facility if the Phase 2 addition is approved and constructed?

Yes, there could be. At this time, there is no definitive plan as to what would be constructed in the future Phase 2 addition.

- B. Will there be any odors associated with the mixing of the chemicals that are detectable outside the building?

There will be no detectable odors outside the building.

- C. What is the anticipated number of tractor trailer trips per day if the additions are approved and constructed?

It is estimated that there will be between 7 and 11 tractor trailer trips per day.

Mr. Turner asked how many tractor trailer trips per day Best Sanitizers has right now? Mr. Fernando Ramirez, with Best Sanitizers, indicated that they 5 to 7 tractor trailer trips per day.

- D. What are the proposed exterior building materials?

Mr. Hirose stated that existing building is constructed with ribbed metal panels and the addition will match as closely as possible. The color of the metal panels fade over time and it might not be possible to match them exactly.

- E. The existing parking lot is illuminated by lights that are mounted to the building. Will the parking lot additions be illuminated the same way?

Mr. Hirose said that existing building has lights that are attached to the building and they shine downwards. One light was attached to the roof of the building to illuminate the entrance. The roof mounted fixture could be removed.

Ms. Nancy Jump said there is a tank behind the building and occasionally she will see a tanker there about 9:00 or 10:00 PM at night. That truck will sit there all night and wait to load or unload. She asked what the truck and employee traffic will be like once they operate 24 hours per day? Mr. Hirose said Best Sanitizers currently employees about 50 workers and they have some visitors. He said there should not be a big traffic impact because one shift will start and another will leave.

Mr. Sedor asked what they use to move drums around? Mr. Hirose responded fork lifts. Mr. Sedor said that fork lifts can pierce drums and asked what procedures there are for liquid containment? He added that chemicals like these cannot go straight into the sanitary sewer system. Mr. Hirose said the storage room has a depressed floor and any chemical leak would stay within a concrete containment area. Mr. Sedor asked how they would dispose of the chemicals? Mr. Hirose responded the chemicals would be pumped to a waste tank.

Mr. Sedor asked about the ventilation in the flammable storage area? Mr. Hirose said ventilation is not required in the flammable storage area because the products are sealed and mixing is not taking place there. However, the owners of Best Sanitizers choose to have ventilation in these storage rooms. Mr. Sedor asked if this ventilation was included in the 10 tons that released to the atmosphere each year? Mr. Hirose responded he didn't think so.

Mr. Sedor said he read the Material Safety Data Sheets (MSDS) and some information appears to be missing. For example, one is marked antimicrobial foam soap and it indicates that is it less than 2% Chloroxylenol but does not indicate what the rest of it comprised with. Mr. Ed Hay, Vice President of Operations for Best Sanitizers, said the MSDS are comprised in accordance with OSHA requirements. They only list the ingredients that are required because they are proprietary formulas. The non-hazardous materials are not listed because they are not required to be.

Mr. Sedor said he would think the fire department would want to know the ethanol solution when they review the MSDS for hand soap. Mr. Hay responded there is no ethanol in the hand soap. Mr. Sedor asked if the other components were aqueous? Mr. Hay responded they were. Mr. Sedor said the MSDS are confusing. One of the lines on the hand soap composition says none. Mr. Hay said that means the particular chemical has no hazardous materials in it. Mr. Sedor asked if it is a true soap? Mr. Hay said it is not. The generic term for soap is a detergent. Mr. Hay added that the fire department is familiar with them because this is their third expansion. These are basically using the same products.

Mr. Turner asked if there was an issue with the third curb cut being located so close to the circle in Mullen Drive? Mr. Morgan said Staff will look into that further if the Conditional Use Permit is approved and a Site Plan application is submitted. He already informed Mr. Hirose that Staff will want to see the curb cut located as far from the property line as possible so a more intense landscaping can be provided along the side property lines. He added that lot 12 is a future industrial lot and most of its road frontage is beyond the circle.

Mr. Turner asked if anybody in the audience wanted to speak regarding the application?

