

**MINUTES**  
**CITY-COUNTY BOARD OF ADJUSTMENTS**  
**October 13, 2011 @ 5:00 p.m.**  
**City Commission Chambers**  
**1001 College Street**

**MEMBERS PRESENT:**

**Mike Davenport**  
**Al Kaelin**

**David Coverdale**  
**Jim Lockwood**

**Dr. John Fitts**  
**Charles Adams**

**Absent:        Courtlann Atkinson**

The City-County Board of Adjustments of Warren County was called to order by the Chairman Mike Davenport. Chairman Davenport 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 September 8, 2011. There were no questions or comments. The Motion was made by Mr. Coverdale, seconded by Mr. Kaelin, and the Board of Adjustments' members (6 years) unanimously approved the Summary Minutes of September 8, 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 (October 13, 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 Jonathan Britt, Planner and Rachel Hetzler, 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 each of tonight's hearings. Chairman Davenport so ordered and swore in the two witnesses.

Hon. Hoy Hodges, the attorney for the Board of Adjustments, then stated tonight there is a request for a couple of Variances on a couple of 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.

Hon. Hoy Hodges then stated tonight there are also requests for Conditional Use Permits. Mr. Hodges explained that there must be five (5) affirmative votes and the Board must make certain findings as set forth under KRS 100.111 based upon the testimony presented which are: that the use is not detrimental to the public health, safety or welfare in the zone in which it is proposed; that the use will not contribute toward an overburdening of municipal services; that the use will not result in increased traffic congestion; additional parking problems; a substantial increase in population density; environmental problems; or otherwise constitute a nuisance; and that the use otherwise meets the requirements of this Zoning Ordinance. In order to prevail on the CUP, you would need five (5) affirmative votes and a “pass” vote is of no force or effect. If, in the event any party disagrees with the Board’s decision, they would have (30) days to file an appeal to the Warren Circuit Court.

**PUBLIC HEARING:**

Chairman Davenport announced the first item on the agenda is a request for two (2) Variances which are described as follows: ***2011-V-22 - Roger Thomas and Deon and Mary Benson*** have filed an application for a Variance of 300 feet from the 500 foot set back from a residential district in order to have a veterinary clinic on Vincent Street, which is located approximately 850 feet from Main Street (KY Hwy 101) in Smiths Grove. This property is zoned HB (Highway Business).

Rachel Hetzler, Planner, presented the staff report and stated the applicants met with staff during a pre-application conference on September 16<sup>th</sup>, 2011 and that the applicants are requesting a Variance of 300 feet from the 500 foot set back in order to have a Veterinary Clinic which is 200 feet away from a residential district. The property is zoned HB (Highway Business) and the use of a veterinary clinic is permitted with specific use standards.

Ms. Hetzler indicated that this property is located in Focal Point 116 – Louisville Road/I-65 which has Characteristics of: Agriculture/open space; mostly agriculture but with scattered low density single family residential. The property has frontage on Vincent Street – a local roadway in Smiths Grove with fifty (50) feet of right-of-way and a pavement width of eighteen (18) feet.

The provisions of the Zoning Ordinance from which these Variance are requested is **Article 5.2.4.F.5.a. - 5.2.4.F.5.a** *For an animal hospital, kennel or veterinary clinic, any building or area used for such purposes, including pens or exercise runways shall be at least 500 feet from any residential district.*

Chairman Davenport asked if there were any questions of staff for this Variance request. Being none, Chairman Davenport asked if there was 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 Mr. Kaelin, to approve the request for a Variance for the property located on Vincent Street in Smiths Grove, Docket # 2011-V-22 - a 300 foot Variance from the 500 foot set back to have a veterinary clinic 200 feet from a residential district. 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 by a vote of (6 yeas).**

Chairman Davenport announced the second item on the agenda is also a request for a Variance which is described as follows: *2011-V-24 - Bill Howe and Ashwood Homes, Inc. have filed an application for a Variance of three (3) feet from the 7.5 foot side set back on a lot at 3727 Nugget Drive, which is located at the intersection of Nugget Drive and Cross Hall Loop, for a proposed residence. This property is zoned RS-1B (Single Family Residential).*

Rachel Hetzler, Planner, again presented the staff report and stated the applicants met with staff during a pre-application conference on September 23<sup>rd</sup>, 2011 and that the applicants are requesting a requesting a Variance of three (3) feet from the seven and a half (7 1/2) foot side set back for the proposed residence.

