

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
APRIL 10, 2019
6:00 P.M.**

Chairman Whitton called the meeting to order at 6:01 P.M.

BOARD MEMBERS PRESENT:

Mr. George Whitton, Chairman
Mrs. Sherry Hempfling
Mr. Richard Miller, Vice-Chairman
Mr. Bill Weltzer

BOARD MEMBERS NOT PRESENT:

Mr. Chris Vaught

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 March 27, 2019. He asked if there were any comments or corrections? Vice-Chairman Miller moved to approve the minutes and Mr. Weltzer seconded the motion. Chairman Whitton called for the vote and it carried unanimously.

ACTION ON REVIEWS

1. Request of Adam W. Hemmer on behalf of Paul Hemmer Company for a Variance to reduce the minimum width of Buffer Yard A from ten (10) feet to one (1) foot. The approximate 15 acre parcel is located on the south side of Aviation Boulevard, approximately 4,600 feet west of Petersburg Road, having an address of 1370 Aviation Boulevard, and is zoned Industrial One with an approved Concept Development Plan (I-1/CD).

Ms. Hempfling stated that she had a conflict of interest and recused herself from this issue. Ms. Hempfling left the room.

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

Chairman Whitton asked the Board if they had any questions for staff. There were none.

Chairman Whitton asked if anyone in the audience wanted to speak in favor of the request.

Adam Hemmer, Paul Hemmer Company, stated that they had acquired the property from three different property owners. He stated that they have been working with the McGlasson family for several years. He stated that they originally wanted to build two building on the property with the loading docks in the center and that the driveway would have been off-set with the driveway across the street. He stated that Scott Pennington requested that the driveways align. To accomplish this alignment, he stated that it required the driveway to be pushed closer to the property line, resulting in a buffer yard width of less than ten feet. He stated that the turning radii is not ideal for the large trucks and that there would be a manhole within the driveway, as opposed to being outside of the driveway. With the manhole being within the driveway, trucks will constantly be going over it, causing a maintenance issue for the county and SD1.

Vice-Chairman Miller asked why does the setback have to be reduced to one foot and why can't the driveway be pulled away from the property line. Mr. Hemmer replied that the site design has gone through many variations. He stated that they could do it, but trucks will be going over the manhole.

Chairman Whitton asked if all adjacent properties are industrial. Mr. Hemmer replied that all adjacent properties are zoned industrial, but not being used for industrial purposes.

Mr. Weltzer asked if the submitted design has the tightest radius to allow for proper truck movement. Mr. Hemmer replied that their civil engineer provided for the tightest radius possible.

Vice-Chairman Miller asked what type of trucks would be using this driveway. Mr. Hemmer replied that this driveway will predominantly be used for large semi-truck traffic going to the loading dock.

Mr. Weltzer asked if the driveway would accommodate two-way traffic. Mr. Hemmer replied yes.

Mr. Hemmer stated that they have a grading permit to grade the adjoining area and beyond that there is a federally regulated stream that they cannot encroach upon, and then there is an access drive with an easement. Due to these constraints, he stated that most of the adjacent area will not be usable.

Chairman Whitton asked if there was anyone in the audience that wanted to speak in favor or opposition of the request.

Jack McGlasson, McGlasson Farms, stated that they operate an active farm on the adjacent property and that they have no plans for future development. He stated that he is a registered Landscape Architect and that he believes that the applicant can meet the required buffer yard setback. He showed an exhibit on the screen showing the original concept plan which showed the correct buffer yard. He stated that they need as much of a buffer yard as possible to protect their farming operation.

Lon McGlasson, McGlasson Farms, stated that they intend to keep the adjacent property as a farming operation.

Luke McGlasson, McGlasson Farms, stated that he agrees with the other speakers regarding the continued use of the farming operation on the adjacent property.

Chairman Whitton asked staff if anything has occurred that would necessitate the need to reduce the buffer yard setback. Mr. Schwartz stated that the applicant has an approved Site Plan showing the required setback and that staff is not aware of anything changing from that plan.

There was a general discussion between the Board and the applicant pertaining to the need for driveway alignment, turning radii, and the location of the manhole cover on the street. Mr. Hemmer repeated his statement that they moved the driveway to provide for a better alignment, better turn radii, and to avoid having the manhole cover located within their driveway.