Ms. Caitlin Fugate said she lives on lot 2 on Rocky Pointe Court. She moved into her home about seven months ago and looked into all the industrial businesses because she has children. Her biggest concern is that the residential neighborhood exists in close proximity to Best Sanitizers. The residential subdivision did not exist when the first two phases of Best Sanitizers were constructed. She drives past Best Sanitizers every day because there is no other access point into her subdivision. She is concerned because she will see nothing but this facility when she looks out the back windows of her home. She did not pay \$140,000 to look at an enormous industrial facility. She asked if another access point is being proposed for the residential neighborhood? The neighborhood, when fully built out, will contain a lot of homes and there will be significant traffic. She asked what type of landscaping is being proposed? She asked if residents will have to evacuate their homes if there is emergency in the industrial park? Will chemicals get into the pond that is located 20 feet from her deck? What is coming out of Best Sanitizers stacks? These are her concerns.

Mr. Hay said the only thing that is coming out of their stacks is steam. The steam is used to sanitize equipment. All of their waste water is collected in a waste water tank inside the building. The waste water is then analyzed (sampled) and treated so it meets the City of Walton's requirements before it is discharged into the sewer. None of their storm drains go to the pond near her property. All of their storage tanks have dikes around them so everything will be collected and contained if there is a leak. All of their products are water miscible.

Ms. Fugate asked if the chemicals and waste are tested on a regular basis? Mr. Hay replied that every batch that is released is tested and a sample is kept. The water department will come over and make sure the sample meets their requirements. They come to their facility often. Mr. Hay said they are regulated by the FDA, EPA, ATF, and OSHA. The FDA will come unannounced and look at safety measures. He invited Ms. Fugate to come and tour the facility. She will see that it is a nice and clean operation. Ms. Fugate said something must be very flammable and damaging because fire fighters would enter the building in full gear. The industrial park already contains AmeriGas and there will be even more flammable materials near the residential subdivision if this application is approved. The residential neighbors in the area do not want to see this. She said businesses like this lessen the chance of them selling their homes in the future. She would not have bought her home if she would have knew something like this was possible. Realtors do not tell you all the information they should and it is disturbing.

Mr. Hay said he is much more concerned about the chemicals that come through Walton on rail cars. These chemicals can be 100 times more dangerous than anything that is stored or used at Best Sanitizers. He said the most dangerous thing they use is Ethanol. Ethanol is also used in Vodka. Ms. Fugate said the chemicals are a concern, the eyesore of the building is another, and no alternative access points to the residential subdivision is another.

Ms. Jump asked the Board to consider sitting in their houses and looking out their windows and seeing this huge structure with parking and lighting. Eventually it will be a 24 hour operation. Who would pay for a house that overlooked the side of a building that is 28 feet tall?

Mr. Turner asked if there were any other planned access points for the residential subdivision? Mr. Morgan said not immediately. The Preliminary Plat for North Walton Pointe Subdivision shows that Mullen Drive and Summer Pointe Drive will terminate at adjoining property lines. It's possible that there could be an alternative means of access if one these adjoining property develops in the future. Ms. Fugate stated that the future street connections will not happen if the lots in the North Walton Pointe Subdivision do not sell. She does not think the lots will sell if Best Sanitizers is permitted to construct these additions.

Ms. Jump asked if Best Sanitizers has looked at any other sites? There is a big industrial park up Dixie Highway. Large industrial companies, like Mubea and Duro Bag, have multiple locations. She knows that the subject property is zoned industrial and the industrial subdivision existed before the residential subdivision. However, she believes Best Sanitizers would have less resistance if they went into an industrial park that didn't have residential neighbors. All the businesses in North Walton Commerce Park are pretty much the same size right now and they all close about 5:00 PM. This business is going to take things to a whole different level.

Mr. Hay responded that they reached out to the former Mayor of Walton before they bought the property and he indicated that there would be no issues with them expanding. Based on this, they bought the land many years ago. They bought the land before the residential subdivision existed. His understanding is that the residential subdivision was planned for industrial uses when they bought their lots.