Ms. Hetzler indicated that this property is located in Focal Point 108-3 Elrod Road - which has Characteristics of: Residential; low density single family residential and agricultural uses. The property has frontage on Nugget Drive – a county maintained local street with a 50 feet of right-of-way and a pavement width of 24 feet, and Cross Hall Loop – a county maintained local street with rights-of-way and pavement widths which vary.

The provisions of the Zoning Ordinance from which this Variance is requested is referenced in Article **4.4.6.B - 4.4.6.B** *Side set back in the RS-1B residential district is 7.5 feet.*

The lot is an odd shaped lot and when the lot was staked off, there was a mis-measurement and the footer was poured, it was out of line and into the set back. This is the reason for the three foot Variance. When going out to measure and take photos, staff measured between this foundation and the house on the adjacent lot. Staff found there is 13½ feet from foundation to foundation and there was concern about the two being close together. With allowance for a foot for each of the eaves, there would still be approximately 11½ feet between the two structures.

One Board member asked if a vehicle could get between the two buildings which would be of importance for maintenance and/or fire purposes. There was a question about the house next door being also in the set back. After discussion, it was stated that ten (10) foot is the minimum distance between structures for fire. If both structures were built properly, there would be 15 feet between them, but one looks to be too close to the property line and now the footer looks to be too close and that is why we are here today to ask for a Variance from the 7½ feet from the property line.

Chairman Davenport asked for a representative for the applicant to come forward. Therein, Gregory S. Hughes of 908 Ridgecrest Way, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Davenport to testify before the Board. Mr. Hughes said he is representing Mr. Howe this evening as he was called out of town. He said he is the surveyor on this property and his survey group is the one who laid out the footer and the foundation. There is a field survey prepared, as well as a boundary and topographical survey and control points as placed in the street where they cannot be disturbed. Then the information is compiled and placed in the office computer and then the field crew goes back and stakes out the site.

The proper information was compiled, however, when the field crew went back out – the party chief moved or rotated the house a little, which both Mr. Hughes, nor the owner, knew about until a call was received from the Building Inspector. A review of the data from the computer was

not the same as what was given to the crew, so the field crew moved the house on their own volition and never told anyone. When Mr. Hughes went back out to the field, he checked the controls and boundary corners and the control in the street, it was found that the house had been shifted. The rear corner of the neighboring house sits right on the 7½ foot set back where the brick is at the corner. The eaves are in the 7½ foot set back. Mr. Hughes entered a new Plat Plan as Applicants' Exhibit "1".

Mr. Hughes indicated that the surveyor with thirty (30) years' experience is now no longer with him to ask about the change. He said this is his crew and his responsibility and he will do what is needed to get the Variance. When asked about the soffits, Mr. Hughes said that the soffits are 9 inches which is minimal that can be done, instead of the normal one (1) foot. He then said he and his group has done probably 2,000 houses in the last eleven (11) years and this is the first problem he has ever had. Mr. Hughes said that the crew may have moved and rotated the house in order to line it up with the house next door, not realizing moving the house back would have made a difference. The left corner of the garage would be correct, however, rotating the house would have moved the footer, foundation, etc. The fire issue would still be okay with the amount allowed in rotation.

Chairman Davenport asked if there any other questions for staff. Chairman Davenport then asked if there is opposition to this request. One gentleman raised his hand. Therein, Daniel Emery of 3733 Nugget Drive, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Davenport to testify before the Commission. Mr. Emery said that based on the characteristics of the neighborhood, the structures would be awfully close and is not esthetically pleasing to the community and he said he was upset when he saw it. He said he was a good tax paying citizen and works hard and this just does not look good. The main two reasons for the opposition to the Variance are that: 1) against the plat restrictions set forth by Bennie Jones, the developer of Sutherland Farms, who indicated the set backs are 7½ feet ; and 2) not esthetically pleasing. Mr. Emery entered photographs that were entered as Opposition Exhibits "1" and "2" which show other property across the street and what has been done with this foundation next door.

Mr. Emery then said he has driven through the neighborhood and there are no two houses that fit this close together. He indicated that this is not his permanent home, as he is going to re-sell the property in the next five years and he said he was afraid that allowing the Variance would affect re-sale value in the future. Mr. Emery said rules are set forth, he abides by the neighborhood association rules, pays dues, etc., and this just should be made right.

