

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
BUSINESS MEETING
June 9, 2004
6:00 P.M.**

BOARD MEMBERS PRESENT:

Mr. James McGruder
Mrs. Shirley Millar, Secretary/Treasurer
Mr. Walt Ryan, Vice Chairman
Mr. George Whitton, Chairman

BOARD MEMBER NOT PRESENT:

Mr. Terry Edwards

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Chairman Whitton called the meeting to order at 6:04 PM.

Approval of the Minutes:

Chairman Whitton stated that the Board members received copies of the Minutes of the Boone County Board of Adjustment Meeting of May 12, 2004. He asked if there were any comments or corrections.

There being no changes to the Minutes, Mr. Ryan moved that they be approved as mailed. Mr. McGruder seconded the motion and it carried unanimously.

Agenda Items:

- 1. The request of Kerry and Kim Smith for a Variance to allow the front yard setback requirement to be reduced on property located on the northeast side of Ashby Fork Road, to the north of 3472 Ashby Fork Road and to the west of Ashy Fork Creek, Boone County, Kentucky. The property is currently zoned Agricultural Estate (A-2).**

Staff Member Todd Morgan presented the Staff Report which included a slide presentation (see Staff Report).

Mr. Kerry Smith stated that their original plan was for a four-bedroom ranch house on the property. The current proposal is for a three-bedroom ranch house and the width of the house has been narrowed as shown in the drawings attached to the Staff Report. The Chairman stated that Staff is concerned that the property may be in the flood plain. Mr. Smith responded that he has been permitted through Frankfort for construction in the area and he has a septic permit. Mr. Ryan asked if the applicant will take out any of the vegetation by the road. Mr. Smith responded that he will leave as much vegetation as possible. Mr. Ryan asked if the house would be visible from the nearest house. Mr. Smith responded "no". Staff agreed.

Mrs. Millar questioned the proposed ten-foot front yard setback. Mr. Smith responded that when facing the house, the right corner of the house is setback about 90 feet, but the lot runs at an angle and is much shorter on the left side of the house. The lot is pie-shaped.

Mr. Morgan reviewed the Site Vicinity Map with the Board and indicated the right-of-way of Ashby Fork Road. He explained that technically the dwelling would be only ten feet off the property line, but it appears to be much further back off Ashby Fork Road because of the right-of-way. Mr. Smith stated that the house appears to be 150 feet or more off the road.

The Chairman asked if there was anyone else present who wished to speak regarding this request. There was no response.

There being no further discussion, **Mrs. Millar moved to grant the request based on the way the lot lies and that the house is not actually ten feet from Ashby Fork Road, subject to the condition that the applicant is to obtain permits from the Division of Water and from the Northern Kentucky Health Department as indicated in the Staff Comments. Mr. Ryan seconded the motion and it carried unanimously.**

2. **The request of Nerrick Jackson (Grace of God Ministry) for a Conditional Use Permit to allow the construction of a church with parking stalls. The property is located on the north side of Beemon Lane, immediately to the north of 1399 Beemon Lane, immediately to the south of 1386 Beemon Lane and Lot #19 of Woodside Greens Subdivision, immediately to the east of 1418 Beemon Lane, and immediately to the west of 1386 Beemon Lane, Boone County Kentucky.**

Staff Member Todd Morgan presented the Staff Report which included a slide presentation (see Staff Report).

The Chairman asked for the applicant's presentation.

Mr. Nerrick Jackson submitted folders of information to the Board (see Exhibit 1). He stated that Grace of God Ministry has been operating out of the Holiday Inn in Florence since December 1999 and they want to put their worship center in the subject location. They will be good neighbors the residents around the property. Mr. Jackson reviewed the information in the folders. He stated that their worship center will look like the picture on Page 1, except that the front of their building will be brick and the sides will be vinyl-sided – but they are open to using brick on the sides. One of their members is an architectural safety engineer and conducted a study of the property. His findings are included in the handout (see “Grace of God Ministries 2004 Lighting Project”). Mr. Jackson reviewed the lighting study and Landscape Design Plans as contained in the folder and stated that the lighting should not offend any of the neighboring residents. He reviewed the three pages of information “Standard Features for General Steel Buildings” and stated that these are the specs for the building and it is a quality structure. The color of the siding is modest shell white and the front of the building is brick. He stated that the facility will be 3,200 square feet and be 40 feet wide by 80 feet long and 12 feet tall. They will add a six-foot steeple to the front of the building for a total height in the front of 18 feet. There will be one hundred seats in the facility. Mr. McGruder asked if the steeple will be lighted. Mr. Jackson responded “no”. Mr. Jackson stated that the hours of operation will be 8 AM to 3 PM on Sunday. Sunday school starts at 10 AM and services are from 10:30 AM until noon and then there is time to talk. Bible study is on Thursday at 6 PM and is usually over by 8:30 PM. Meetings and activities will be held on an as-needed basis. There are deacon's meetings and women's ministry meetings, but the crowd for those meetings would probably be fifteen people or less. It is a small ministry and the congregation on Sunday averages 50 – 55 people. He reviewed the scale drawing of the site and stated that they will leave the vegetation as shown on the drawing. He stated that the planned parking is in line with the requirement of one parking spot for every five people. The middle lane of the parking lot will be 24 feet wide and the in/out parking lanes will be 20-feet wide. They will make the parking spots 9 feet wide and 18 feet long per the specifications.

