

**WALTON BOARD OF ADJUSTMENT
WALTON SENIOR CENTER
BUSINESS MEETING
August 9, 2016
6:00 P.M.**

Mr. Turner, Chairman, called the meeting to order at 6:01 P.M.

BOARD MEMBERS PRESENT:

Mr. Steve Turner, Chairman
Mr. Robin Baker
Mr. Michael Bryan
Mr. Edward Sedor

BOARD MEMBERS NOT PRESENT

Mr. Thomas Luebbe

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

APPROVAL OF MINUTES:

Mr. Turner stated that the Board members received copies of the minutes of the Walton Board of Adjustment meeting of June 16, 2016. Mr. Bryan moved that they be approved and Mr. Sedor seconded the motion. Mr. Turner asked for a vote and it carried unanimously.

Mr. Wilson made an announcement that Mr. Turner had been reappointed to serve another term on the Board and had been administered the oath of office.

AGENDA ITEMS:

- 1. Request of Gina Daugherty for a Conditional Use Permit for a day care center. The approximate 0.78 acre lot is located at 18 Needmore Street, Walton, Kentucky and is currently zoned Office One (O-1).**

Staff Member, Todd Morgan, AICP, presented the Staff Report which included a PowerPoint presentation (see Staff Report). Mr. Morgan said he received an email from Kathy Turner-Stewart regarding the request and it is part of the record (see Exhibit 1).

Mr. Turner asked if the applicant would like to make a presentation?

Mrs. Gina Daugherty said she has lived in Walton for 25 years and used to own Daugherty Realtors on Main Street. The subject building was in bad shape and the grass was 3' tall when she first looked at it. The building had been broken into and there were broken lights

and beer cars all over. She thought it would be a great building to bring back to life and run a daycare. She addressed the questions found in the Staff Report.

- A. What type of playground equipment is proposed? Will any of the playground equipment be taller than the fence?

None of the playground equipment will be visible with a 6' tall fence.

- B. Will any company vehicles (vans, etc.) be kept on site? If so, one additional parking stall is required per company vehicle.

There will be no company vehicles. They will not be transporting children.

- C. The cover letter indicates that approximately 10-15 children will be outside at any given time. How will this be monitored?

She said the regulations require 60 square feet of play area to be provided for every child that is in the play area.

- D. Is any additional exterior lighting be proposed? If so, please explain.

She said there is an existing light on an electric pole behind the building. This light will be retained. She said there is also soffit lighting on the front of the building. This soffit lighting will be repaired and put on a timer. The lights will come on at dark and go off at daylight.

- E. Could the proposed fencing be upgraded to 6' tall vinyl privacy fencing to reduce any potential noise impacts from the play area?

She will do 6' tall fencing.

- F. Is any exterior signage being proposed?

She said she isn't eligible to construct another freestanding sign on the property because a nonconforming freestanding already exists. She plans on putting press decals on the front windows of the building.

She added that she has fixed all the gutters and down spouts, put in a new heat pump, hung new drywall, and installed new flooring and lighting. The State Fire Marshal will be coming to do an inspection and will determine how many children can be cared for at the facility. She believes the final number will be closer to 30 children than 40 children after the measurements are completed.

Mr. Turner asked if a new freestanding sign could be constructed if the nonconforming sign was removed? Mr. Morgan said a new sign could be constructed in that case. Mrs. Daugherty said that sign is a landmark so she does not plan on removing it. She may paint the pole to make it look better.

Mr. Turner asked for clarification that she was only fixing existing lights and nothing new would be installed? Mrs. Daugherty said that was correct.

Mr. Turner asked if the parking lot plan that was drawn up by Staff was acceptable? Mrs. Daugherty said it was. Mr. Sedor asked if she would be moving the fence? Mr. Daugherty said she would move the fence over and it would be located near the rear door. She wants the rear door to access the play area.

Mr. Turner asked if she would have any company vehicles? Mrs. Daugherty said she would not.

Mr. Sedor asked if Walton Fire had provided any comments? Mr. Morgan said they did not provide anything in writing. He did speak with Assistant Chief Roberts on the phone and he indicated that he had no comments.