Chairman Davenport said that if the Board turns this down, the foundation could be moved three and half feet over and the same house would be built. Mr. Emery said a few feet could make a difference. One of the Board members said that Mr. Emery's house was built over the line also, because there is not 7½ feet from the eave to the property line. It is very difficult to look as esthetics if you have a house on one side and foundation on the other side. If a house is line up with a property line, it would certainly look different that a house that is rotated around and not lined up with the property line. Mr. Emery said that the look is not a typical characteristic in the neighborhood. Mr. Coverdale said it would be hard to guess or determine the distance without measuring.

Mr. Emery said he was told that the original plans indicated 13 feet from the property line, however, now it is different. The house looks larger than what was first indicated and 2,500 to 3,000 square feet. This Board only deals with what is brought to them as being requested from zoning and not things unique to a subdivision.

Greg Hughes returned to the podium to respond and stated the Mr. Howe owns Lots 110 and 111 and he placed accessory structures on both of the lots. The side set back on accessory buildings is five (5) feet, so an accessory building can be placed 2 1/2 feet from the property line as a side set back which has been done down the street a couple of times. There is a small building envelope on this site which already has a footer and block foundation in the ground, so it would not be a matter of moving a few blocks, it would be a big deal to remove the footer and the remove the foundation.

Jonathan Britt, Planner with the staff of the City-County Planning Commission said that the lot is a very odd shape and that may be a reason for the rotation and/or whatever caused some of the differences. Was it caught soon enough, that is questionable, but it has not gone any further at this point. Measuring goes from eave to eave, but staff tries to be as liberal as it can to help people out with the eave being six (6) inches over, sometimes staff tries to help and it would be a judgment call by the Board to determine if it is too close.

Mr. Coverdale said he is concerned about the previous structure at 3733 Nugget Drive already pinches the lot by going over and now going over three feet out of seven and half feet is a significant amount of difference. It is exacerbated by the fact that there is a six inch or nine inch difference on the other side.

Mr. Britt said it would not be as easy to say some block can be moved over three feet and obviously there would be a large cost, and that is what a Variance is for - - that is the express purpose of a Variance. There would be a hardship here and there are issues that could not be avoided and there is a small building envelope, then that is the purpose of a Variance.

Being no other questions or comments for staff or the applicants, and being no other questions or comments from the audience, Chairman Davenport asked for a Motion.

**ACTION:** **Dr. Fitts made the Motion, seconded by Mr. Kaelin, to approve the request for a Variance for the property located at 3727 Nugget Drive, Docket # 2011-V-24, a Variance of three (3) feet from the 7½ foot side set back in the RS-1B residential district. 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 vote was three (3) yeas and three (3) nays, so the request is not approved because it did not receive four affirmative votes as required in KRS 100 and Zoning Ordinance Section 3.7.6.**

Chairman Davenport announced the third and fourth items on the agenda as a request for a Conditional Use Permit and a request for a Variance which are described as follows: **2011-C-03 - Harold A. Link** has filed an application for a Conditional Use Permit in order to have a (home occupation) – barber shop within his residence located at 460 Park Street, which is located approximately 130 feet from 5<sup>th</sup> Avenue. This property is zoned RM-4 (Multi-family Residential); and **2011-V-21 - Harold A. Link** has also filed an application for a Variance of six (6) feet from the ten (10) foot side set back for an existing house located at 460 Park Street, which is located approximately 130 feet from 5<sup>th</sup> Avenue. This property is zoned RM-4 (Multi Family Residential).

Jonathan Britt presented the staff report and stated the applicant is requesting to use an existing residential structure for a home occupation (barber shop) as defined in the Zoning Ordinance of Warren County. The applicant has limited the hours of operation from 8 a.m. to 8 p.m. The applicant also requests a six (6) foot Variance from the required ten (10) foot side set back. The staff held a Pre-Application conference with applicant on August 11, 2011. The applicant has placed self-imposed conditions on himself to set the hours of operation for the proposed barber shop (Home Occupation) to be 8:00 a.m. to 8:00 p.m., and since this is an existing home, he is going to add on to the existing residence and will request a Variance in order to get the existing structure into compliance. There is a request for a six (6) foot Variance for the existing house.

Mr. Britt said that the property is zoned RM-4 (Multi-family Residential); contains 0.21 acre; and has frontage on Park Street, a City maintained urban local roadway with fifty (50) feet of right-of-way and pavement widths that vary.

