

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

July 9, 2014

6:00 P.M.

Mr. George Whitton called the meeting to order at 6:00 P.M.

BOARD MEMBERS PRESENT:

Mr. George Whitton
Mr. Bradley Shipe
Mrs. Phyllis Sparks

BOARD MEMBERS NOT PRESENT:

Mrs. Sherry Hempfling
Mr. Richard Miller

LEGAL COUNSEL PRESENT:

Mr. Doug Rouse

APPROVAL OF MINUTES

Mr. Whitton stated that the Board members received copies of the minutes of the Boone County Board of Adjustment meeting of June 11, 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. Sparks seconded the motion. Mr. Whitton called for a vote and it carried unanimously.

ACTION ON REVIEWS

- 1. Request of John and Diana Bonner for a Variance to allow a covered porch addition to encroach into the 30 foot rear yard setback. The approximate 0.4 acre tract is located at 8715 Signal Pointe Court, Boone County, Kentucky and is currently zoned Suburban Residential One (SR-1).**

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

Mr. John Bonner said he spoke with all the adjoining property owners and they all signed a petition indicating no objections to the request (see Exhibit 1). He also spoke with the President of the Hearthstone Home Owners Association and he wrote a letter indicating no objection to the request (see Exhibit 2). He said they are proposing the addition because they get direct sun when they sit on their patio pad. The covered porch addition will occupy the same space as the patio pad. He feels that a permanent structure that compliments the home will be much more attractive than using umbrellas.

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

Mr. Whitton asked for a motion.

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

- 1. The patio addition shall be constructed per the submitted renderings.**

Mrs. Sparks 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.

- 2. Request of Recycling Express, Inc. for a Change in Non-Conforming Use for the use of a building and property to be changed from steel processing and redistribution to recycling (separating metal and wood, bundling, shipping, and similar activities). The 12.25 acre tract is located at 8505 Dixie Highway, Boone County, Kentucky and is currently zoned Commercial Services (C-3).**

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

Mr. Gerry Dusing said he was an attorney from Florence and was representing Recycling Express. He said the Staff Report was well done and was accurate in all respects. It contains a narrative that was submitted with the application. He said the legal criteria to change one non-conforming use to another is that the requested non-conforming use be of the same or a less intense zoning classification than the existing use. Plymouth Steel or Niagra LaSalle was an Industrial One (I-1) use and the proposed recycling operation is also an I-1 use. As a result, they meet this criteria. The second criteria is that there not be an increase in area or scope of the operation. The submitted plans and aerial maps show there will be no increase in the use of the property. The buildings are not being expanded and the 2002, 2004, 2009 aerials show the outdoor operations of Plymouth Steel and Recycling Express will be in the same areas of the site. In 2013, Niagra LaSalle left the property and there has been a lack of general site maintenance since that time.

They had some discussions with managers from Plymouth Steel and they were informed that their operation consisted of unloading, sorting, stockpiling, reconfiguring, loading, and shipping various sizes and shapes of coiled steel. The steel was customized to different customers specifications by machines. The machines formed, cut, coated, treated, and recoiled steel. Cranes and other equipment would move the steel and prepare it for truck loading and shipping. The Recycling Express operation will consist of similar activities. They will have unloading, sorting, and reloading of recycled materials (ferrous metals, non-ferrous metals, and wood crates and pallets). He added that the Recycling Express currently operates on Industrial Road in Florence. They want to move because they are busting at the seams. This application will help them survive and expand in Boone County.

Mr. Chris Eubank, with Recycling Express, answered the questions found in the Staff Report.

- A. What is the anticipated number of employees?

Approximately 50.

- B. How many tractor trailers are anticipated to enter and leave the facility on a given day?

It should be between 8 and 12.

- C. The submitted plans show a finished product storage area located to the south of the new lumber/metal storage shed. Please better explain what types of finished products will be located in this area. How high up in the air could the finished products be?

They build specialty crates for customers. The crates will only stay there for a limited period of time because they do not want them out in the weather. They could be stacked as high as the metal storage shed (approximately 20' tall).

- D. The submitted plans show that a ferrous scrap processing area will be located to the south of the building. Is this designated area a new structure, concrete bins, open storage area, etc.? How high could the scrap pile be?

This will be an open scrap storage area and the pile could get up to approximately 20 feet tall. Ferrous metals will be stored there and will be shipped out on trucks. It is a constant flow.

- E. Please explain where the scrap materials come from? Does it all come from businesses or can an individual citizen bring scrap metal or wood to the facility?

The majority of their business comes from commercial/industrial businesses. For example, a company like Mubea will generate a lot of scrap. They also deal with residential home owners.