Vice-Chairman Miller asked if the Board denied the request, would you be able to go back to the approved design and make it work. Mr. Hemmer answered that it would not work very well, but they would have to make it work.

Mr. Hemmer handed out various plans showing the different designs for the site.

Vice-Chairman Miller asked if the designers used a program to determine the proper turning radii. Mr. Hemmer replied that he did not know the answer, but assumes that if it was designed the way it is shown on the plan, it must be correct.

Vice-Chairman Miller asked if the Board should take action on the request without knowing why the County requested the driveway to be relocated for alignment. Mr. Wilson replied that the Board can take action and then read the statutory findings and considerations that the Board must use in making their decision.

Vice-Chairman Miller asked when they were notified by the County that the driveways needed to be aligned. Mr. Hemmer replied that it was in 2016. Mr. Hemmer stated that they first had to construct the extension of Aviation Boulevard, then they built on the property located to the north of the site, and then they got approval to build on the site in question. When they were developing the site in

question, the issue came to light.

Mr. Weltzer stated that there are numerous driveways along Aviation Boulevard that do not align. He asked why this development needs to have the driveways aligned.

Vice-Chairman Miller asked if the driveway could be moved to the east, towards the detention pond, could they have adequate turning radii and meet the required buffer. Mr. Schwartz displayed the approved Site Plan and stated that they have a design that meets the requirements of the zoning regulations. Mr. Schwartz also stated that the approved Site Plan was seen by Scott Pennington and that staff would not have approved the Site Plan without input from Mr. Pennington.

There was a discussion regarding what has been constructed and where certain features are in the field.

Mr. Weltzer asked if the driveway curb has been built. Mr. Hemmer stated that it will be built within the next week.

Jack McGlasson stated that the approved Site Plan should be followed, regardless of what has already been built.

Lon McGlasson asked why you can't drive over manholes. He stated that it is done all the time.

Chairman Whitton stated that he felt that the applicant is caught in the middle. He stated that based on comments from the County, the applicant changed their design and now is having to request the variance.

Chairman Whitton asked if there was any further discussion. There was none. Chairman Whitton asked if the Board wanted to make a motion.

Vice-Chairman Miller made a motion to deny the request on the basis that given the fact that the applicant has an approved site plan that meets the requirements of the zoning regulations, there are no special circumstances pertaining to the site and the applicant is not being deprived reasonable use of the property. Mr. Weltzer seconded the motion. Chairman Whitton asked if there was any discussion, There was no response.

Chairman Whitton called for the vote which found Vice-Chairman Miller and Mr. Weltzer voting aye and Chairman Whitton voting nay. The motion carried by a vote of 2 to 1.

Ms. Hempfling returned to the room.

2. Request of Carl W. Crone for a Variance to reduce the west side yard setback from five (5) feet to four (4) feet and to reduce the east side yard setback from five (5) feet to one (1) foot for the construction of a single-family residential dwelling. The

approximate 0.9 acre parcel is located along the northeast side of River Road, between the properties located at 4576 River Road and 4598 River Road, having a PIDN of 058.00-00-059.00, Boone County, Kentucky. The site is currently zoned Suburban Residential One with a Small Community Overlay District (SR-1/SC).

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

Chairman Whitton asked the Board if they had any questions for staff. There were none.

Chairman Whitton asked if anyone in the audience wanted to speak in favor of the request.

Carl Crone stated that since the application was submitted, a survey of the property was done and it shows an approximate four foot setback to the adjoining house. He stated that his son owns the property to the east of the site. He stated that his plans have changed and that he now plans to acquire some property from his son. This will allow him to move the location of the house further away from the west property line. He stated that he does not need the variance for the west property line but is still requesting the one foot setback from the east property line.

Vice-Chairman Miller asked if the applicant can change their request at the public hearing. Mr. Wilson replied that the applicant can request that variance for the setback from the west property line be dropped from his application.

Chairman Whitton asked if there was anyone in the audience that wanted to speak in favor or opposition of the request.

Johnny Mueller stated that he was pleased the Mr. Crone no longer was asking for a variance from his property line.