Under Zoning Ordinance ***Section 5.2.2.A.4.b.(6) A Conditional Use Permit is required in order to have a barber shop (home occupation) in a RM-4 (Multi-family Residential) District.***

For the Variance, Zoning Ordinance ***Section 4.5.4.B. – The side set back for property zoned RM-4 (Multi-family Residential) is ten (10) feet.***

Chairman Davenport asked about the other businesses along the same street. He asked if there were any questions or comments for staff. Being none, Chairman Davenport asked for the applicant or his counsel to come forward. Therein, Robert Harrison, Attorney for Harold Link stepped to the podium. One Board member asked about traffic congestion and parking for this CUP. Mr. Harrison said that Mr. Link is an older gentleman who has been in business for forty (40) years or so and he presently in a house now and will continue to have clientele one at a time and two at the most at the same time as one finishes and appointment for the next. This is a very small operation and one that has been done for several years. The property where Mr. Link is presently will be brought and then probably sold. Mr. Link also owns the house we are discussing here now and he just wants to move his business from one location to another.

Another Board member asked about signage for the property. Mr. Harrison said the sign he is using now will be moved over to the other property. It is a very small sign that will be placed on the house. There was discussion about State and Local regulations which was thought to be for salons, but not for barber shops.

Chairman Davenport then asked if there was any opposition to this CUP request. Being none from the audience.

One of the Board members asked if the applicants sell the property - if the Board could set a condition that the CUP would be void. When asked if he would agree to the condition that if he sells the property, then the Conditional Use Permit would be void. Mr. Link told the Board he agrees to have that condition placed in the Motion.

Chairman Davenport asked one more if there were any additional questions from the Board. Being none, he asked if there were any questions or comments from the audience. Being no other questions or comments from the Board or the audience and being no questions or comments for staff, or the applicants, Chairman Davenport asked for a Motion.

**ACTION:** Dr. Fitts made the Motion seconded by Mr. Kaelin to approve the Conditional Use Permit, Docket # 2011-C-03, for a barber shop (home occupation) located at 460 Park Street, with the following conditions: 1) *The barber shop will be operated from 8:00 a.m. to 8:00 p.m.; and 2) Conditional Use Permit will be void if applicant sells the property or vacates the premise.*

The testimony presented in this public hearing has shown that the use:

- Is not detrimental to the public health, safety or welfare in the zone in which it is proposed;
- Will not contribute toward an overburdening of municipal services;
- Will not result in increased traffic congestion, additional parking problems, substantial increase in population density, environmental problems or constitute a nuisance; and
- Otherwise meets the requirements of the Zoning Ordinance.

The vote was six (6) yeas, so approved without opposition.

Chairman Davenport then asked for a Motion in regard to the Variance request at this same location.

**ACTION:** Dr. Fitts made the Motion, seconded by Mr. Lockwood, to approve the request for a Variance for the property located at 460 Park Street Docket # 2011-V-21 - a Variance of six (6) feet from the required ten (10) foot side set back in the RM-4 (Multi-family Residential) residential district. 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 by a vote of (6 yeas).

Chairman Davenport announced the next item on the agenda as a request for a Conditional Use Permit which is described as follows: 2011-C-04 - Jerome Wilson has filed an application for a Conditional Use Permit in order to have a kennel at his property located at 3358 Dye Ford Road, which is located approximately 8,250 feet from KY 622 (Plano Road). This property is zoned AG (Agriculture) and F (Flood).

Jonathan Britt once again presented the staff report and stated the applicant is requesting a Conditional Use Permit to operate a kennel on his property and sell bird dog pups as they become available. Dogs will be picked up at the kennel from the hours of 8:00 a.m. to 6:00 p.m., Monday through Sunday. Buyers will arrive on the property and pick up dogs on an individual basis by appointment only. No signage will be used and there will be no more than twenty (20) dogs associated with the kennel.

The staff held a Pre-Application conference with applicant on August 31, 2011. The applicant has placed self-imposed conditions on himself to set the hours of operation for the proposed kennel to be 8:00 a.m. to 6:00 p.m., Monday through Sunday, by appointment only; no signage will be present on the property; and there will be no more than twenty (20) dogs associated with the kennel.

Mr. Britt said that the property is zoned AG (Agriculture) and portion of the property is also F (Flood); contains 55.46 acres; and has frontage on Dye Ford Road, a County maintained rural local roadway with fifty (50) feet of right-of-way and pavement width of seventeen (17) feet.