In response to a question from the Chairman, Mr. Morgan stated that the lighting and foot candle measurements might be a little off in some areas, which would be addressed at Site Plan Review. They will also need to meet the Buffer Yard requirements at Site Plan Review. He stated that landscaping is not a requirement when a residential zone adjoins a residential zone, but landscaping can be imposed as a condition. The parking aisles will be reviewed at Site Plan Review.

Mrs. Millar questioned why the applicant is proposing sixty parking spaces when there are only one hundred seats in the facility. Mr. Jackson responded that they have a parking space for every five seats in the facility. Mr. Morgan stated that per the Code, they would need twenty parking spaces. However, typically five people do not arrive in one car and the Code requirement needs to be revisited. Normally 2

– 2.5 people arrive in one car. They would be allowed 26 stalls with 100 seats, and they are proposing 60 parking stalls. He believes the Zoning Administrator will be willing to grant a parking waiver -- he may not grant all 60 parking spaces, but may find that 26 parking spaces appears to be low.

Mr. McGruder questioned outside activities. Mr. Jackson responded that there is an acre parcel plus a half-acre parcel that is included with the purchase, but a house (which they will not own) is located between the two parcels. After the facility opens and the parking is put in, any outdoor activities would be on the half-acre parcel and they will have to work with the people living in the home in order to get access to the half-acre parcel. He does not know at this time how they will access the half-acre parcel. He stated that the half-acre parcel will not be developed. Mr. Morgan stated that the Concept Plan does not show any use on the half-acre parcel and any church-related uses on that parcel would have to come back before this Board.

Mr. McGruder questioned access on the right-of-way as stated in the Staff Report. Mr. Jackson responded that he spoke with Darryl Davis who agreed that the right-of-way is the best place for the entrance and usage of the right-of-way for access to the property would not be denied. The Chairman asked if the applicant was saying that they intend to seek ingress/egress from the right-of-way. Mr. Jackson responded “yes” and added that Darryl Davis had no problem with it. Mr. Morgan explained that Darryl Davis works for Boone County Public Works, which would be the agency to grant the Encroachment Permit.

At this time, the Chairman if there was anyone else present who wished to speak in favor of this request.

Ms. Angela Brown, a member of the ministry, stated that the building they are proposing with the proper landscaping and lighting could add to the community and give the community another resource for building their lives and the community. She does not see any detriment to the community or any harm to anyone.

There being no one else present to speak in favor of the request, the Chairman asked if there was anyone present who wished to speak in opposition or to ask questions.

Ms. Rikki Houghton, who lives in the house located between the two parcels, stated that she is concerned about what will occur on half-acre parcel. The church will be right next to her house and she is concerned about traffic and lighting. She has had cars go into her ditch. She is also concerned about the value of her home. She has two small children.

Mr. Charles Jump, 1399 Beemon (the property on the corner) stated that he is not for or against the request, but he is concerned about the sewage.

Mr. Jackson stated that they have been approved for a sewage line to run through and join the Boone County sewage line. The man selling the land to them said that there has been approval for whoever occupies the property to join the sewer line or have a septic system. Mr. Morgan stated that provision for the utilities (water and sanitary sewer) would be confirmed at Site Plan Review. They will also have to provide a detention system. The Chairman questioned where the sewer line is currently. Mr. Morgan responded that he did not know, but it would have to be extended. He stated that they cannot construct anything without tying into a public sewer main or providing a septic system.

Ms. Houghton stated that there is a sewer line 200 feet from her house towards the half-acre parcel and there is another sewer line in the back, but she does not know if this parcel can tap in. Mr. Morgan stated that there is a line in Woodside Greens but it is not directly on the road frontage where they could tap in immediately, but it might be in the plans.

At Mr. Ryan's request, Mr. Morgan reviewed the slides with the Board again. Mr. McGruder stated that the Staff Report indicates that a Variance will be needed for the front yard setback and asked if the applicant would be required to come back before the Board for that Variance. Mr. Morgan responded that a Variance is only required if they leave the building where it is on the Concept Plan. They could move the building back and meet the setback requirement. Mr. Jackson stated that the building will set back forty feet from the street and thirty feet from the property line of the Houghton house. Mr. Morgan stated that a 40-foot front yard setback would meet the requirement. Mr. Ryan asked if the building or the parking lot would be nearer the Houghton house. Mr. Jackson responded that the building would be nearest the house and the parking lot would be on the other side.