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

Chairman Whitton asked if there was any further discussion. There was none. Chairman Whitton asked if the Board wanted to make a motion.

Vice-Chairman Miller made a motion to approve the request, subject to the condition that the building be set back a minimum of five (5) feet from the west property line. Ms. Hempfling seconded the motion. Chairman Whitton asked if there was any discussion. There was no response.

Chairman Whitton called for the vote and it carried unanimously.

3. Request of Don Knochelmann, on behalf of the Diocese of Covington for a Variance to reduce the minimum width of Buffer Yard D from eighty (80) feet and forty (40)

feet to a Buffer Yard B with a minimum width of twenty (20) feet along the east property line. The approximate 23.7 acre parcel is located at the northeast corner of the intersection of US 42 with Frogtown Road, having an address of 10268 US 42, Union, Kentucky and is zoned Public Facilities with an approved Concept Development Plan (PF/CD).

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

Chairman Whitton asked the Board if they had any questions for staff. There were none.

Chairman Whitton asked if anyone in the audience wanted to speak in favor of the request.

Don Knochelmann, Diocese of Covington, stated that he directed his design team to provide for play fields and an expansion to the school building. The required buffer yard is more than they expected. He stated that he has no problem with the addition of a fence. He stated that the current plan shows that the play field will be very close to the buffer yard landscaping and it will not allow people to get around the field. He stated that the topography to the west of the play field limits its location.

Vice-Chairman Miller asked if the other three sides of the field can be used by spectators. Mr. Knochelmann replied yes, but the proximity of the trees to the field limits the use of that side of field for players and coaches.

Chairman Whitton asked if there was anyone in the audience that wanted to speak in favor or opposition of the request. There was none.

Chairman Whitton asked if there was any further discussion. Vice-Chairman Miller asked if there was anyone living in the Traemore Subdivision. Mr. Schwartz stated that some houses are under construction but the Drees Company still owns all of the lots adjacent to the site in question. Chairman Whitton asked if the Board wanted to make a motion.

Ms. Hempfling made a motion to approve the request. Mr. Weltzer seconded the motion. Chairman Whitton asked if there was any discussion. Vice-Chairman Miller asked if the condition pertaining to the fence should be included in the Board's action. Ms. Hempfling amended her motion to include the condition that a wood privacy fence, having a minimum height of six (6) feet, be provided along the entire length of the buffer yard. Mr. Weltzer seconded the amended motion. Chairman Whitton asked if there was any further discussion. There was none.

Chairman Whitton called for the vote and it carried unanimously.

4. Request of Stephen Lucas for a Change in Nonconforming Use to allow the removal of an existing 713 square foot accessory structure and replace it with a 1,200 square foot accessory structure. The approximate .46 acre parcel is located at 8885 East Bend Road, Boone County, Kentucky and is zoned Commercial Services (C-3).

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

Chairman Whitton asked the Board if they had any questions for staff. There were none.

Chairman Whitton asked if anyone in the audience wanted to speak in favor of the request.

Stephen Lucas stated that he was told that he could do what he is proposing only to be told later that he needed to go through this procedure. He stated that he could answer any of the Board's questions.

Vice-Chairman Miller asked what type of building is to be built. Mr. Lucas stated that it is going to be a pole barn with a cement slab in the future.

Chairman Whitton asked if there was anyone in the audience that wanted to speak in favor or opposition of the request. There was none.

Chairman Whitton asked if there was any further discussion. There was none. Chairman Whitton asked if the Board wanted to make a motion.

Vice-Chairman Miller made a motion to approve the request. Mr. Weltzer seconded the motion. Chairman Whitton asked if there was any discussion. There was none.

Chairman Whitton called for the vote and it carried unanimously.

OTHER

No other business was discussed.

ADJOURNMENT

Chairman Whitton asked for a motion to adjourn the meeting. Vice-Chairman Miller made a motion to adjourn and Ms. Hempfling seconded the motion. Chairman Whitton called for the vote and the meeting was adjourned by unanimous consent at 7:25 p.m.

APPROVED

Chairman George Whitton

ATTEST:

Michael D. Schwartz
Planner