Under Zoning Ordinance **Section 5.2.4.F.5.a** - *A Conditional Use Permit is required to operate a kennel on property zoned AG (Agriculture).*

Chairman Davenport asked if there were any questions or comments for staff. Being none, Chairman Davenport asked for the applicant to come forward. Therein, Jerome Wilson of 3358 Dye Ford Road, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Davenport to testify before the Board. One Board member asked if this was more of a breeding kennel and not an overnight care type facility or for grooming. Mr. Wilson said he is an avid bird dog lover and he breeds bird dogs (American Field dogs) and that he raises a litter or two a year. He sells dogs from the litters that he does not keep.

Chairman Davenport then asked if there was any opposition to this CUP request. Therein, one gentleman came forward, being Kenneth Haynes of 3295 Dye Ford Road, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Davenport to testify before the Board. Mr. Haynes said his main concern is the applicant's drive way that cannot be turned into from the right so when a delivery truck comes in, it has to pass the applicant's driveway, go down the road and turn around in Mr. Haynes' driveway and go back down the road to enter the applicant's drive by turning left into the drive. Mr. Haynes said the driveway is located on a hill and in a dead spot coming around a curve.

Chairman Davenport asked what that might have to do with the kennel request being considered tonight. There will not be a public retail facility and appointments only for anyone coming out to purchase a pup. Mr. Britt said if the deliveries were for the kennel, but the day to day operations for the breeding kennel do not require deliveries. The only people coming out to the farm would be by appointment only.

Mr. Wilson returned to the podium and stated that he does not have anything delivered by Fed Ex or UPS that has to do with the kennel. He said those trucks, if they come, would come whether there was a kennel or not.

Another gentleman came forward from the audience, being James Ray of 3274 Dye Ford Road, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Davenport to testify before the Board. Mr. Ray said that his property and Mr. Wilson's property were both part of an original large parcel of land that was subdivided into five acre tracts into a subdivision. In the deed that Mr. Ray received, he said there were approximately six (6) restrictions in the deed which included: no dog kennels; no hog lots; etc. He asked if the Board could approve a permit even though there are plat restrictions on the property in the deed.

Attorney Hoy Hodges said that this Board has to consider the Zoning Ordinance, and not deed restrictions. If there are violations of the deed restrictions, then the recourse would be to go through Warren Circuit Court and not the Board of Adjustments. This Board is here to consider applications received in light of the prevailing Zoning Ordinance. Mr. Hodges told Mr. Ray he may want to consult an attorney in regard to restrictions listed on a deed and see what remedies he may have in order to resolve a question in regard the deed restrictions.

One of the Board members asked if the applicants sell the property - if the Board could set a condition that the CUP would be void. When asked if he would agree to the condition that if he sells the property, then the Conditional Use Permit would be void. Mr. Wilson told the Board he agrees to have that condition placed in the Motion.

Chairman Davenport asked one more if there were any additional questions from the Board. Being none, he asked if there were any questions or comments from the audience. Being no other questions or comments from the Board or the audience and being no questions or comments for staff, or the applicants, Chairman Davenport asked for a Motion.

**ACTION: Dr. Fitts made the Motion seconded by Mr. Coverdale to approve the Conditional Use Permit, Docket # 2011-C-04, for a kennel on property located at 3358 Dye Ford Road, with the following conditions: 1) the kennel will operate from 8:00 a.m. to 6:00 p.m. Monday through Sunday by appointment only; 2) No signage will be present on the property; and 3) there will be no more than twenty (20) dogs associated with the kennel.**

**The testimony presented in this public hearing has shown that the use:**

- **Is not detrimental to the public health, safety or welfare in the zone in which it is proposed;**
- **Will not contribute toward an overburdening of municipal services;**
- **Will not result in increased traffic congestion, additional parking problems, substantial increase in population density, environmental problems or constitute a nuisance; and**
- **Otherwise meets the requirements of the Zoning Ordinance.**

**The vote was six (6) yeas, so approved without opposition.**

Chairman Davenport announced the final item on the agenda as a request for a Conditional Use Permit which is described as follows: **2011-C-05 - First Assembly of God** has filed an application for a revision of a Conditional Use Permit in order to expand the church at its property located at 1423 Scottsville Road, which is located at the corner of Scottsville Road and Oliver Street. This property is zoned RS-1A (Single Family Residential) and OP-R (Office and Professional – Residential).

