

**MINUTES**  
**CITY-COUNTY BOARD OF ADJUSTMENTS**  
**March 10, 2011 @ 5:00 p.m.**  
**City Commission Chambers**  
**1001 College Street**

**MEMBERS PRESENT:**

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

**David Coverdale**  
**Albert Haley**

**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. He 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 January 13, 2011. There were no questions or comments. The Motion was made by Mr. Coverdale, seconded by Mr. Kaelin, and the Board of Adjustments' members unanimously approved (1 abstained) the Summary Minutes of January 13, 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 (March 10, 2011) 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 Marshall Robinson, Planner and Rachel Hetzler, Planner, and asked that they be sworn as a witness 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 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, the attorney for the Board of Adjustments, then stated tonight there is also a request for a Conditional Use Permit. 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 affect. 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 a Variance which is described as follows: *2011-V-01 - Daniel and Heather Ennis have filed an application for a three (3) foot Variance from the five (5) foot set back for an accessory structure located at 840 Hardwoods Drive. This property is zoned RS-1A with Binding Elements (Single-Family Residential).*

Rachel Hetzler, Planner presented the staff report and stated the applicants are requesting a Variance of three (3) feet from the five (5) foot set back for a detached accessory structure due to the irregular shape of the lot and the location of the existing driveway. The provision of the Zoning Ordinance from which this Variance is requested is referenced in Article 4.4.6. ***4.4.6.B Accessory structures for single family residential zoning districts have a five (5) foot set back requirement for a detached building.***

Ms. Hetzler said that Staff held a pre-application with the applicants on November 24<sup>th</sup>, 2010 and indicated that this property is located in Focal Point 108-3 Elrod Road, which has characteristics: residential; low density single family residential and agricultural uses.

Chairman Davenport asked if there any questions for staff. Being none, the Board asked for a representative of applicants to come forward. Therein, one of the applicants, Daniel Ennis of 840 Hardwoods Drive, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Davenport to testify before the Board. Mr. Ennis indicated that there were other attached and detached garages in the neighborhood and because of the odd shapes of the lots is the reason for the Variance and that set backs on properties located on the street vary in many different ways. When asked about the fences, he indicated that both he and his neighbor have fences and they are each a foot off the property line.

Chairman Davenport then asked if there were any additional questions or comments from the Board for Ms. Hetzler. 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 Mr. Adams, to approve the request for a Variance at 840 Hardwoods Drive, docket #2011-V-01, of: a three (3) foot Variance from the five (5) foot set back for an accessory structure. 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 then announced for the second case tonight, being described as: *2011-V-05 - Randall and Tammie Bentley have filed in application for a two (2) foot Variance from the four (4) foot height requirement for a fence located at 940 Sugarberry Avenue. This property is zoned RS-1B with Binding Elements (Single Family Residential).*

Marshall Robinson, Planner presented the staff report and stated the applicants are requesting a Variance of two (2) feet from the maximum height of four (4) feet for a proposed fence to extend beyond the front of the principle structure. The property is on a corner lot with two road frontages that gives the lot two front yards. The provision of the Zoning Ordinance from which this Variance is requested is referenced in Article 4.4.6. ***4.4.6.E.1 No accessory building or structure shall extend beyond the front of the principle structure, excluding fences four (4) feet or less in height.***

Mr. Robinson said that Staff held a pre-application with the applicants on February 10<sup>th</sup>, 2011 and indicated that this property is located in Focal Point 108-3 Elrod Road, which has characteristics: residential; low density single family residential and agricultural uses.

Chairman Davenport asked if there any questions for staff. Being none, the Board asked for a representative of applicants to come forward. Therein, one of the applicants, Randall Bentley of P. O. Box 9, Whitesburg, KY, stepped to the podium and was sworn in by Chairman Davenport to testify before the Board. Mr. Bentley indicated he was available to answer any questions by the Board. He explained that the fence will not extend past the driveway or past the house.

Chairman Davenport then asked if there were any additional 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 Mr. Kaelin, to approve the request for a Variance at 940 Sugarberry Avenue, docket #2011-V-05, of: a two (2) foot Variance from the four (4) foot maximum height permitted for a fence to extend beyond the front of the principle structure. 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 final item on the agenda as a request for a Conditional Use Permit which is described as follows: *2011-C-01 – Barbara Corbitt has filed an application for a Conditional Use Permit in order to have a (home occupation) – hair salon within her residence located at 1721 Lennox Way. This property is zoned RM-2 (Multi-family Residential).*

Marshall Robinson presented the staff report and stated the applicant is requesting a Conditional Use Permit for a hair salon. The hair salon will have one stylist station with an all purpose chair / shampoo bowl. The applicant has set the hours of operation for the proposed hair salon (Home Occupation) to be 9:00 a.m. to 5:00 p.m. - Monday through Friday.

Mr. Robinson said that the staff and applicant held a pre-application meeting on January 24, 2011 for this property. The property is zoned RM-2 (Multi-family Residential); contains 0.41 acre; and has frontage on Lennox Way, a County maintained urban roadway with fifty (50) feet of right-of-way and thirty (30) feet of pavement width. Under Article 5.2.2 – Residential Use Categories – **5.2.2.A.4.B(6) - A Conditional Use Permit is required in order to have a hair salon (Home Occupation) on property zoned RM-2 (Two – Family Residential).**

Mr. Robinson then said that the applicant has suggested certain conditions for approval and staff recommends them to the Board, being:

- *The hair salon will be operated from 9:00 a.m. to 5:00 p.m., Monday through Friday.*
- *The applicant must meet all requirements of the Barren River District Area Health Department.*

One of the Board members asked if the applicant sells the property if the Board could set a condition that the CUP would be void. When asked by another Board member, it was confirmed that the applicant did not want to set any firm hours of business, but requests that the operation of the salon be by appointment only, but in order to cover any times that she may want to have customers she would be able to by setting general hours of business.

The Board asked the applicant to come forward for a couple of questions. Therein, Barbara Corbitt of 1721 Lennox Way, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Davenport to testify before the Board. Ms. Corbitt said there would prefer not to be required to have any signage on the property, but the State Board of Licensure requires her to have a sign, so it will be small and on the house.

When asked if she would agree to the condition that if she sells the property, then the Conditional Use Permit would be void. Ms. Corbitt said she agrees to have that condition placed in the Motion.

Chairman Davenport asked if there were any additional questions from the Board. Being none, he asked if there were any other 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. Haley to approve the Conditional Use Permit, Docket # 2011-C-01, for a hair salon at 1721 Lennox Way, with the following conditions:

1. The hair salon will be operated from 9:00 a.m. to 5:00 p.m., Monday through Friday and by appointment only;
2. The applicant must meet all requirements of the Barren River District Area Health Department and all State regulations; and
3. 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.

**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