

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

June 10, 2015

6:00 P.M.

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 April 10, 2015. He asked if there were any comments or corrections? There being no changes, Mr. Miller 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 Chavez Properties for a Variance to allow increased signage on three faces of the Fast Park & Relax entry/exit canopy in a Commercial Services (C-3) zoning district. The 31.27 acre site is located at 613 Petersburg Road, Boone County, Kentucky.**

Mr. Miller said his firm is presenting on behalf of the applicant and he would like to recuse himself from this application. Mr. Miller left the room at this time.

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

Mr. Frank Twehues, with CT Consultants, started by submitting copies of the approved Site Plan and landscaping plans into the record (see Exhibit 1). He said this is Fast Park & Relax's flagship facility. They have other airport parking facilities in approximately 15 to 16 markets throughout the United States. He reviewed the entry/exit canopy with the Board and said it follows Fast Park & Relax's national branding. Unfortunately, the design does not meet the Boone County Zoning Regulations. The two colored design is causing them to ask for 51.18%, 58.24%, and 89.44% of the canopy faces to contain signage. If they just look at the letters and not the colors, the percentage of canopy signage goes down to 17.209%, 22.61%, and 27.17% respectively on the three faces.

He said the percentage of canopy signage on the east is larger because that face is smaller. However, Fast Park & Relax feels it's important for that face to have that amount of signage because customers travel up KY 212 from I-275 or the airport and turn left onto Petersburg Road. All of the lettering is internally illuminated and the perimeter color of the face is non-illuminated. They did make revisions to the canopy after meeting with Planning Commission Staff. Their typical canopy has a lot of additional directional signage on it. They are asking the Board to consider that Fast Park & Relax is a national brand and this is their flagship location. They feel this a crisp and clean signage package, especially when considering that it is a 31 acre site. Because of the size of the site, they do not feel that it will allow for an unreasonable circumvention of the zoning regulations.

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

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

Mrs. Sparks made a motion to approve the Variance as presented.

Mr. Shipe said he would second the motion but asked Mrs. Sparks if she would be agreeable to adding Staff's recommended condition? The condition reads "the signage on the north, south, and east canopy faces shall be constructed as presented. Additional signage shall not be permitted on the canopy faces without Board of Adjustment approval." Mr. Sparks said she was agreeable to adding the condition.

Mr. Whitton asked if there was any additional discussion before the vote? There was no response. He called for the vote and it carried unanimously.

- 2. Request of Lisa Ammons for Kroger for a Variance to allow increased signage of the east and west faces of a fuel center canopy in a Commercial Four/Planned Development (C-4/PD) zoning district. The 1.199 acre site is immediately to the south of the Patrick Drive/McGrath Lane intersection, Boone County, Kentucky.**

Mr. Miller entered the room at this time.

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

Mrs. Anne McBride, with McBride Dale Clarion, said she was representing Kroger. Kroger is proposing to locate a fuel center on the subject lot in conjunction with the existing store. The fuel center will have five fuel islands, with ten dispensing points, a kiosk, and a canopy. The kiosk and canopy columns will be constructed with brick, which match the Kroger store. Section 3413 (2) of the Zoning Regulations allows 25% of three canopy faces to contain signage. This would allow Kroger to install a total of 168.9 square feet of signage on the canopy. They are asking the Board if they can reconfigure the sign area. They will only utilize 80% of their permitted signage if the Variances are approved. People buy gas based on price. The east canopy face faces the store and an awful lot of the Kroger fuel business comes from people leaving the store. Some customers will also come from KY 18 and they are one lot removed from KY 18. Burger King and the car wash are between the fuel

center and KY 18. There is a topographical change between KY 18 and the site. The west canopy face faces the new interchange and they are hoping they will get some new customers from there. They do not believe the request will adversely affect the general health, safety, or welfare or alter the character of the area. It is an automobile oriented area with a lot of drive throughs and car washes. Advertising the fuel prices will help motorists plan their entrance to the facility. They are not trying to circumvent code because they are only asking to use about 80% of their permitted signage.