Mr. Bridges said he was on the Board of Adjustment when all of this took place. The residential subdivision was originally planned for industrial uses and the developer asked for a zone change because of the housing boom. The Walton Board of Adjustment did not have any involvement in that process. Walton City Council took final action on the zone change application.

Ms. Jump asked if this took place at a time when the economy was bad and industrial businesses were not expanding and industrial lots were not selling? Ms. Connie Goins, with the City of Walton, said the lots in North Walton Commerce Park were not selling so the developer asked for a Zone Change for the residential subdivision. Mr. Bridges said the housing boom was still going on when the residential subdivision was approved.

Mr. Baker asked if Best Sanitizers will do most of their shipping and receiving during the day or at night? Mr. Hay responded during the day.

Mr. Sedor said the aesthetics of the building seems to be a big concern for people that live in the residential subdivision. He asked if there was any way they could dress up the building so it would be more aesthetically pleasing?

He also stated that Best Sanitizers is using Ethanol and Isopropanol and these are some of the least dangerous chemicals. However, the aesthetics of the building could make it more compatible with the residential neighborhood.

Ms. Jump said the addition will hurt the residential neighbors property values. Builders will not get the money they are seeking for new houses in the neighborhood if Best Sanitizers additions are approved. She also stated that she is familiar with industrial shipping and receiving and drivers come all hours of the day and night. Truck drivers will arrive late at night and park on the street or on site and sleep until morning. This is common practice. She also added that children are beginning to play on their streets and go up to the circle on their bikes. They will not do this with the increased industrial traffic.

She stated that this is Best Sanitizers second expansion and questioned when it would end? She questioned if they will build up or acquire more real estate in the future? She reviewed pictures of some of their factories in Asia and it is apparent that nobody was concerned with aesthetics. The buildings were multi-story structures and there were fences that were 20 feet tall. Mr. Hay responded that Best Sanitizers Inc. is an independent corporation based out of California. She is referring to a major stake holder in the company. The factories in Asia are independent from Best Sanitizers.

Mr. Tuner asked if landscaping will be required in front of the building and parking lot? Mr. Morgan responded that a street frontage buffer will be required. The buffer will be a minimum of 10 feet wide and will contain trees and shrubs.

Mr. Baker asked who was responsible for the subdivision and their access roads? Mr. Morgan replied that a zone change to allow the residential subdivision was approved by the City of Walton. The streets within that subdivision are owned and maintained by the City of Walton. The Preliminary Plat shows that three future street connections could be made to adjoining properties but he has no way of knowing when or if those connections will be made.

Mr. Morgan reminded the Board that Best Sanitizers request involves an immediate addition and a future addition. The Board could approve or deny the application, or impose a condition which only approves the immediate addition if they do not feel they have enough information about the future addition. He added that Best Sanitizers could always come back with another Conditional Use Permit application at a later time if the Board only approves the first addition.

Mr. Baker said the site is very clean when comparing it to other industrial sites.

Mayor Carnahan said he thought somebody would be present from Walton Fire Protection District. He talked with the Fire Chief and he told him that they had no issues with the proposed additions.

Mr. Turner said he is considering approving Phase I only. Best Sanitizers could always come back for Phase II at the time if it is needed. This would allow the Board to see if Phase I had caused any impacts.

Mr. Bridges said he hates it for the residents but the residential subdivision was originally planned as an industrial park. Best Sanitizers bought their property when all the property was zoned industrial. A developer chose to have the area behind the industrial subdivision rezoned to residential. The Board of Adjustment had no say in that matter. He thinks it would be a hardship on Best Sanitizers if the Board did not grant both phases. While he is not a developer, he does not think the residential subdivision was well laid out and was misguided from the start.

Mr. Turner added that Best Sanitizers has a record of being a good corporate citizen. There is nothing in the record to the contrary.