Ms. Kathy Turner-Stewart said she owns the adjoining residential property at 16 Needmore Street. She said traffic is going to be a nightmare. It is already horrible with the high school and church. It is a dead end road. Noise is also an issue at her home because of the railroad tracks. She also has concerns that 12 year old children could jump the playground fence and get on her property or the railroad tracks. Mrs. Daugherty responded there is a daycare on Main Street that backs up to a parking lot and the railroad tracks. She is not aware of a case where a child has ever jumped that fence. She said a child should never jump a 6' tall fence if there is proper supervision. Ms. Turner-Stewart said St. Joe's already has a daycare on Needmore Street. Mrs. Daugherty said it is a Catholic daycare. Ms. Turner-Stewart said there are already 5 daycares in Walton. Mrs. Daugherty said the existing daycares can accommodate a total of 263 children and there are over 510 children in Walton-Verona Elementary School, between K and 4th grade. She said in today's economy both parents typically work. Ms. Turner-Stewart said she is not opposing another daycare in Walton but is opposing the proposed location. The school, church, and proposed daycare will all be operating at the same time.

Ms. Margie Stewart said she lived at 288 Edwards Avenue. She asked if children would ride a school bus to the property? Mrs. Daugherty said they would because she will be providing after school care. Walton-Verona Schools will pickup and drop-off children from the daycare. She said it will be the same school bus that transports children to Pitty Pat Lane and the surrounding area. Ms. Stewart said there will be additional traffic from the parents dropping their children off and picking them up. She questioned if there would be sufficient on-site parking? Mr. Morgan indicated the parking lot plan he drew up met code. The daycare is required to provide a minimum of 10 parking stalls because she will have a maximum of 5 employees working from the site at any given time.

Mrs. Daugherty said state regulations base the number of employees on the age of the children being watched and number of children in the classrooms. She will have an infant room that will hold 5-6 infants and it will require 1 teacher. She will have toddler room that will hold 5-6 toddlers and it will require 1 teacher. She will have a preschool room that will hold 8 to 10 children and it requires 1 teacher. She said her 4 and 5 year olds will be watched by one person. She has to comply with all state regulations. The State Fire Marshal will come out first to measure the building and determine how many children she

can have. The child care people from Frankfort will then come out and make sure she is complying with all the guidelines. At that point she will be granted a preliminary license. Within 3 months they will do an unannounced inspection and verify that she is following all the rules. Once that occurs she would be granted a regular license. That license is issued yearly and that state can drop in unannounced at any time. Ms. Stewart asked about her curriculum? Mrs. Daugherty said she is a certified preschool teacher. She said she will not be teaching a religious curriculum. She will have a preschool classroom and a pre kindergarten classroom. These children will be prepared to enter Kindergarten at Walton-Verona.

Mrs. Debbie Nielander said she lived at 100 Pitty Pat Lane. Her property is diagonal to the subject property. She agreed that the property was a dump before Mrs. Daugherty started fixing it up. However, she is opposed to the request. She does not want the extra noise or traffic. They already have trouble with people coming over the railroad viaduct and breaking into cars.

Mrs. Daugherty said she will be having a landscaper come out tomorrow to landscape the yard. She also plans on having someone come out to clean, seal, and stripe the parking lot. She added that the pavement is currently in bad shape because of the trucks and construction equipment that were on the lot. She picked up nails from the parking lot for a solid two weeks. Mrs. Nielander said she is doing all this work but hasn't been approved. Mrs. Daugherty said she signed a lease on June 1st. She has been moving forward because she is paying rent and is optimistic that everything is going to be approved.

Ms. Turner-Stewart said Mrs. Nielander is right about the viaduct. There are a lot of people coming over it and there are bad things happening down on the railroad tracks. There are a lot of police reports documenting the problems. There are a lot of homeless people that live down there. She said these things are a danger to the children.

Mrs. Daugherty said the children will not be outside all day long. They will be on a schedule. When they arrive between 6:00 and 8:00 a.m. they eat breakfast and start their day. Preschool starts at 8:30 a.m. and lasts til 11:30 a.m. Some children only attend preschool and will leave at 11:30 a.m. At 11:30 the children eat lunch. From 12:30 p.m. to 2:30 p.m. is nap time. The children may go out a half an hour between 8:30 a.m. and 11:30 a.m. and for another half an hour between 3:00 and 3:30 p.m. This is also keeping in mind, that all infants and most toddlers do not go outside. Toddlers only go out if they are walking. This means 10 of the 40 children will never go outside. She also added that the elementary school bus does not arrive until 4:30 p.m.

