

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
DECEMBER 12, 2018
6:00 P.M.**

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

BOARD MEMBERS PRESENT:

Mr. George Whitton, Chairman
Mr. Richard Miller, Vice-Chairman
Mr. Bill Weltzer
Mr. Chris Vaught

BOARD MEMBERS NOT PRESENT:

Mrs. Sherry Hempfling

STAFF MEMBERS PRESENT:

Mr. Michael Schwartz, Planner

LEGAL COUNSEL PRESENT:

Mr. Dale T. Wilson

APPROVAL OF MINUTES

Chairman Whitton stated the Board members received copies of the minutes of the Boone County Board of Adjustment meeting of November 14, 2018. He asked if there were any comments or corrections? Mr. Vaught moved to approve the minutes and Mr. Miller seconded the motion. Chairman Whitton called for the vote and it carried unanimously.

ACTION ON REVIEWS

1. Request of Darran Walz for a Change in Nonconforming Use to allow the removal of an existing 964 square foot accessory building and replace it with a 3,200 square foot accessory storage building. The approximate 1 acre site is located at 5850 River Road, Boone County, Kentucky and is zoned Agricultural Estate (A-2) and Industrial Three (I-3).

Staff Member, Michael Schwartz, presented the Staff Report which included a Powerpoint presentation (see Staff Report).

Mr. Weltzer asked about the staff comment regarding the future transfer of the property and the requirement that it be vacant. Mr. Schwartz replied that if the lot were to be transferred in the future, the current use of the building, an accessory structure, would become the principal use of the property. If that were the case, the use would either have to be a permitted use in the zone or that the building be removed and the property be vacant.

Mr. Darran Walz stated that he knew that the property consisted of three separate parcels when he purchased the property. His plan is to expand the house, but wanted to build a larger accessory building first. He needs more room for his personal items, such as his RV. He stated that the existing building is deteriorating and has mold.

Mr. Miller asked if he had any problem with meeting the two conditions stated by staff in their report. Mr. Walz replied that he would meet the two conditions.

Chairman Whitton asked if anyone in the audience wanted to speak in favor or against the request. There was none.

Chairman Whitton asked if the two conditions stated by staff were necessary. Mr. Wilson provided an explanation as to what nonconforming uses are and that the Board had to determine that the new use was no more objectionable than the current use. He also stated that the Board could impose any conditions they deemed were reasonable and appropriate.

Mr. Miller made a motion to approve the change in nonconforming use as requested, subject to the following conditions: (1) That the proposed accessory storage building be set back a minimum of sixty (60) feet from the front property line; and (2) That Lot 1 cannot be transferred to another ownership unless: (1) the use on Lot 1 is deemed to be a conforming use in the zoning district; or (2) Lot 1 is vacant. Mr. Vaught seconded the motion. Chairman Whitton asked if there was any further discussion. There was no response. He called for the vote and it carried unanimously.

2. Request of Nathan Fredrick for a Variance to reduce the front yard setback from sixty (60) feet to twenty (20) feet. The approximate 3.11 acre site is located along the northeast side of Verona Mudlick Road, between Carr Road and Brown Road, approximately 800 feet southeast of Carr Road, and immediately southeast of the property located at 3368 Verona Mudlick Road, Boone County, Kentucky. It is zoned Agricultural Estate (A-2).

Staff Member, Michael Schwartz, presented the Staff Report which included a Powerpoint presentation (see Staff Report).

Mr. Miller asked about the location of the utility easement. Mr. Schwartz replied that staff could not find an actual easement and identified the location of the utility line on the slide presentation.

Mr. Fredrick stated that the adjacent house is set back eight (8) feet from the property line and that there is a thirty (30) foot right-of-way. Placing the house twenty (20) feet from the property line is the only place it can go.

Chairman Whitton asked why the twenty (20) foot setback was necessary. Mr. Fredrick replied that the land drops off quickly once you get past the flat part of the property.

Mr. Miller asked if he had any problem with meeting the condition stated by staff in their report. Mr. Fredrick replied that he would meet the condition.

Chairman Whitton asked if anyone in the audience wanted to speak in favor or against the request. There was none.

Mr. Miller made a motion to approve the variance as requested, subject to the following condition: (1) That access to the site be provided from the existing curb cut/driveway located within an existing ingress/egress easement, on property immediately to the southeast of the site. Mr. Vaught seconded the motion. Chairman Whitton asked if there was any further discussion. There was no response. He called for the vote and it carried unanimously.

