CONDITIONAL USE PERMIT AND WAIVER STAFF REPORT

Docket Numbers: 2018-C-11 & 2018-V-16
Public Hearing Date: August 9, 2018
Pre-Application Conference: June 29, 2018

Applicants:
South Warren Church of Christ
c/o Gil R. Cowles, Neal Dillard, Warren Vaughan,
Dan Cole and LH Walker
508 Richpond Rockfield Road
Rockfield, KY 42274

Property Owner:
Norma Wilson
8500 Nashville Road
Bowling Green, KY 42104

Location of Property: 8500 Nashville Road
Current Zoning: AG (Agriculture)

PVA Parcel Number: 031A-10D
Existing Land Use: Agricultural

Property Size: 4.5 +/- Acres

Traffic Considerations:
The property has frontage on Nashville Road (US 31W), a State maintained rural major collector, with right-of-way that varies and 22 feet of pavement width.

Description of Conditional Use Permit Request:
The applicants are requesting a Conditional Use Permit for a religious institution in the AG (Agriculture) zoning district.

Description of Waiver Request:
The applicants are requesting a waiver of 11 percent to allow 36 percent lot coverage on property zoned AG (Agriculture).
Conditional Use Permit Zoning Ordinance Reference:
The provision of the Zoning Ordinance which this Conditional Use Permit is requested is referenced in Article 5, Section 5.1.

Section 5.1 - Use Table: A Conditional Use Permit is required to operate a religious institution on property zoned AG (Agriculture).

CONDITIONS

Article 3.8.6 – Conditions of Approval. When considering a Conditional Use Permit, the Board of Adjustments may attach certain conditions to its approval which it feels are necessary requirements in order to preserve and protect the character of the district in which the proposed use would be located.

The applicants have agreed to the following condition, as a part of their application:

- The property will be developed to comply with the Warren County Zoning Ordinance which includes landscaping, parking, sewer restrictions, lighting and signage.

CONDITIONAL USE PERMIT FINDINGS

Article 3, Section 3.8.4. – Review Criteria – The Board of Adjustments shall approve an application for a conditional use permit if, and only if, the applicant has demonstrated that the proposed use and any associated development:

A. Granting the conditional use permit does not substantially conflict with the Comprehensive Plan and the purpose of this Ordinance;

B. Will be consistent with the “Intent” statement for the district in which it is located;

C. Will be compatible with existing uses adjacent to and near the property;

D. Will not be hazardous, detrimental or disturbing to present surrounding land uses due to noise, glare, smoke, dust, odor, fumes or other general nuisance;

E. Will not otherwise adversely affect the development of the general neighborhood or of the district in which the use is proposed;

F. Will be consistent with existing and planned pedestrian and vehicular circulation adjacent to and near the property;

G. Will have adequate water and sewer supply, storm water facilities, transportation facilities, waste disposal and other public services;

H. Will be developed in a way that will preserve and incorporate any important natural features of the site; and

I. Will conform to any specific criteria or conditions specified for that use elsewhere in this Article.
ZONING ORDINANCE REFERENCE (Waiver)

Waiver Zoning Ordinance Reference:
The provision of the Zoning Ordinance from which this waiver is requested is referenced in Article 4, Section 4.3.4.

Property Development Standards – The maximum lot coverage permitted on property zoned AG (Agriculture) is 25%.

VARIANCE AND/OR WAIVER FINDINGS

KRS 100.243 - Findings necessary for granting a variance and/or waiver:

(1) Before any variance is granted, the board must find that the granting of the variance/waiver 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 for an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:

a) The requested variance/waiver arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;

b) The strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and

c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

(2) The board shall deny any request for a variance/waiver arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

The applicants submitted the following narrative to address items a, b and c, listed above:

“The waiver will not affect the public health in any way. It will enhance the overall well-being of the community. There are actually developed areas nearby that have greater than 25% impervious. The waiver will enhance the comprehensive plan.”

STAFF ANALYSIS

The applicants have applied for a CUP in order to operate a religious institution on property zoned AG (Agriculture). The applicants have proposed to construct a new building in front of the existing home and to attach it to the existing home. The applicants are also proposing to utilize the existing shop building for maintenance equipment and storage. Parking is proposed to be located behind the existing home. If this CUP application is approved, the property will be developed as generally shown on the attached concept plan. The applicants have also applied for a waiver of 11 percent from the maximum 25% lot coverage allowed in the AG (Agriculture) zoning district. If this waiver application is approved, the property will be developed as generally shown on the attached CUP/Waiver exhibit.
MOTIONS (Conditional Use Permit)

MOTION TO APPROVE THE CONDITIONAL USE PERMIT REQUEST:

I make the motion to approve the Conditional Use Permit, Docket number 2018-C-11, for a religious institution located at 8500 Nashville Road with the following condition:

- The property will be developed to comply with the Warren County Zoning Ordinance which includes landscaping, parking, sewer restrictions, lighting and signage.

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

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

B. Will not contribute toward an overburdening of municipal services;

C. Will not result in increased traffic congestion, additional parking problems, substantial increase in population density, environmental problems or constitute a nuisance; and

D. That the use otherwise meets the requirements of the Zoning Ordinance.

MOTION TO DENY THE CONDITIONAL USE PERMIT:

I make the motion to deny the Conditional Use Permit, Docket number 2018-C-11, for a religious institution located at 8500 Nashville Road:

(Choose one or more appropriate finding(s) and specific items)

A. The use would be detrimental to the public health, safety or welfare in the zone in which it is proposed.

B. The use will contribute toward an overburdening of municipal services.

C. The use will result in increased traffic congestion, additional parking problems, substantial increase in population density, environmental problems or constitute a nuisance.

D. That the use does not meet the requirements of the Zoning Ordinance.

(Motions for Waiver continued on the next page)
MOTIONS (Waiver)

MOTION TO APPROVE THE WAIVER REQUEST:

I make the motion to approve the request for a waiver at 8500 Nashville Road, Docket number 2018-V-16: a waiver of 11 percent from the maximum lot coverage of 25 percent, for the proposed lot coverage to be 36 percent.

The testimony presented in this public hearing has shown that the granting of this waiver 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.

OR

MOTION TO DENY THE WAIVER REQUEST:

I make the motion to deny the request for a waiver at 8500 Nashville Road, Docket number 2018-V-16: a waiver of 11 percent from the maximum lot coverage of 25 percent, for the proposed lot coverage to be 36 percent.

Sufficient testimony has not been presented in this public hearing that the requested waiver meets the criteria set forth in KRS 100.243, "Findings necessary for granting variances/waivers," as:

(Choose one or more appropriate finding(s) and specific items)

- will adversely affect the public health, safety or welfare.
- will alter the essential character of the general vicinity.
- will cause a hazard or a nuisance to the public
- will allow an unreasonable circumvention of the requirements of the zoning regulations.

The proposed development plan does not show that the requested waiver arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;

The proposed development plan does not show that the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;

The circumstances are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.