Mr. Whitton said Staff had a concern about access in the southern parking lot. He asked Mr. Eubanks if he could address that? Mr. Morgan said the southern parking lot shows a ferrous scrap area located in close proximity to the building. He didn't know if that area would obstruct the driveway aisles or garage bays on the building. The Zoning Regulations require 20' driveway aisles for two-way traffic. Mr. Eubanks said they will comply with the Fire Marshal's requirements. Mr. Morgan said they will also need to comply with the Zoning Regulations and Building Code.

Mr. Whitton said Staff spoke with William Plunkett, with Sanitation District No. 1, and he is suggesting one of the smaller on site ponds should be turned into a storm water quality feature that will filter smaller storm events. He asked if they had spoken with an engineer regarding this? Mr. Dusing replied they had not. He said the topographical map shows that

storm water will drain to a pond. He said they have no issue if that pond has to be groomed a little bit.

Mr. Whitton asked if they will contact Florence Fire Department and Boone County Building Department if the application is approved? Mr. Dusing said that would be a requirement. Mr. Morgan agreed.

Mr. Whitton asked if they are planning to add any additional impervious area and if all the outside storage would be located in the southern parking lot? Mr. Dusing said the outside storage would all be located in the southern parking lot per the submitted plan.

Mr. Whitton asked if they were planning on adding any additional landscaping along the Dixie Highway frontage? Mr. Dusing said they have no issue with adding additional landscaping along the Dixie Highway frontage. He added that they would also like to add a fence along Dixie Highway because a recycling operation needs security. He added that the landscaping would be on the outside of the fence. Mr. Morgan said that adding the fence could be made part of this application if the Board is agreeable. He recommended that the fence be far enough back that a tractor trailer could enter the site and get completely off Dixie Highway. Mr. Whitton asked if that would be addressed during Site Plan review. Mr. Morgan said he would like to Board to indicate that they are okay with the fence because the property is zoned C-3 and they are dealing with a Change in Non-Conforming Use application. Mr. Morgan asked what type of fence it would be? Mr. Dusing replied it would be chainlink fencing and could have slats. They will install landscaping in front of it. Mr. Morgan asked if the fence could be located as far back as possible (at intersection of main drive/north parking/south parking lot)? Mr. Eubanks said he would have no objection to that. He said the current gate would be removed.

Mr. Whitton asked the Board if they would like to consider any height limitations on outside storage? Mr. Shipe and Mrs. Sparks said they did not.

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

Mr. Whitton asked for a motion.

Mrs. Sparks made a motion to approve the Change in Non-Conforming Use with the following conditions:

- 1. The approval is based on the submitted plan. New impervious areas shall not be permitted and outside storage is limited to the southern parking lot.**
- 2. Street frontage landscaping shall be installed along the Dixie Highway frontage per Section 3620 of the Boone County Zoning Regulations.**
- 3. The employee/guest parking lot shall be striped per Sections 3311, 3312, and 3313 of the Boone County Zoning Regulations.**
- 4. One of the smaller on site detention ponds should be turned into a storm water quality feature that will filter smaller storm events.**

5. **A chainlink fence and gate can be added at intersection of the main driveway, north parking lot, and south parking lot for security purposes.**

Mr. Shipe seconded the motion.

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

3. **Request of Troy Sturgeon for a Conditional Use Permit to allow an auto repair business. The approximate .34 acre tract is located at 2011 Verona Mudlick Road, Boone County, Kentucky and is currently zoned Suburban Residential One/Small Community Overlay (SR-1/SC).**

Staff Member, Todd Morgan, AICP, presented the Staff Report which included a PowerPoint presentation (see Staff Report). He added that he received emails from Malachi Wagers and Drew Wagers which support the request (see exhibits 3 and 4).

Mr. Whitton asked Mr. Sturgeon if he would like to make a presentation? Mr. Sturgeon said he did not. Mr. Whitton asked if he could address the questions found in the Staff Report?

- A. Are any vehicles proposed to be sold from the subject lot? If so, the current zoning code does not allow this use in the Small Community Overlay (SC) zone.

No vehicles will be sold from the subject lot.

- B. What are the proposed hours of business operation?

From 8 AM to 6 PM Monday through Friday.

- C. What type of repairs will take place in the garage?

Oil changes, tire, and brake repairs. All minor repairs.

- D. Is towing or impounding part of the business?

He does not do impounding. They will only tow in what they repair.

- E. Will all vehicle repairs take place in the garage?

He said all repairs will be inside if they get this building.

- F. Where will scrap parts and waste fluids be stored?

They have containers and will keep all parts and containers in the garage. There will be no outside storage.

- G. Is any additional parking lot lighting being proposed?

They may add a little bit more.

- H. Could any vehicles waiting to be repaired by stored in the former restaurant parking lot at the front of the site?

He plans on renting the former restaurant building so there will be no vehicles waiting to be repaired or that have been repaired kept there.