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

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

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

The signage on the fuel canopy shall be constructed as presented. Additional signage shall not be permitted on the canopy faces without Board of Adjustment approval.

Mr. Shipe seconded the motion. Mr. Whitton asked if there was any additional discussion before the vote? There was no response. He called for the vote and it carried unanimously.

3. **Request of Potter House Group, Inc. for a Variance to allow a house with an attached deck to encroach into the 30 foot rear yard building setback in a Suburban Residential One (SR-1) zoning district. The approximate 0.5 acre site is located at the Benton Court/Ortiz Court intersection, Boone County, Kentucky.**

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

Mr. Miller asked how much they would gain if they reduced the deck to a 10' x 10'? Mr. Morgan responded they would gain 2 feet. It would lessen the Variance request but the future resident would lose a little usability of the deck.

Mr. Andy Ament, said he was representing the Potter House Group. He said Staff covered the proposal. He believes they have a hardship because of the power line and easement that go through the lot. Potter House Group would like to see the Variance approved so the deck will be useable.

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

Mr. Miller asked if any trees were proposed between the deck and rear property line? Mr. Ament said he wasn't sure. The builder likes to make the lots look presentable.

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

Mr. Miller made a motion to approve the Variance as presented and Ms. Hempfling seconded the motion. He called for the vote and it carried unanimously.

4. **Request of Paul Hemmer Company for a Variance to reduce the perimeter landscaping buffer requirements along portions of the western property lines from 80 foot in width (Buffer Yard D) to 30 foot in width with alternative plantings in an Industrial One (I-1) zoning district. The 29.302 acre site is located on the south side of Wright Boulevard and is to the east of 4548 Bullittsville Road and to the west of 3675 N. Bend Road and 2431 Wright Boulevard, Boone County, Kentucky.**

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

Mr. Whitton asked what the buffer yard requirement would be if the adjoining property was zoned industrial? Mr. Morgan said Buffer Yard A would be required. Buffer Yard A is a minimum of 10 feet wide.

Mr. Miller said he understands the need for the reduction in the buffer area. He asked if the requirement of the wall, berm, or fence in the 40 foot wide buffer option is due to the adjoining property being zoned residential? Mr. Morgan responded that was correct. Mr. Miller asked Mr. Morgan if he thought the adjoining property would be developed residentially in the future? He also asked if the existing trees could provide the necessary buffer? Mr. Morgan said his recommendation is areas with an 8 foot wide tree save area should contain 10 evergreen trees and 35 tree whips per 100 linear feet. He sees the need for more evergreen trees in those areas where the tree save limits are less than 8 feet wide. He believes the adjoining property will develop industrially sometime in the future but he can't say that for a fact.

Mrs. Megan deSola, with Viox & Viox, said they are the project engineers and are representing the applicant. She reviewed her PowerPoint presentation and outlined the subject site. She said Airpark West is made up of large and small users. The subject property is 29.3 acres and is zoned Industrial One (I-1). The adjoining farm is approximately 110 acres and is zoned Rural Suburban Estates (RSE). The required buffer between the two properties is 80' (Buffer Yard D). The Variance length is about 800 linear feet. The Future Land Use Map shows the site and adjoining area forecasted for Business Park (BP) uses. They are requesting the 80 foot buffer be reduced to 30 feet because the buffer requirement would be 10 feet (Buffer Yard A) if the adjoining farm develops industrially in the future. The required buffer yard would be 20 feet (Buffer Yard B) if the farm develops with office or commercial uses. As a result, they feel that a 30 foot buffer will be above and beyond what is required in the future. She said the subject site is also in line with airplane departures from the airport. She reviewed the Cincinnati/Northern Kentucky International Airport (CVG) noise contour map and it shows the site and adjoining property is within the 65 DNL. They received 2014 data from CVG and it shows 61% of airplane takeoffs head west and impact the site. As a result, they feel like the future land use classification of Business Park is correct and the adjoining property is not compatible for residential uses.