Mrs. Millar questioned how the use will not affect the neighbors with so many parking spaces on a lot less than one acre. Chairman Whitton stated that the maximum number of parking spaces allowed is 26. Mr. Morgan stated that the Zoning Administrator would have to grant a waiver for more than 26 spaces. Mr. Jackson stated that the parking is not an issue. The parking can be reduced. He stated that they have about 26 cars that come to services on Sunday.

There being no further discussion, **Mr. McGruder moved to grant the Conditional Use Permit on the basis that the church will be an integral part of the community subject to the following conditions: (1) Staff Comment #4 that a parking study is to be submitted to the Zoning Administrator so he can determine if he will issue a Waiver to allow the number of parking stalls to be increased from 26 stalls to 60 stalls; (2) Staff Comment #7 a. that no light standard can be taller than 12 feet in height; (3) Staff Comment #7 b. that 60% of the front and side facades shall be constructed with brick or stone; (4) Staff Comment #7 c. that the existing trees located near the rear property line will be preserved; (5) Staff Comment #7 d. that the front property line will be screened with a street frontage landscape buffer. The side property lines will be**

screened with Buffer Yard A; (6) *Staff Comment #7 e.* that access to the site shall be limited to the Old North Bend Road right-of-way only. The church will be responsible for paving any portion of the right-of-way that they use for access purposes. Encroachment Permits will need to be issued by Boone County Public Works before any improvements are made; (7) *Staff Comment #7 f.* that a Major Site Plan, prepared by a Professional Engineer, will need to be submitted and approved by the Boone County Planning Commission before construction can proceed. Mr. Ryan seconded the motion. A vote on the motion found Mr. McGruder, Mr. Ryan, and Chairman Whitton in favor. Mrs. Millar was opposed. The motion carried by a vote of 3 to 1.

Chairman Whitton left the meeting at this time. Mr. Ryan chaired the meeting and introduced the last item on the Agenda:

3. The request of Jim Hilgefert, 6024 Rogers Lane, for an interpretation of a condition from the November 12, 2003 Boone County Board of Adjustment Meeting.

Staff Member Todd Morgan reviewed his Staff Memorandum re: 6024 Rogers Lane – Interpretation of Conditional Use Permit Condition from the November 12, 2003 Boone County Board of Adjustment Meeting (see memorandum with attachments). He stated that the condition reads, “There will be at least four new parking spaces when the use (daycare) expands beyond 1,000 square feet – this condition is triggered by approval of the Building Department application”. He stated that technically they meet the parking requirement of 8 spaces for the offices and 8 spaces for the daycare (2 spaces per classroom).

Mr. Jim Hilgefert, co-owner of the daycare, stated that the application was approved in November 2003 and they did not have complete data at that time. The building was under construction. Their original information indicated that there would be three or four classrooms in each 1,000 square foot space – but they could not achieve that and there are only two classrooms on each side. They had the property surveyed and there is nowhere to put the additional four parking spaces. They may be able to get two more parking spaces in the front. He tried to work with Mr. Morgan and possibly stack the parking spaces, but Mr. Morgan said that could not be done. He stated that the minutes specify only one corner of the building with 25 children and 4 classrooms, but they now only have 4 classrooms for the entire bottom of the building. He stated that he applied thinking that it would be good to have more spaces, but has now ended up with the condition. He stated that they meet the parking requirement -- they only need 16 parking spaces and they have 18 spaces. He cannot get another four parking spaces without a Variance. He stated that the idea of adding four parking spaces was based on wrong information when he made the first presentation and they currently meet the Code requirements.

Mr. Morgan reviewed the minutes of the November 12, 2003 Meeting of the Boone County Board of Adjustment (see highlighted sections). He reviewed the condition – which indicates that the applicant needs to add four parking spaces as soon as the daycare occupies more than 1,000 square feet – and he believes that is exactly what the Board intended. Mrs. Millar agreed. Mr. Morgan noted that technically they exceed the amount of parking required by the Zoning Regulations.

Counselor Wilson advised that the matter in front of the Board is for the Board to state what the condition means. The request is for an interpretation of the condition – it is not an application to change the condition. A change in the condition would require proper notice to the public.

Mrs. Millar stated “the condition says what it says – when the use goes beyond 1,000 square feet, they have to put in four more parking spaces”. Mr. Morgan agreed and advised the applicant that the only way to change the condition is to make application to change it.

The Board determined that the condition is interpreted as it is written and took no further action.

There being no further business to come before the Board, Mrs. Millar moved to adjourn. Mr. McGruder seconded the motion. The meeting was adjourned by unanimous consent at 7:15 PM.

APPROVED:

George D. Whitton, Chairman

Attest:

Jan Hancock, Recording Secretary

Exhibit 1 – Folder of information submitted by Nerrick Jackson (Agenda Item #2)