Mrs. Turner-Stewart asked if she would have a summer program? Mrs. Daugherty responded that her classroom will only hold 6 school age children. She will have some school age children, including her grandson that is 9 years old. Her best friend also has a 9 year old daughter and she probably will be there too. She will have school age children but her main goal is to teach a preschool and prepare them for kindergarten.

Mr. Sedor said the State Fire Marshal will determine if the building is fit for the proposed use. Mrs. Daugherty agreed. At that point, the Fire Marshal will tell her how many children she can have and she believes that number will be closer to 30 children than 40. Mrs.

Daugherty agreed again. Mr. Morgan added that the Board can also impose a condition regarding the number of children if they approve the request.

Mrs. Turner-Stewart asked about the widening of the road. Mr. Morgan said the applicant would not be responsible to widen the road. The City of Walton would need to determine the road needed to be widened and would take it on as a road project. Mr. Turner agreed and said that is something that doesn't need to happen. Mr. Morgan agreed. He said his comment in the Staff Report was that a new local city street would be required to have a 50' right-of-way and 25' of pavement.

Mrs. Turner-Stewart said she heard that a basketball goal was going to be placed in the play area. She asked if that was true? Mrs. Daugherty said her grandson wants a basketball goal but he doesn't get everything he asks for. Mr. Morgan said a basketball goal couldn't be taller than the fence if the request is approved and the Board imposes the recommended conditions. Mrs. Daugherty said the state requires a 4' tall fence but she will agree to do a 6' tall fence if that is what the Board requires. Mr. Sedor asked if the Staff recommendation was a 6' tall fence? Mr. Morgan said he recommended a 6' tall vinyl privacy fence. Mrs. Daugherty asked if that could be changed to wood privacy fencing? Mr. Morgan said that is up to the Board.

Mr. Lonnie Turner said he owns the property next door. He said he had his property all cleaned up to the railroad tracks at one time. All that did was encourage kids to go down there and party all night long. As a result, he let that area grow back up. He said there are a lot of people that hang down by the railroad tracks and this is no area for a daycare. You will see pallets, sleeping bags, and condoms if you go back in the woods near the railroad tracks. The police don't do anything about it. Mr. Daugherty said her exterior doors will be locked at all times unless there are people using the playground. Keeping the kids safe is her number one priority. She said people coming from the railroad tracks could just as easily go to a private residence as her business.

Mrs. Nielander asked Mrs. Daugherty if she was already enrolling children? She said she was not. One of her friends put something on Facebook. She has put up a sign on the property indicating that a daycare is coming soon with a phone number. She cannot operate until she gets her license.

Mr. Turner asked if the only access to the play area will come from the house? Mrs. Daugherty said she will also be providing a gated entrance to the play area and it will be secured with a safety lock on top so the kids can't open it. She wants the gated entrance in the event that there was a fire in the building. Mr. Turner asked if somebody would be able to get into the playground from the outside? Mrs. Daugherty said they would.

Mrs. Turner-Stewart said there will be 40 additional cars during peak times if the daycare is approved. Mrs. Daugherty said it would not be 40 additional cars. 5 to 6 kids will arrive on the same bus that already comes down the street, some parents will have multiple kids enrolled at the daycare, and kids are picked up at different times.

Mr. Baker arrived at the meeting at this time. Mr. Wilson said he should listen to the discussion from this point on and make a determination if he is knowledgeable enough to

vote. He can pass his vote if he feels that he has not heard enough of the testimony. In that event, a passed vote would count towards the majority. Mr. Baker asked if he was allowed to ask questions? Mr. Wilson said he was.