Jonathan Britt once again presented the staff report and stated the applicant is requesting a Conditional Use Permit to operate a church. The property located at 1423 Scottsville Road was granted a Conditional Use Permit (Special Exception) in 1972 for a church/religious institution to be located on property zoned for single-family residential. This church also received approval for a Conditional Use Permit (Special Exception) to add a Child Care Center to the church in 1978.

In 2007, the church received approval for another Conditional Use Permit in order to expand the existing building on the property. The property's expansion received approval of a Variance of thirty-seven percent (37%) additional lot coverage at the same time in 2007. These approvals allowed seventy-two percent (72%) total lot coverage for the property. The church now requests to amend the Conditional Use Permit in order to expand the church's property by adding the adjacent lot located at 1211 Oliver Street and another structure onto the property. The total lot coverage for the property will remain at seventy-two percent (72%) and a plat must be recorded to consolidate the additional lot to the church's property.

The staff held a Pre-Application conference with applicant on August 8, 2011. The applicant has placed self-imposed conditions on itself to set the church uses will occur during church hours and that a plat must be recorded to consolidate the additional lot to the church's property.

Mr. Britt said that the property is zoned RS-1A (Single Family Residential) and OP-R (Office and Professional - Residential; contains 2.6538 acres; and has frontage on Scottsville Road a state-maintained urban principle arterial with eighty (80) feet of right-of-way and fifty-six (56) feet of pavement width. The property also has frontage on Oliver Street and Newton Avenue; which are both City-maintained local roadways with fifty (50) feet of right-of-way and twenty (20) feet of pavement width.

Under Zoning Ordinance **Section 5.2.3.G** - *A Conditional Use Permit is required to operate a religious institution on property zoned RS-1A (Single-Family Residential).*

Chairman Davenport asked if there were any questions or comments for staff. There was discussion about a zone change versus another Conditional Use Permit. One Board member asked about combining the lots together to make one lot rather than having Variances and piecing the property. Houses are affected by traffic from the school, change in characteristics in the neighborhood. Religious institutions have evolved as years ago they were small, but now the churches and facilities are larger taking up more space and more footprints in a residential area. The church would receive more pressure to keep up landscaping and make sure to keep residential look and feel.

Chairman Davenport then asked if there was any opposition to this CUP request. Chairman Davenport asked once more if there were any additional questions from the Board. Being none, he asked if there were any questions or comments from the audience. Being no other questions or comments from the Board or the audience and being no questions or comments for staff, or the applicants, Chairman Davenport asked for a Motion.

**ACTION:** **Dr. Fitts made the Motion seconded by Mr. Kaelin to approve the Conditional Use Permit, docket # 2011-C-05, for a religious institution located at 1423 Scottsville Road, with the following conditions:**

***1) church uses will occur during church hours; and 2) a plat will be recorded to consolidate the additional lot to the church's property.***

**The testimony presented in this public hearing has shown that the use:**

- **Is not detrimental to the public health, safety or welfare in the zone in which it is proposed;**

- **Will not contribute toward an overburdening of municipal services;**
- **Will not result in increased traffic congestion, additional parking problems, substantial increase in population density, environmental problems or constitute a nuisance; and**
- **Otherwise meets the requirements of the Zoning Ordinance.**

**The vote was six (6) yeas, so approved without opposition.**

**NEW BUSINESS:**

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

**OLD BUSINESS:**

Chairman Davenport asked for Old Business. Attorney Hoy Hodges advised that we needed to possibly go into closed session. Chairman Davenport asked for a closed session as the Board of Adjustments needed to go into a closed session for the purpose of discussing possible pending litigation matters. Chairman Davenport then asked for a Motion.

**ACTION: Dr. Fitts made the Motion, seconded by Mr. Kaelin, to go into closed session for the purpose of discussing possible pending litigation matters. All Board member agreed and approved the closed session**

***THE BOARD WENT INTO CLOSED SESSION AND ALL OTHER PEOPLE LEFT THE COMMISSION CHAMBERS.***

Chairman Davenport reconvened the meeting after the closed session. Attorney Hodges asked that the record reflect that no action was taken during the closed session, and during closed session the Board only considered the matters contained in the Motion to go into closed session.

Being no other old business, new business, and with no other business to conduct, the meeting was adjourned. All members agreed and the meeting adjourned at 6:10 p.m.

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MIKE DAVENPORT, CHAIRMAN

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Sandy M. Clark, Zoning Administrator