

**UNION BOARD OF ADJUSTMENT  
UNION CITY BUILDING  
1843 MT. ZION ROAD, UNION, KENTUCKY  
BUSINESS MEETING  
April 30, 2018  
6:30 P.M.**

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Mr. Terrill Kidwell, Chairman, called the meeting to order at 6:30 P.M.

**BOARD MEMBERS PRESENT:**

Mr. Terrill Kidwell, Chairman  
Mr. Andrew Rosen  
Mrs. Pamela Sayers

All members were present

**LEGAL COUNSEL PRESENT:**

Mr. Dale Wilson

**Approval of the Minutes:**

Mr. Kidwell stated that the Minutes of the Union Board of Adjustment Meeting of September 12, 2011 had already been ratified.

**Agenda Items:**

1. **Request of Donald Goderwis, Jr. for a Conditional Use Permit to allow Don Jr's Garage to sell used motor vehicles in conjunction with the existing automotive repair operation in a Union Commercial (UC) zoning district. The approximate 1.92 acre site is located at 9118 Old Union Road, Union, Kentucky.**

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

Mr. Rosen asked if the applicant could start by addressing the four questions found in the Staff Report?

- A. How are the vehicles for sale obtained? Mr. Donald Goderwis, Jr. replied that so far it has been cases where customers no longer want to invest in their vehicles. He would like to have vehicles for sale on the property when this occurs. Mr. Rosen asked if any vehicles would be obtained from auctions? Mr. Goderwis replied it was possible. There could be cases where customers want him to find specific vehicles for them.
- B. Will vehicle sales be limited to automobiles, light trucks, vans, and sport utility vehicles? Mr. Goderwis replied sales would be limited to these type of vehicles.
- C. Will any of the vehicles for sale be kept outside in a disassembled state? Mr. Goderwis replied absolutely not. He never leaves any vehicle outside in a disassembled state.

D. Will banners, streamers, or other temporary advertising methods be used to indicate the vehicles are for sale? Mr. Goderwis replied that advertisement would be done from word of mouth, from his shop, and possibly the internet. He said he would not use any streamers, balloons, etc. The only advertisement would be a little piece of paper on the window of the vehicle.

Mr. Kidwell asked if he needed to have 12 vehicles for sale? Mr. Goderwis said he would like the ability to have 12 vehicles for sale on the lot so there would be a selection to choose from.

Mrs. Sayers asked how long his business has been at the subject location? Mr. Goderwis replied 27 years. He added that the plan is for his son to take the business over in the future.

Mr. Kidwell asked if anyone in the audience would like to speak in favor of or against the request.

Mr. Charles McFarlane said he lives in 8551 Dumaine Court. His property is located in the City of Florence but has a Union mailing address. He and his wife moved to the area about 10 years ago. They have been having their vehicles repaired at Don Jr.'s Garage. They have never seen any illegal vehicles parked on the subject lot. The lot always looks nice and it is a testimony to Mr. Goderwis.

Mr. Rick Newman said he lived on Clarkston Lane. He has lived in Union for 61 years. Mr. Goderwis has been one of the best neighbors that he has ever had. His only question is what happens when Mr. Goderwis is no longer there? He asked if the Conditional Use Permit would run with the land? Mr. Morgan replied the Conditional Use Permit and any conditions would run with the land.

Mr. Rosen asked if a time limit could be put on an approval?

Mr. Newman said he is for Mr. Goderwis getting the approval but is concerned if Don or his son sell out to someone in the future. He knows what some car lots can be.

Mr. Goderwis said he understands Mr. Newman's concern but there would be a lot of guarantees that it wouldn't turn into something undesirable. The code only allows a maximum of 12 vehicles for sale and he does not have any objections to the recommended conditions. He added that he has been wanting to sell vehicles from the lot ever since he went into business. He wants to thank everybody in the City for allowing him to ask for this use.

Mr. Wilson said reasonable conditions can be attached if the Conditional Use Permit is granted. Staff has outlined some conditions, which they feel are appropriate. The Board can use these recommended conditions or make others if they approve the request. The approval and conditions would run with the land even if the real estate is transferred to someone else in the future. As far as setting a time frame, Kentucky law allows it but he cautions Board members against it. An explanation would need to be provided explaining why the time frame was being set. If a Conditional Use Permit were not appropriate then why say it could be for a certain period of time. However, the Board has the right to impose reasonable conditions. If Mr. Goderwis or a future owner wants relief from the conditions they would have to come back before this Board and seek a change.

Mr. Kidwell said he agrees with the recommended Staff conditions.