Mr. Turner said lets assume the State will approve 35 children and 5 or 6 children will ride the bus that already travels on Needmore Street. In addition, lets say that most people have two children enrolled. That would result in 15 trips and those trips would be spread out. Mrs. Daugherty said a parent that drops a child off at 6:00 a.m. normally gets off work at 2:00 p.m. Parents that drop kids off at 8:00 a.m. normally get off work at 4:00 or 5:00 p.m. Mr. Turner said it would be pretty safe to say that all the trips will not happen at once.

Mr. Sedor said he heard concerns about noise. Yet a train has passed by here several times tonight. He asked what was louder the train or 5 to 6 kids? The second concern he heard was regarding traffic. The traffic will be diluted because some kids will be transported by bus and the bus already goes past Pitty Pat Lane. The last concern he heard was kids and people hanging down by the railroad tracks. The issue needs to be addressed by the police, property owners, and neighbors if it really is an issue. He said there are a lot positives to the proposal. However, some things still need to be determined by the Fire Marshal, such as the number of kids and the issuance of a license.

Mr. Baker asked if the fence was going to be 4' tall? Mr. Turner said there is a recommendation to make it 6' tall. He asked if she planned on using wood or vinyl privacy fencing? He feels that vinyl would be more durable and maintenance free. Mrs. Daugherty said it doesn't matter to her. Mr. Turner said he would be agreeable to either as long as it was a 6' tall privacy fence.

Mrs. Nielander asked how early the Staff would arrive? Mrs. Daugherty said 6:00 a.m. She asked when the doors would close? Mr. Daugherty responded 6:00 p.m. She said there may be times when a parent shows up late and a Staff member will stay until the parent arrives. She said the kids normally start leaving about 4:30 p.m. and she will release Staff accordingly.

Mr. Sedor asked where the closest sexual predators were? Mrs. Daugherty said there shouldn't be any in close proximity because of the schools.

Ms. Margie Stewart asked how many bathrooms the facility will have? Mrs. Daugherty said the state requires 1 bathroom per 20 children. She said she only has one bathroom but it contains 2 toilets. Boys and girls will not be permitted to use the bathroom at the same time.

Mr. Turner asked if approval of the request would preclude the property from being used by an industrial use? Mr. Morgan said any nonconforming industrial use would be abandoned if Mrs. Daugherty starts operating the daycare.

Mr. Wilson said Mr. Baker needs to say how he came familiar with the request if he votes. Mr. Baker said he read the Staff Report but does not feel that he heard enough of the testimony to vote. As a result, he would be passing his vote.

Mr. Sedor made a motion to approve with the request with the following conditions:

1. The daycare shall be approved by the State Fire Marshal.
2. The approval is based on the rough plan that was drawn up by Staff. Minor modifications can be permitted to the driveway and parking lot so they comply with code.
3. The business shall only be permitted to operate Monday through Friday. Business hours shall be limited from 6:00 a. m. to 6:00 p. m.
4. The play area shall be limited to a 50' x 48' area. No more than 15 children shall be permitted in the outdoor play area at any given time.
5. The play area fencing shall be required to be 6' tall privacy fencing. Playground equipment shall not be taller than the fence.
6. No more than 5 employees shall work on site at any given time.
7. No company vehicles shall be kept on site.
8. The parking lot shall be striped per the requirements of the Boone County Zoning Regulations and all required handicapped signage shall be installed.

Mr. Turner said there was nothing in the conditions regarding signage. Mr. Morgan said Mrs. Daugherty proposal was to add decals in the window only. Typically window signs do not count as building mounted signs because they are located inside the building. Mr. Morgan said the Board could add a condition. He recommended limiting building mounted signage to non-illuminated window signage. Mr. Sedor agreed and added the condition to his motion.

9. Building mounted signage shall be limited to a non-illuminated window sign.

Mr. Bryan seconded the motion. Mr. Turner called for the vote. Mr. Baker said he would pass his vote because he showed up late to the meeting. The motion carried unanimously.

OTHER

No other business was discussed.

ADJOURNMENT

Mr. Turner asked for a motion to adjourn. Mr. Sedor so moved and Mr. Bryan seconded the motion. The motion carried by unanimous consent and the meeting adjourned at 7:07 P.M.

APPROVED

**Steve Turner
Chairman**

Attest:

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

Exhibits

1. 8/8/16 Email From Kathy Turner-Stewart