

**BOONE COUNTY BOARD OF ADJUSTMENT  
BOONE COUNTY ADMINISTRATION BUILDING  
BOONE COUNTY FISCAL COURTROOM  
BUSINESS MEETING  
December 10, 2014  
6:00 P.M.**

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

**BOARD MEMBERS PRESENT:**

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

**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 October 8, 2014. 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 a vote and it carried unanimously.

**ACTION ON REVIEWS**

- 1. Request of Grand Communities, Ltd. for a Variance to reduce the 65 foot road frontage requirement for two future lots in the Greens of Brigadoon Subdivision. The future 0.24 and 0.21 acre lots are currently part of a 18.26 acre tract that is located at the terminus of Cardigan Drive, Boone County, Kentucky and are 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. Bill Viox, with Viox & Viox, said he was here tonight with Adrian Yanes, the design engineer for the project, and Jason Wisniewski, with Grand Communities. Mr. Viox said his firm designed Hempsteade, Hampshire, and the Village of Brigadoon. Village of Brigadoon started back in 1993 and that was the same time that Hempsteade was developing. For various reasons, including economic reasons, the developer decided not to build out the back of Village of Brigadoon. Grand Communities now has the opportunity to pick up the 18 acres and complete the subdivision.

Mr. Viox said they will not lose a lot if the Variances are denied. They can redesign the subdivision and pickup a lot elsewhere. They believe they meet Variance criteria B - "the

“strict application of the provisions contained in the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.” The Variance is not about losing a lot. His firm was charged with trying to place the homes in the best fashion that they could. Something has happened since construction of the subdivision stopped in 1995. In 2003, Sanitation District No. 1 (SD1) took over storm water management in Boone County. In 2011, the rules changed again and SD1 now has the right to ask you to over detain storm water in select areas of your site when there are issues downstream. What they have now is 18 acres that should have been built out years ago because the original subdivision plat was approved back in 1993. Because they waited they now have to address the SD1 requirements.

Mr. Viox referred to the preliminary subdivision plan and indicated that the storm detention/water quality lot is about double the size that you would typically see in a subdivision of this size. When SD1 asked them to over detain stormwater they had to change the original subdivision design that was laid out in 1993. They could create another flag lot if they wanted but they want to preserve as many trees as possible. The lot is heavily wooded with trees that have grown up since 1995. They will also be relocating a sanitary sewer main that runs through the eastern portion of the site. The Variance requests are a result of them moving things around and not about adding another buildable lot.

Mr. Viox said the community should feel fortunate that Grand Communities, which is the development arm of Fischer Homes, is picking up the property. Fischer Homes is the biggest builder in the Cincinnati area. Mr. Fischer told them to layout the houses in a way that would work for them and the community. They all agreed that the preliminary layout that is being presented tonight was the best one and that they should apply for the Variances.

Mr. Adrian Yanes, with Viox and Viox, said the original Preliminary Plat for the subdivision was approved in 1993 and the SD1 storm water regulations came into being in 2003. The new Preliminary Plat layout conforms with the SD1 regulations which were adopted in 2011. The revised Preliminary Plat shows 56 lots on the 18 acres and they believe this is the best layout. They believe that Variance criteria B is the best one to justify the approval of the Variances because the current regulations and utilities are affecting the layout of the lots. The 12 inch sanitary sewer main along the northern property line and the size of the storm water lot are restricting their layout options. The larger detention lot and sanitary sewer main caused them to move the street to the north. The tighter radius caused the two lots in question to have reduced road frontage. They also believe the presentation of the lots around the radius works well because all of the houses are facing the street. The proposed layout also eliminates another shared driveway. A shared driveway would be used if two flag lots were platted off side by side. This layout also allows them to save the most trees. He reviewed a preliminary plat which showed hatched areas (see exhibit 1). The hatched areas show where they can save trees based off their preliminary grading plan. The plan does not show all the trees being saved. It only shows those that are relevant to the request. He offered to answer any questions.

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

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

Mr. Ryan Sturdivant said he lived in Hempsteade Subdivision and was curious to see how much green space would remain. Mr. Whitton said anybody from the audience that wanted to walk up front and review exhibit 1 could do so. Mr. Viox and Mr. Yanes explained where trees would remain.

After a several minute delay, Mr. Whitton stated that the meeting is not about whether or not Grand Communities has the right to put in a subdivision. The matter in question is whether future lots 26 and 28 can have reduced road frontage. He asked if anybody in the audience had further questions since they have had an opportunity to review the plan?