She showed some pictures of the Variance area and noted that it adjoins a farm field. The house and barns associated with the farm are located in the central portion of the 110 acre site. She reviewed the topography and streams on the subject site and noted they will make every attempt to preserve trees. The topography and streams is causing to them to locate the access drive where it is shown on the plans. They are showing two small users and one large user on the site, which is consistent with the rest of the subdivision. The large building is being located on the flattest portion of the site.

The buffer yard is just being reduced in the hatched area on the plans. The buffer yard will be planted with deciduous and evergreen whips and existing trees will be preserved where possible. She reviewed a new landscaping concept on screen. It shows 10 evergreen trees every 100 linear feet along the property lines and tree whip plantings in front of the evergreens. They feel planting more than 10 evergreens every 100 linear feet will crowd out the healthy growing of the proposed tree whips. She said the proposed evergreen trees would be Eastern White Pines, Norway Spruce, Norway Spruce, or Eastern Red Cedar and would fill in quickly. She reviewed pictures of other tree whip projects that were installed by Paul Hemmer Company at Conner Road/Limaburg Road and KY 237/Wright Boulevard and noted how nice the buffers look now.

They are requesting the following plantings in the buffers:

Areas with a minimum 8' wide tree/vegetation save limits along the property line

1. 5 evergreen trees from Plant List D per 100 linear feet. The trees shall be a minimum of 6' tall at planting.
2. The remaining areas shall be planted with 35 tree whips per 100 linear feet. 75-80% of the tree whips shall be a deciduous species and the remaining tree whips shall be an evergreen species. The trees whips shall be approximately 3-4' tall and approximately 1/4 in caliper size at planting.
3. No wall, berm, or fence shall be required in the buffers.

Areas with less than an 8' wide tree/vegetation save limits along the property line

1. 10 evergreen trees from Plant List D per 100 linear feet. The trees shall be a minimum of 6' tall at planting.
2. The remaining areas shall be planted with 35 tree whips per 100 linear feet. 75-80% of the tree whips shall be a deciduous species and the remaining tree whips shall be an evergreen species. The trees whips shall be approximately 3-4' tall and approximately 1/4 in caliper size at planting.
3. No wall, berm, or fence shall be required in the buffers.

She reviewed three cross sections on screen. Cross sections A and B start in the farmland and go through the buffer variance area. Cross sections A and B show that a natural berm will be created by the grading and the future industrial building will sit lower than the farmland. Cross section C isn't in the variance area. They provided this cross section to show the stream bed, existing trees that will be retained, and view shed from the farm house to the future industrial building.

Mr. Miller asked for confirmation that they are seeking a 50% reduction in the number of evergreen plantings that were outlined in the Staff recommendation? Mrs. deSola agreed. Mr. Miller asked if the number of whips would stay the same? Mrs. deSola agreed. Mr. Miller asked if the evergreen trees would be 6' tall at planting? Mrs. deSola said they would be.

Mr. Miller asked Mr. Morgan for his thought on the revised proposal? Mr. Morgan said he felt his original recommendation was a compromise because code normally requires 20 evergreen trees every 100 linear feet in Buffer Yard D. He said Carter Dickerson, a landscape architect with Viox & Viox, is in the audience. He asked if he would like to speak regarding the proposal? Mr. Dickerson said an 80' wide buffer yard with 20 evergreen trees every 100 linear feet would make sense and provide a healthy planting environment for the tree whips. With their proposal (30' buffers) they are requesting to plant 10 evergreen trees

every 100 linear feet when they have to grade all the way to the property lines. When they can hold the grading back 8 feet from the property line they would like to plant 5 evergreen every 100 linear feet. The number of evergreen trees proposed will give the tree whips a healthy environment to grow.

Mr. Morgan asked if the evergreen trees would be planted in close proximity to the property line? Mr. Dickerson replied they would like to plant the evergreen trees as close to the property lines as possible. The subject property lines are at a higher elevation than the proposed building.

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

Mr. Whitton asked if the Board had any other questions?

Mrs. Hempfling asked what were the chances are saving the mature trees when the grading takes places? Mrs. Michelle Bollman, a Professional Engineer with Viox & Viox, said they did a preliminary grading plan to create the cross sections. Some of the grading limits go to the property line and in other areas they can hold back 8 feet. They will try to save whatever trees they can. They cannot commit to keeping specific trees at this point.

