

MINUTES

**CITY-COUNTY BOARD OF ADJUSTMENTS
OF WARREN COUNTY
October 22, 2009 @ 7:00 p.m.
City Commission Chambers
1001 College Street**

MEMBERS PRESENT:

**Courtlan Atkinson
Dr. John Fitts**

**Al Kaelin
David Coverdale**

**Mike Davenport
Charles Adams**

Absent: Albert Haley

The City-County Board of Adjustments of Warren County was called to order by the Chairman, Mike Davenport. He requested Zoning Administrator, Debbie Chandler, call the roll and determine a quorum. It was determined that a quorum was present with six of seven members present at the time of roll call.

Chairman Davenport asked if there were any questions or comments about the Minutes of the previous meeting of September 24, 2009. There were no questions or comments. The Motion was made by Mr. Coverdale, seconded by Ms. Atkinson, and the Board of Adjustments' members unanimously approved the Minutes of the September 24, 2009 meeting as written.

Hon. Hoy Hodges requested the Chairman order that the Joint Zoning Ordinance of Warren County, Kentucky; the applicable Subdivision Regulations; and the Comprehensive Plan with all of its elements effective as of this date (October 22, 2009) be introduced as exhibits for each of tonight's hearings. He further requested the Chairman order that the Staff report with all attachments, together with the Board's file for this application, be likewise introduced as exhibits. He also asked that the Oath be administered to Jonathan Britt, Planner and Marshall Robinson, Planner, and asked that they be sworn as witnesses before the Board of Adjustments and their oath and qualifications be reflected in the record for tonight's hearing. Chairman Davenport so ordered and swore in the two witnesses.

Hon. Hoy Hodges, the attorney for the Board of Adjustments, then stated tonight there are requests for Variances on three pieces of property. In regard to a Variance, the findings that the Board must make are set forth under KRS 100.243, wherein the Board must find the following in order to prevail: the requested Variance will not adversely affect the public health, safety, or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or a nuisance to the public; and will not cause an unreasonable circumvention of the requirements of the zoning regulations. In order to prevail on the request for a Variance, the Board needs to receive four (4) affirmative votes. A "pass" vote has no force or affect, so the application would need to receive four (4) affirmative votes. If in the event any party disagrees with the Board's decision, they would have thirty (30) days to file an appeal directly to Warren Circuit Court.

PUBLIC HEARING:

Chairman Davenport announced the first item on the agenda as being described as a request for Variances as follows: *2009-V-16 Steve & Lori Lee Rone have filed an application for an 168 foot Variance from the 250 foot set back requirement from residential zoning for a drive-thru with speakers; and an 11 foot Variance from the 40 foot set back requirement from residential zoning for the proposed commercial building located at 430 U.S. 31-W Bypass. This property is zoned HB (Highway Business).*

Jonathan Britt presented the staff report and stated the applicants are requesting two Variances for a proposed commercial building. This is a redevelopment of an existing site. The property is zoned HB (Highway Business) and contains 1.0288 acres located in the Focal Point 102-1A - By-Pass North with Characteristics of dominate use area; strip shopping center and neighborhood commercial on 31-W By-Pass; some transition to institutional in area surrounding the medical complex. The applicants are proposing to demolish the existing building located at 430 U.S. 31-W By-Pass and plan to build a 10,010 square foot commercial building with drive-thru window that includes a speaker and a pick-up window without a speaker. The applicants are planning to have one access from U.S. 31-W By-Pass that aligns with the driveway across the road. There will be one access from Brockley Way. The applicants are also decreasing the amount of lot coverage that currently exists and plan to cover only 77% of the lot compared to the existing 91%.

Mr. Britt indicated that the staff had two items of concern which were:

- Stacking spaces for drive-thru; and Traffic flow

Mr. Britt said that the applicants' representatives met with neighbors and adjoining property owners to discuss site lighting and a solid privacy fence and the location of the speaker for the drive-thru. The applicants have submitted two new exhibits for tonight's hearing, which deal with site lighting and a six foot high solid wood privacy fence. He stated that the staff recommends that the Board give the applicants the proposed Variances in compliance with KRS 100.243.

One of the Board members asked about the speakers and hours of operation and traffic movement in line for the drive-thru. Chairman Davenport then asked if there were any other questions or comments from the Board for Mr. Britt. Being no other questions or comments for staff, the Chairman asked if the representatives for the applicants would come forward. Therefore, Tim Poston of 5377 Richpond Road, Bowling Green, Kentucky stepped to the podium and was sworn in by Chairman Davenport to testify before the Board. Mr. Poston responded that speakers would be needed for a drive-thru and that the restaurant is going to be Linzie's Fine Sandwiches which will open at approximately 10:30 a.m., and close around 9:00 p.m. He indicated that the speaker has been moved to the side of the building instead of at the corner and they have moved the pick-up window for the sandwiches and also moved the window for the pizza place without a speaker. The applicants will also put up a solid wooden privacy fence and place landscaping to help ease any noise.

Chairman Davenport then asked if there were any other questions or comments from the Board for Mr. Britt or the applicants. Being no other questions or comments for staff, or the applicants, Chairman Davenport asked if there were any questions from the audience. Being no questions or comments for staff, or the applicants from the audience, Chairman Davenport asked for a Motion.

ACTION: Dr. Fitts made a Motion, seconded by Mrs. Atkinson, to approve

the request for Variances at 430 U. S. 31-W By-Pass, docket #2009-V-16, a 168 foot Variance from the 250 foot set back requirement from residential zoning for the proposed drive-thru speaker and an 11 foot Variance from the 40 foot set back requirement from residential zoning. The testimony presented in this public hearing has shown that the granting of these Variances will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or a nuisance to the public; and will not allow an unreasonable circumvention of the requirements of the zoning regulations. The request for the Variances was approved (6 years).