Mr. Bridges said the applicant's cover letter provided chemical quantities for the different products. He asked if the chemical quantities and H-3 storage areas would double if the Phase II addition were constructed? Mr. Hay said it is hard to predict. Because they fall under FDA regulations they have to hold products before shipping them out. Mr. Bridges said their cover letter indicates that they would have 25,000 gallons of alcohol based hand and surface sanitizers on site. Are they asking to double that or would the Phase II area be used for storage? Mr. Hay said they currently have more raw material storage (packaging materials, bottles, caps, etc.) than finished products. Finished products are shipped out as quickly as possible because they want to sell them. Mr. Bridges said he would like to see a stipulation that Walton Fire Protection District would review the facility if they exceed 50,000 gallons of alcohol based hand and surface sanitizers. Mr. Morgan said the Building Department and Walton Fire Protection District would review any addition before it was constructed and Best Sanitizers would have to inform them what was being stored inside the building. Mr. Bridges said the Board could also consider a condition which required the Phase II addition to be used for non-volatile storage only. Mr. Morgan said that would have to be added as a condition of approval. Mr. Bridges said he is not sure that condition is needed if the Building Department, Fire Department, and other safety officials would review the Phase II addition and chemicals being stored inside. Mr. Morgan added that Deputy Chief Roberts clarified this. His email indicates that the project should move forward as long as all fire and building codes are met. The appropriate agencies will do a more thorough review when Building Plans are submitted for review.

Mr. Hay said it is very important for them to know the Phase II is being approved. Without that approval it kind of stops them in their tracks. Mr. Bridges said he is okay with the Phase II building addition being used for non-volatile storage. He is also okay with it being used for additional chemical storage if the various safety agencies are okay with that. Mr. Hay said any addition would be reviewed by Boone County Building Department or State Building Department and they would have to show they are meeting the National Fire Code.

Mr. Turner asked for a motion.

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

- 1. The building additions shall be constructed with materials that match the rest of the building.**
- 2. The number of parking stalls shall comply with the Boone County Zoning Regulations unless a Waiver is granted by the Zoning Administrator.**

3. **The existing roof mounted light shall be removed from the building and the existing and proposed parking lots shall not be illuminated by roof mounted lighting. The site shall comply with the foot candle measurements from the Boone County Zoning Regulations.**

Mr. Sedor seconded the motion. Mr. Turner called for the vote and it carried unanimously.

2. **Request of William Code for a Variance to allow an attached garage addition on a house to encroach into the 10 foot side yard building setback. The approximate .34 acre property is located at 32 Alta Vista Drive, Walton, Kentucky and is currently zoned Rural Suburban (RS).**

Staff Member, Todd Morgan, AICP, presented the Staff Report which included a PowerPoint presentation (see Staff Report). He added that he received an email from Richard and Gay Robinson earlier today regarding the application (see Exhibit 3).

Mr. Turner asked if the applicant would like to speak? Mr. William Code said the brick, shingles, and garage door will all match.

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

Ms. Elizabeth Grubbs-Poore asked Mr. Code if he had considered buying any property from Mr. and Mrs. Robinson? Mr. Code replied that he called them but never heard back from them. She asked if the Variance would impact any other properties on the street? Mr. Morgan replied the Board has to consider each Variance request on its own merits. If approved, this Variance would run with this specific property and would have no bearing on other properties on the street.

Mr. Turner said the adjoining property owner has submitted an email indicating they have no objections.

Mr. Bridges made a motion to approve the Variance with the following condition:

1. **The brick, asphalt shingles, and garage door on the addition shall match the existing house.**

Mr. Sedor seconded the motion. Mr. Turner called for the vote and it carried unanimously.

ADJOURNMENT

Mr. Turner asked for a motion to adjourn. Mr. Sedor so moved and Mr. Baker seconded the motion. The motion carried by unanimous consent and the meeting adjourned at 7:48 P.M.

APPROVED

Steve Turner
Chairman

Attest:

Todd K. Morgan, AICP
Senior Planner, Zoning Services

Exhibits

1. Email from James Wenstrup
2. Email from Deputy Chief Allen Roberts
3. Email from Richard and Gay Robinson