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

1. The following plantings shall be required in the 30 foot wide buffers:

Areas with a minimum 8' wide tree/vegetation save limits along the property line

- 5 evergreen trees from Plant List D per 100 linear feet. The trees shall be a minimum of 6' tall at planting and planted as close as possible to the property line.
- The remaining areas shall be planted with 35 tree whips per 100 linear feet. 75-80% of the tree whips shall be a deciduous species and the remaining tree whips shall be an evergreen species. The tree whips shall be approximately 3-4' tall and approximately ¼ in caliper size at planting.
- No wall, berm, or fence shall be required in the buffers.

Areas with less than an 8' wide tree/vegetation save limits along the property line

- 10 evergreen trees from Plant List D per 100 linear feet. The trees shall be a minimum of 6' tall at planting and planted as close as possible to the property line.
- The remaining areas shall be planted with 35 tree whips per 100 linear feet. 75-80% of the tree whips shall be a deciduous species and the remaining tree whips shall be an evergreen species. The tree whips shall be approximately 3-4' tall and approximately ¼ in caliper size at planting.
- No wall, berm, or fence shall be required in the buffers.

Mrs. Sparks seconded the motion. Mr. Whitton asked if there was any additional discussion before the vote? There was no response. He called for the vote and it carried unanimously.

5. Request of HappyFeet Legends, LLC for a Conditional Use Permit to allow an indoor soccer practice facility in an Industrial One (I-1) zoning district. The approximate 2 acre site is located at 1611 Distribution Drive, Boone County, Kentucky.

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

Mr. Miller asked Mr. Morgan if he knew how many parking spaces were located on site? Mr. Morgan responded that the striping is faded on does not exist. The applicant informed him that 29 parking spaces exist. He feels confident that 29 parking spaces could be provided on site, especially if parking were provided in the dock area behind the tenant space.

Mr. Eric Henderson, with HappyFeet Legends, said he plans on running a small league on Saturday and Sundays. He said they are advertising a second night of training and having games on a smaller field. The field is a fraction of the size of an outdoor field. He said their current facility is located on Constitution Drive and they have outgrown it. This facility will allow some of the older kids to train.

Mr. Morgan asked if the games would be for younger kids because of the reduced field size? Mr. Henderson responded it would be used by children that are 6 to 12 years of age immediately. However, they will continue to train these kids and ultimately training and games will be held for children that range between 6 and 17 years of age.

Mr. Miller asked how many people they could accommodate at their facility on Constitution Drive? Mr. Henderson said they can have groups of up to 20 kids with parents and grandchildren at any given time. They lease 4,000 square feet at that facility.

Mrs. Sparks asked if he anticipates expanding the hours in the summer months? Mr. Henderson said he does not because they use outdoor fields during the summer. He said the kids rely on transportation from their parents so most of their training doesn't start until 5:30 or 6:00 PM Monday - Friday. He said their offices will remain on Constitution Drive. This facility will only have fields.

Mr. Whitton asked if anyone in the audience wanted to speak regarding the request?

Mr. Jay Conrad said he was one of the owners of the building. He doesn't see having any problems with the neighbors because of the proposed hours of operation. He is for it.

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

- 1. Soccer practice is permitted during the week and league play is permitted on Saturday and Sundays.**
- 2. The facility shall comply with the parking requirements and the parking lot shall be striped according to code.**

Mr. Miller seconded the motion but said he would like to see condition 2 modified so that a minimum of 25 striped parking spaces be would be required on site. Mr. Shipe said he was agreeable to that amendment. Mr. Whitton asked if there was any additional discussion before the vote? There was no response. He 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 Mr. Shipe seconded the motion. Mr. Whitton called for the vote and the meeting was adjourned by unanimous consent at 7:17 p.m.

APPROVED

Mr. George Whitton, Chairman**ATTEST:**

**Todd K. Morgan
Senior Planner, Zoning Services**