

MINUTES
CITY-COUNTY BOARD OF ADJUSTMENTS
July 14, 2011 @ 5:00 p.m.
City Commission Chambers
1001 College Street

MEMBERS PRESENT:

Mike Davenport
Courtlan Atkinson

David Coverdale
Al Kaelin

Dr. John Fitts
Jim Lockwood

ABSENT: Charles Adams

The City-County Board of Adjustments of Warren County was called to order by the Chairman Mike Davenport. The first thing that Chairman Davenport wished to do was to call former Board member Albert Haley, who has retired off the Board, to the front of the chamber to publicly thank him and commend him for his sixteen (16) years of service to Warren County as one of their appointees to the Board of Adjustments. Chairman Davenport presented Mr. Haley with a plaque of appreciation. Mr. Haley thanked the other members of the Board and staff for their cooperation and commitment to the Board.

Chairman Davenport then asked Jim Lockwood to stand and raise his right hand and then presented him with the oath of office in which Mr. Lockwood accepted and became the newest member to the Board of Adjustments. The other Board members welcomed him to the Board.

Chairman Davenport then requested Sandy Clark, Zoning Administrator, call the roll and determine a quorum. It was determined that a quorum was present with six (6) of seven (7) members present at the time of roll call.

Chairman Davenport asked if there were any questions or comments about the Summary Minutes of the previous meeting of June 9, 2011. There were no questions or comments. The Motion was made by Mr. Coverdale, seconded by Ms. Atkinson, and the Board of Adjustments' members (4 yeas – 2 abstained) unanimously approved the Summary Minutes of June 9, 2011 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 (July 14, 2011) be introduced as exhibits for tonight's hearing. He further requested the Chairman order that the Staff report with all attachments, together with the Board's file for the application, be likewise introduced as exhibits. He also asked that the Oath be administered to Marshall Robinson, Planner, and asked that he be sworn as a witness before the Board of Adjustments and his oath and qualifications be reflected in the record for tonight's hearing. Chairman Davenport so ordered and swore in the witness.

Hon. Hoy Hodges, the attorney for the Board of Adjustments, then stated tonight there is a request for a couple of Variances on a piece 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 and only item on the agenda is a request for a Variance which is described as follows: **2011-V-16 - Brandt and Amanda Cashion** have filed an application for two Variances consisting of: 1) a ten (10) foot Variance from the ten (10) foot rear set back line for a covered porch over a patio; and 2) a four (4) foot Variance from the ten (10) foot set back required for a swimming pool as an accessory use to a residential structure for property located at 153 Daisy Field Court. This property is zoned RS-1B (Single Family Residential) with Binding Elements.

Marshall Robinson, Planner presented the staff report and stated the applicants met with staff during a pre-application conference on June 27th, 2011 and that the applicants are requesting two (2) Variances. The first request is for a four (4) foot Variance from the ten (10) foot set back required for a swimming pool as an accessory use to a residential structure. The second Variance is a ten (10) foot Variance from the ten (10) foot rear set back for an addition to the existing residential structure (attached covered porch).

Mr. Robinson indicated that this property is located in Focal Point 108-3 – Elrod Road which has Characteristics of: Residential; low density suburban single family residential neighborhood. The property has frontage on Daisy Field Court and Nugget Drive, which both are County maintained local roadways with fifty (50) feet of right-of-way and twenty-four (24) feet of pavement width.

The provision of the Zoning Ordinance from which this Variance is requested is referenced in Article 4.4.6. - **4.4.6.B-** *The rear set back in the RS-1B for a principle structure is ten (10) feet. Since the proposed addition (covered porch) will be attached to the existing structure, the principle structure set back does apply;* **4.4.6.C.1-** *Corner lots shall be required to provide a front yard along any lot line abutting a street. Unless the plat is expressly marked as to the street the dwelling will front on, a rear yard shall be substituted for any side yard not abutting a street;* and **4.4.6.E.8.1-** *A swimming pool as an accessory use to a residential structure shall be located no closer than 10 feet to the rear property line and no closer than 10 feet to a side property line. The set back shall be measured from the wall of the swimming pool to the nearest property line.*

Chairman Davenport asked if there any questions for staff. One Board member asked if the about the drainage easement area and that the easement would keep at least a 20 foot buffer from the adjacent property. Mr. Robinson said that is correct as to any construction.

Another Board member asked if there were any other pools in the neighborhood and if there was a permit before the pool was placed. Therein one of the applicants, Amanda Lashlee Cashion, of 153 Daisy Field Court, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Davenport to testify before the Board. When asked about the finished pool was placed and if there was building permit – and Mrs. Cashion said there was a permit applied for and when other construction permits were applied for the covered patio which triggered the need for a Variances. When the surveyor performed the survey, it was noted that the pool also needed a Variance, as well as the covered patio. Board members asked that someone contact the Building Permit inspectors and make sure they knew of the need for the pool Variance, as well as the covered patio. The Board members said it is always better to ask before building, than to wait and ask for forgiveness after construction is done.

Chairman Davenport then asked if there were any other questions or comments from the Board for Mr. Robinson. Chairman Davenport asked if there is opposition to this request. Being no other questions or comments for staff or the applicants, and being no questions or comments from the audience, Chairman Davenport asked for a Motion.

ACTION: Dr. Fitts made the Motion, seconded by Ms. Atkinson, to approve the requests for Variances for the property located at 153 Daisy Field Court. The first is for a four (4) foot Variance from the ten (10) foot set back required for a swimming pool as an accessory use to a residential structure. The second Variance is a ten (10) foot Variance from the ten (10) foot rear set back for an addition to the existing residential structure. 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 by a vote of (6 yeas).

OLD BUSINESS:

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

NEW BUSINESS:

Chairman Davenport asked for New Business. Being no other new business, and with no other business to conduct, the meeting was adjourned. All members agreed.

MIKE DAVENPORT, CHAIRMAN

Sandy M. Clark, Zoning Administrator

The meeting was adjourned and there was a continuing educational training for the Board members.