3. Request of Denham-Blythe Company, per Gregory Rainey, Jr., on behalf of Safran Landing Systems for a Variance to reduce the side yard Landscape Buffer width from eighty (80) feet to forty-eight (48) feet to allow the construction of a truck access road and guardrail along the north side of the property. The approximate 40 acre site is located at the northeast corner of the intersection of Carbon Way with Shorland Drive, and includes the property located at 1 Carbon Way, Walton, Kentucky and is zoned Industrial Two (I-2).

Staff Member, Michael Schwartz, presented the Staff Report which included a Powerpoint presentation (see Staff Report).

Mr. Rainey stated that the location of the access road is for truck safety, allowing for a straight driving lane and eliminating a jog. He stated that no grading would go over their property line. He stated that the proposed access road location would allow for a larger future building pad.

Mr. Christopher Curry stated that there might be a future expansion of the existing building, necessitating the relocation of the existing loading area. The proposed access road location would facilitate in that relocation.

Chairman Whitton asked if anyone in the audience wanted to speak in favor or against the request. There was none.

Mr. Vaught made a motion to approve the variance as requested Mr. Weltzer seconded the motion. Chairman Whitton asked if there was any further discussion. There was no response. He called for the vote and it carried unanimously.

4. Request of Delta Business Group, per Mark Jaehner, on behalf of Toby J. Frohlich for a Conditional Use Permit to allow the construction of an event center, eight cabins/tree houses, a shower house, three pergolas, and a fire pit. The approximate 143 acre site is located at 12226 Kite Lane, Boone County, Kentucky and is currently zoned Agricultural Estate (A-2).

Staff Member, Michael Schwartz, presented the Staff Report which included a Powerpoint presentation (see Staff Report). He noted that several agencies submitted comments for the Board's consideration. He also noted that a letter was received from Terrace Holdings indicating their support for the proposed application and from Elizabeth S. Frye, dated December 7, 2018, indicating that she was opposed to the proposed application.

Mr. Weltzer stated that he may have a conflict of interest, as he did in the previous application. Mr. Weltzer left the room.

Mr. Jaehner stated that the Frohlich's were out of town on a Christian mission and he apologized for their absence. He stated that he met with all of the pertinent departments to make sure that the requirements would be met. He stated that the proposal is for a wedding event center and that there is a need for such a use. He summarized his submitted proposal description. He stated that while the property contains 143 acres, only 20 acres would be developed. He stated that he met with Scott Pennington and the local fire department. He stated that the Frohlich's would widen Kite Lane. He stated that there will be a project sign at the entrance and that the sign would meet the zoning requirements. He stated that the property has steep slopes and that it will be developed properly and that they will have a geotechnical engineer on site. He stated that the cabins/tree houses will be 400 to 600 square feet in size and they would be integrated with the existing trees. He stated that the event center would be a maximum of 6,000 square feet in size and that it would be below the threshold for sprinklers. He stated that there would be no on-site food preparation. He stated that new soil samples will be taken to determine proper wastewater treatment. Detention/retention will be provided and that 80% of the site would be non-impervious surface. He stated that the Frohlich's want to run a family owned business and that they will be living on the property to control any issues that may arise. They are providing more parking than is required. They will control noise from the event center using appropriate building materials. He stated that the Kentucky Speedway can be heard on the property and their proposed use will have lower noise levels than the Kentucky Speedway. He stated that water service will be provided by cisterns and/or bringing water to the site.

Chairman Whitton asked how the septic system will function with high capacity during events. Mr. Jaehner replied that the system will be designed and sized appropriately to handle such a capacity.

Mr. Miller asked if a package treatment plant would be used. Mr. Jaehner replied that use of a package treatment plant was one option.

Mr. Miller asked if they have identified the location of the leech fields. Mr. Jaehner replied that they have not identified those locations at this time.

Mr. Miller stated that the submitted concept plan was still lacking the detail that he expected. Mr. Jaehner replied that he may have misunderstood what was required when he met with staff.

Mr. Miller asked what is required to be submitted with an application like this. Mr. Wilson replied by stating the statutory requirements and also noted for the Board that they can ask for any amount of detail that they deem necessary and appropriate.