Mr. Tom Davis said he lived in Hempsteade Subdivision and questioned what the price range of the future houses would be? Mr. Whitton explained that the Board of Adjustment doesn't have any purview over the value of the houses. Mr. Davis said he understood that but that information would help him determine if he wanted to object to the Variances. Mr. Viox said Grand Communities and Fischer Homes is concerned about value and they took the time to research the homes in the Village of Brigadoon Subdivision. They found those homes had an average value of about \$150,000. They also looked at the adjoining properties in Hempsteade Subdivision and they range between \$215,000 and \$273,000. The average price of the houses along that strip is \$245,300. The average prices of the houses in the proposed Subdivision will be over \$200,000.

Mrs. Gary Taylor said the two lots in question are behind her property. She asked if the Variance requests would allow the houses on those lots to be located closer to her property line? Mr. Whitton said the rear building setback requirement is not in question. Mr. Morgan agreed and said the future houses have to meet a minimum 30 foot setback from the rear property line. The conceptual plan that was drawn shows that the houses will be located in close proximity to Cardigan Drive and will easily meet the 30 foot rear yard setback.

Mr. Whitton said he would entertain a motion.

**Mr. Miller made a motion to approve the Variances with the following condition:**

- 1. The future houses on lots 25-29 shall be built as close as possible to the "conceptual house and driveway configuration" plan that was submitted with the application and shall comply with the Suburban Residential One (SR-1) building setback requirements.**

**Mrs. Hempfling seconded the motion.**

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

Mrs. Taylor asked if there is a commitment that the trees would be saved? Mr. Yanes said the tree save area shown on Exhibit 1 are based on a preliminary grading analysis. It's not a firm commitment because slight changes could be made. Mr. Viox said he doubted anything would change.

2. **Request of Anthony Parnigoni to amend two Conditional Use Permits that were approved by the Boone County Board of Adjustment on June 11, 2014. The proposal is to allow (1) a future 3.704 acre tract that is currently part of 14599 Salem Creek Road to be added to a vineyard, resort, and catering business, (2) changes in the wine tasting/banquet room and parking locations, and (3) a second rental vacation cottage. The 6.4632, 3.704, and 6.38 acre sites are located at 14555, 14559, 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).

Mrs. Hempfling asked if the access easement agreement between Mr. Ryan and Mr. Parnigoni includes a maintenance agreement? Mr. Morgan said it is a private agreement and there is some language in it regarding maintenance. Mr. Morgan said he would like to see a legal description prepared and the easement to be recorded at the Clerk's Office for Mr. Parnigoni's protection. The easement is needed so he would have the legal right to use Mr. Ryan's driveway. This driveway provides access to Mr. Parnigoni's house and the structure that he is buying.

Mr. Miller asked if the items in Staff Comment #6 needed to be included as conditions or if they will be automatically be addressed during Site Plan review? Mr. Morgan said all those items will be addressed during Site Plan review. Letter D is a recommendation that Mr. Parnigoni get a legal description prepared for the access easement and get it recorded.

Mr. Miller said he did not see any proposed changes to the conditions so his understanding is they will remain? Mr. Morgan said he would let Mr. Parnigoni confirm that.

Mr. Anthony Parnigoni said he would address the Staff questions found in Staff Comment #3.

- A. He has received his Small Farm and Winery license from the State (see Exhibit 2).
- B. No changes are being proposed to the conditions.
- C. The structure that he is purchasing contains Mr. Ryan's current residence and a large barn. He will be converting the existing residence into the wine tasting room. In the future, he may add another bedroom in the barn area and rent it out as a second guest cottage. No building additions would need to be constructed.

He stated that he was planning on building out the other barn when Mr. Ryan contacted him about acquiring the subject structure. He wished Mr. Ryan would have made him the offer six months ago so he did not need to come back before the Board. This subject site is superior because the structure will be hidden from view and there is adequate parking.

Mr. Whitton asked if the Board members had any other questions? There was no response.

Mr. Whitton noted that nobody else was in the audience that wanted to speak regarding the request.

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

- 1. The 6/11/14 Boone County Board of Adjustment conditions regarding the events shall remain in place.**

Catered events (wedding receptions, family reunions, etc.) that take place on the properties shall be limited as follows:

- A. Attendance shall be limited to 50 people.
- B. Alcohol shall be limited to wine produced on site.
- C. Events shall not last past 11:00 P.M.
- D. Music shall be played in the wine tasting room/banquet facility and sound insulation shall be added to keep sound at a minimum.
- E. No music shall be played on the properties past 10:00 P.M.
- F. No guests shall be permitted on the properties past 11:00 P.M.
- G. Events that take place on a Monday, Tuesday, Wednesday, Thursday, or Friday shall not start before 4:30 P.M.

**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. Miller 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 6:54 p.m.

**APPROVED**

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**Mr. George Whitton, Chairman**

**ATTEST:**

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