Chairman Davenport announced the second item on the agenda as being described as a request for a Variance as follows: *2009-V-17 Roberta Matlock & Mike Matlock, Executors of the Anna L. Grace Estate have filed an application for a 5 foot Variance from the 10 foot side set back for the existing residence located at 724 W. G. Talley Road. This property is zoned AG (Agriculture)*

Marshall Robinson presented the staff report and stated the applicants are requesting a Variance for an existing residence. The property is zoned AG (Agriculture) and contains 1.0 acres located in the Focal Point 115 Boyce-Alvaton - with Characteristics of agriculture/open space; mostly agriculture with some scattered low density single family residential; experiencing market pressure for residential. Mr. Robinson said that the applicants are asking for a five (5) foot Variance from the ten (10) foot side set back for an existing residence. The staff was not notified of any additions to the residence, they just want to bring the property into compliance. Mr. Robinson said that the applicants are here if there are questions. He stated that the staff recommends that the Board give the applicants the proposed Variances in compliance with KRS 100.243.

Chairman Davenport then asked if there were any other questions or comments from the Board for Mr. Robinson. Being no other questions or comments for staff, the Chairman asked if the applicants wanted to come up and add anything additionally. Chairman Davenport then asked if there were any other questions or comments from the Board for Mr. Robinson or the applicants. Being no questions or comments for staff, or the applicants, Chairman Davenport asked if there were any questions from the audience. Being no questions or comments for staff, or the applicants from the audience, Chairman Davenport asked for a Motion.

ACTION: Dr. Fitts made a Motion, seconded by Mr. Coverdale, to approve the request for a Variance at 724 W. G. Talley Road, docket #2009-V-17, a five (5) foot Variance from the 10 foot side set back for the existing residence. The testimony presented in this public hearing has shown that the granting of this Variance will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or a nuisance to the public; and will not allow an unreasonable circumvention of the requirements of the zoning regulations. The request for the Variance was approved (6 years).

Chairman Davenport announced the third item on the agenda as being described as a request for Variances as follows: *2009-V-18 Bennie & Laura Jones have filed an application for a 2 foot Variance from the 20 foot side set back for an existing building; a 9% Variance from the maximum 70% lot coverage; an 11 foot Variance from the 7 foot total overall height for a freestanding sign and a 10 foot Variance from the 20 foot edge of pavement set back for a freestanding sign for property located at 979 Lovers Lane. This property is in the Urban Growth Overlay District and is zoned LI (Light Industrial).*

Jonathan Britt presented the staff report and stated the applicants are requesting multiple Variances for an existing commercial building. The property is zoned LI (Light Industrial) & F (General Floodplain) and contains 1.23 acres located in the Focal Point 114-4A - Lovers Lane with Characteristics of Urban Growth Focal Point with characteristics of: presently single family residential, agricultural and industrial uses with Focal Point Plan and Future Land Use plan adopted. The applicants are proposing to remodel the exterior and interior of the existing building at 979 Lovers Lane. The property is located in the Lovers Lane Overlay District. They plan to convert the building into suites for commercial uses. They went through the Urban Growth Overlay District Board for approval of their site plan. In re-development of this property, the applicants are requesting multiple variances to bring the property into compliance

Mr. Britt indicated that the staff had one item of concern which was:

- Property located in the Lovers Lane Overlay District.

Mr. Britt said that the applicants' and their representatives came before the Urban Growth Design Review Board yesterday and were approved with the condition that they come before the Board of Adjustments to get four Variances. Mr. Britt explained the reasons for the different Variances, especially since the new alignment and new layout of Lovers Lane makes it hard to see the building and would be even harder to see signage which is the reason for the extra height requested here tonight. He stated that the staff recommends that the Board give the applicants the proposed Variances in compliance with KRS 100.243.

One of the Board members asked about the signage height and how they measure the signage either from the road grade or from the parking lot grade for the property. It was discussed that there could have been signage established for new development versus re-development. Chairman Davenport then asked if there were any other questions or comments from the Board for Mr. Britt. Being no other questions or comments for staff, the Chairman asked if the representatives for the applicants wanted to come forward.

Chairman Davenport then asked if there were any other questions or comments from the Board for Mr. Britt or the applicants. Being no other questions or comments for staff, or the applicants, Chairman Davenport asked if there were any questions from the audience. Being no questions or comments for staff, or the applicants from the audience, Chairman Davenport asked for a Motion.

ACTION: Dr. Fitts made a Motion, seconded by Mrs. Atkinson, to approve the request for Variances at 979 Lovers Lane, docket #2009-V-18, a 2 foot Variance from the 20 foot side yard set back along the eastern property line; a 9% Variance from the maximum 70% lot coverage allowed in the Lovers Lane Overlay District; an 11 foot Variance

from the 7 foot total overall height for a proposed freestanding sign; and a 10 foot Variance from the 20 foot minimum set back from the edge of pavement for a proposed freestanding sign. The testimony presented in this public hearing has shown that the granting of these Variances will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or a nuisance to the public; and will not allow an unreasonable circumvention of the requirements of the zoning regulations. The request for the Variances was approved (6 years).

OLD BUSINESS:

Chairman Davenport asked for any old business. Being none, he moved on to New Business.

NEW BUSINESS:

Being no new business, and with no other business to conduct, the meeting was adjourned. All members agreed.

MIKE DAVENPORT, CHAIRMAN

Sandy M. Clark, Adm. Exe. Secretary