Mrs. Sparks asked Mr. Sturgeon asked if he owned the car lot across the street? Mr. Sturgeon replied that he did. She asked if he had any restrictions? Mr. Sturgeon said he believes he has a restriction on the number of vehicles that can be kept on the lot but doesn't know what the exact number is. She said some people have contacted her about the number of vehicles he has on the lot. She asked Mr. Morgan if he knew the number of vehicles that were permitted on the lot across the street? Mr. Morgan replied he did not but could research the issue and contact Mr. Sturgeon.

Mrs. Sparks said the people that have contacted her are afraid that the same type of behavior will take place on the subject lot. Mr. Sturgeon said the approval will give them more room and they will be able to get more done. She said that people are concerned that he is already over the permitted number across the street and things will bleed over onto the subject lot. Mr. Sturgeon said this is not his plan. They try to get vehicles in and out as quickly as possible. He normally has 8 to 10 vehicles on his existing property that are waiting to be repaired or picked up. Mrs. Sparks asked what his plan was for the proposed property. He replied that he does not visualize many vehicles being parked over there.

Mrs. Sparks said she doesn't know the limits. Mr. Morgan said he will research the property across the street and make Mr. Sturgeon aware of any Board of Adjustment or Zone Change conditions that deal with the number of cars that can be stored on the lot. It will become a Zoning Enforcement issue if Mr. Sturgeon doesn't bring the existing facility in compliance with any such conditions. She said her concern is that Verona is a very small town and these properties are located at the main intersection. Residents do not want to see an over abundance of vehicles parked at the intersection.

Mr. Steve Popham said he was a real estate broker and was helping Mr. Sturgeon with the acquisition of the property. He said Mr. Sturgeon wants to acquire the property so he will have more room. He asked Mrs. Sparks if the calls she received were after the Board of Adjustment sign went up on the property? Mrs. Sparks said she received the calls after the sign was posted on the property. She said she is normally very pro-business and tries to make everyone happy. However, this is the main intersection in Verona and some reputable people have contacted her about the stacking and packing of automobiles on these lots. Some have estimated that 25 to 27 cars have been stacked on the existing lot and it is not equipped for that. She wants to see Mr. Sturgeon succeed but not at the expense of the intersection and town. She doesn't know if the property is set up properly for this use. Mr. Popham said the subject building used to be occupied by a wrecker service. It was the original use in the building. Mrs. Sparks said she also remembers it being used as an upholstery shop. Mr. Popham asked how the previous use factors into the zoning? Mr. Morgan said the wrecker service/automotive repair use was abandoned at some point and other businesses occupied the building for many years. A Conditional Use Permit needs to be issued to allow another automotive repair facility to occupy the building.

Mr. Whitton said he thinks the answer to the parking issue on the lot across the street lies with Zoning Enforcement. Mr. Morgan will research what is permitted on that lot and make Mr. Sturgeon aware of it.

Mr. Shipe asked Mr. Sturgeon if he will stay in compliance with any conditions that were imposed on the property across the street. Mr. Sturgeon said he would. He wants to acquire this property so he will have more bays and can get the vehicles repaired quicker. He added that people never know when their cars are going to break down. One day he might have 5 cars to repair on the lot and the next day it might be 10.

Mrs. Sparks said she would like to see a condition that would prohibit cars that are waiting to be repaired, picked up, or sold from being stored by the former restaurant building. Mr. Popham said that is the intent because Mr. Sturgeon wants to lease that building to someone else. The parking spaces to the front and side of the former restaurant will be used by that future tenant. Mr. Whitton and Mrs. Sparks said the condition would apply regardless if the former restaurant building was leased to another party or not. Mr. Morgan added that the Zoning Regulations would not allow any car sales on the subject lot because the Small Community Overlay does not currently allow it.

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

Mr. Whitton asked for a motion.

Mrs. Sparks made a motion to approve the Conditional Use Permit with the following conditions:

- 1. Vehicles waiting to be repaired or picked up by their owners shall not be kept or stockpiled in front or to the side of the former restaurant building.**

Mr. Shipe asked if a second condition could be added to the motion?

- 2. All scrap parts and waste fluids shall be stored inside the building.**

Mrs. Sparks said she was agreeable to adding the second condition and Mr. Shipe seconded the motion.

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

ADJOURNMENT

Mr. Whitton asked for motion to adjourn the meeting. Mr. Shipe made the motion to adjourn and Mrs. Sparks seconded the motion. Mr. Whitton called for the vote and the meeting was adjourned by unanimous consent at 7:01 p.m.

APPROVED

Mr. George Whitton, Chairman

ATTEST:

Todd K. Morgan, AICP
Senior Planner, Zoning Services

Exhibits

1. Petition submitted by John Bonner
2. Letter from the President of the Hearthstone HOA
3. Email submitted by Malachi Wagers
4. Email submitted by Drew Wagers