Mr. Vaught stated that he thought that the review should focus on if the use is appropriate at this location and that the site plan details could be evaluated at a future review.

Mr. Jaehner asked that if more detail was necessary, could the application be tabled. Chairman Whitton stated that he would like to proceed with the rest of the public hearing.

Chairman Whitton asked if anybody else in the audience wanted to speak for the request. There was no response.

Chairman Whitton asked if anybody in the audience wanted to speak against the request.

Mr. Drew Finn stated that his address is 12226 Kite Lane. Mr. Wilson stated that the address of the property will be corrected when a zoning permit is submitted.

Mr. Ron Cornelius stated that a clump of trees was the only thing separating his property from the Frohlich's property. He stated that ATVs have been driven up to his property line. He stated that next year, there will only be three night races at the Kentucky Speedway, but the proposed event center activity will be year round. He wants to keep the area as is. He stated that when it rains, access to Kite Lane is cut off.

Chairman Whitton asked if any shooting would be permitted. Mr. Jaehner replied no and that any activity on the property is being done without the Frohlich's consent.

Mr. Miller asked if shooting and dirt biking would be allowed on the remainder of the property. He referenced the applicants' written submittal description. Mr. Jaehner replied that he could not answer that question at this time.

Mr. Vaught asked the audience how many of them have heard gunshots on the property. Most of the audience raised their hands.

Mr. Greg Staggs stated that the remainder of the Frohlich property is his concern. The noise is horrible. He stated that he wants to enjoy the peace and serenity that currently exists. The ATVs are extremely noisy. He asked if there was a conflict of interest because Mr. Frohlich's brother used to be a judge.

Mr. Joe Potts submitted a letter from his neighbor who could not be in attendance. He stated that there has been some issues with ATVs and shooting. He stated that there needs to be a condition for the remainder of the property. He asked who would be the design professional for the project and if they would have the proper state licenses/certifications. He stated that the submitted plan was prepared by LBH Designs and that they no longer are a Kentucky Registered Architect. He stated that this will be a complicated design. He stated that there is a delay in getting first responders to their area. He stated that his key issues are noise and lights and that he did not want this activity in his back yard.

Mr. Tom O'Flynn stated that he is not an adjacent property owner, however, the area is a natural amphitheater. He stated that noise will be heard everywhere. He does not want to see a commercial activity in this area. He stated that the area is not agricultural, it is residential and that type of development needs to be respected.

Mr. John Helmer stated that he is opposed to this project and that Kite Lane is a common driveway, not a roadway.

Ms. Patricia Hamilton stated that Mr. Jaehner has done residential work and not commercial work. She stated that the Frohlichs had property on Hathaway and wondered why this project is not being done on that property. She stated that she is concerned with water and sewer service. She asked if guardrails would be installed on the existing culvert. She

stated that a gravel driveway will make it difficult for first responders to get back to the event center. She stated that security is an issue that has not been addressed. She asked why hasn't the house been built yet.

Mr. John Sharp stated that he lives the closest to the proposed event center and that there is no fence along the property line. He stated that people will be able to cross the property line without even knowing it. He stated that motorcycles and four wheelers are running on the property late at night. The noise from the event center will be very high. He stated that the remainder of the Frohlich's property could be used for ATV's.

Ms. Barbara Hamilton stated that it was her understanding that the property was to be used for a home and personal recreation. She stated that Kite Lane is a narrow country road and that Mr. Frohlich should leave the property as it.

Ms. Marie Cornelius stated that her family hunts on their property and the proposal would not be proper in that area.

Mr. Mike Jones stated that he owns five (5) acres of land. He stated that he is not against the Frohlichs, but he is against the proposal. He stated that development of the property will change the environment and character of the area.

Chairman Whitton asked if there was anyone else that wanted to speak. There was none.

Mr. Vaught made a motion to deny the application on the basis that the applicant failed to meet the findings required by Sections 262 and 263 of the Boone County Zoning Regulations. A roll call vote found Mr. Vaught and Mr. Miller in favor of the motion and Chairman Whitton against the motion. The motion passed 2 to 1.

OTHER

No other business was discussed.

ADJOURNMENT

Chairman Whitton asked for a motion to adjourn the meeting. Mr. Vaught made a motion to adjourn and Mr. Miller seconded the motion. Chairman Whitton called for the vote and the meeting was adjourned by unanimous consent at 7:48 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Planner