Mr. Rosen asked how violations of the conditions would be enforced if a future owner did not comply with them? Mr. Wilson replied the city or any resident could inform the zoning

enforcement Staff of a potential violation. The complaint would then be investigated. Zoning Enforcement officers can only cite somebody if they observe the violation taking place. Mr. Morgan asked if the status of the Union Code Enforcement Board could be discussed? Mr. David Plummer, City Administrator, responded that they have a joint code board with the City of Walton. They have recruited their members and they will begin sending these types of issues to the joint code board.

Mr. Kidwell asked Mr. Goderwis to address his hours of operation. He replied that he operates 8:00 a.m. to 6:00 p.m. Monday through Friday. Mr. Kidwell asked if these hours could be expanded? Mr. Goderwis replied he cannot see giving up his weekends. He added that the main reason he is doing this is so he can retain his employees. This will allow his employees to stay busy during slow times. The car repair industry is going through a lot of changes right now. The ability to sell cars will also allow him to work on electric cars and learn.

A lot his customers like the fact that his business is located close to their homes. He often times runs people home. He offers a lot to the city. He likes to help people. Mr. Kidwell asked if he would object to the Board conditioning his business hours? Mr. Goderwis said he would not like to be limited because there could be a case where a customer could only buy a vehicle on Saturday.

Mr. Newman said he is for Mr. Goderwis but there is nothing that would prohibit a buy here pay here lot and the sale of \$200 to \$300 cars in the future. Mr. Kidwell asked Mr. Morgan his thoughts on such a condition? Mr. Morgan asked Mr. Wilson if setting a minimum price on the vehicle inventory would be a reasonable condition? Mr. Wilson said the Board needs to decide what conditions they want to impose. If the decision gets challenged, he will try to defend it. Mr. Goderwis, said he thinks there would be enough safeguards in place. Mr. Kidwell said the Board needs to think about the conditions carefully because this is their one opportunity. They cannot add more conditions once they act. Mr. Wilson said the Board should carefully consider any condition that deals with minimum price of vehicles. They would need a justification. Mr. Goderwis said he would be okay with a condition that prohibits a buy here pay here lot. Mr. Kidwell asked how that should be worded? Mr. Wilson said the Board should explain the phrase so the meaning is clear. Mr. Rosen said he thinks such a condition would restrict Mr. Goderwis' business. There could be a case where a \$1,000 repair is made to a vehicle and a customer does not pay. Mr. Goderwis would be in a situation where he wants to get his money back. There may be an individual that wants the car but can only pay \$100 a week. He wouldn't have a problem with such an arrangement.

Mrs. Sayers said she believes the restrictions they are discussing are getting a little bit too detailed. The city or any resident could have the conditions analyzed if there is an issue in the future.

Mr. Kidwell said the Board should also make sure they aren't creating an eye-sore. They are here to look out for the best interests of the city, the applicant, and the residents. Mr. Goderwis said he understood that.

Mr. Rosen asked if they could look at a probationary period, followed by reevaluation in a year, and then possibly full passage? Mr. Goderwis said he has concerns about that because he has to obtain a Dealer's Licence from Kentucky. The Zoning Administrator and Chief Building Inspector have to sign off before he can mail the license in. Mr. Wilson said he would recommend against such a condition but the Board can impose it if they feel it is necessary. They would need to justify the year probationary period. With a Conditional Use Permit, the Board is analyzing whether or not a particular site is suitable for the proposed use. The Board should find the use is suitable or it is not. Mr. Morgan said he agreed.

Mr. Newman asked if the Conditional Use Permit could ever be revoked if there were violations? Mr. Morgan said another hearing would have to be conducted and the owner would have to be notified. Mr. Wilson said a property owner would have to be given due process before the lawfully issued permit could be revoked.

Mrs. Sayers asked for clarification that the City of Union just added the use to the Union Commercial Zone? Mr. Morgan said the use was added as a conditional use and this Board needs to determine if the use is appropriate.

**Mr. Kidwell asked for a motion.**

**Mr. Rosen made a motion to approve the application with the following conditions:**

- 1. No more than twelve (12) vehicles shall be for sale on the property at any given time.**
- 2. Vehicle sales shall be limited to automobiles, light trucks, vans, and sport utility vehicles. Commercial and/or industrial vehicles, recreational vehicles, or equipment shall not be sold.**
- 3. No vehicle for sale shall be kept outside in a disassembled state.**
- 4. For sale advertisement on any vehicle shall be limited to a 11" x 17" piece of paper.**

**Mrs. Sayers seconded the motion. Mr. Kidwell called for a vote and it carried unanimously.**

### **Adjournment**

Mr. Rosen made a motion to adjourn and Mrs. Sayers seconded the motion. Mr. Kidwell asked for a vote and it carried unanimously. The meeting adjourned at 7:08 P.M.

**APPROVED**

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**Terrill Kidwell, Chairman**

**Attest:**

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