

S U M M A R Y M I N U T E S
CITY-COUNTY BOARD OF ADJUSTMENTS
June 14, 2018 @ 5:00 p.m.
City Commission Chambers
1001 College Street, Bowling Green, Kentucky

MEMBERS PRESENT:

Mike Davenport
Dr. John Fitts
Danny Howell
Courtlan Atkinson
Lloyd Ferguson
Elaine Price
Jim Lockwood

The City-County Board of Adjustments of Warren County was called to order by the Chairman Mike Davenport.

A. ROLL CALL:

Chairman Davenport then requested Jessica Martin, Administrative Assistant, to call the roll. It was determined that a quorum was present with all seven (7) members in attendance at the time of roll call.

B. OLD BUSINESS:

Chairman Davenport announced this is a little different than usual and they are reconvening the last month's meeting for the old business on the agenda as:

2018-C-08 – New Life Church of Bowling Green, KY Inc. and First Assembly of God have filed an application for a Conditional Use Permit in order to operate a religious institution and day care facility on the properties located at 1506, 1565, 1567, 1569, 1514 and 1516 Newton Ave; 1219, 1223 and 1227 Oliver Street and 1423 Scottsville Road. These properties are zoned RS-1A (Single Family Residential), OP-R (Office and Professional – Residential) and RM-3 (Townhouse/Multi-Family Residential).

Mrs. Rachel Hurt stepped to the podium to present the staff report. (*Note: Staff report available upon Open Records Request*). She stated the changes are outlined on page 3 in bold with a new exhibit submitted. She stated the Daycare is limited to 1565, 1567, 1569, 1514 and 1516 Newton Ave and the homes on Oliver Street will not be utilized for any daycare use. Mrs. Hurt further explained the changes since last meeting. Dr. Fitts asked about the current entrance being wide enough to allow two-way traffic. The applicant came forward and explained that is for the church access and they will be constructing the drop off lane if this CUP is approved as shown on the exhibit. Chairman Runner asked if there were any opposition or questions for this application. Being none, he asked for a motion.

ACTION: A motion was made by Dr. Fitts, seconded by Ms. Atkinson, to approve the Conditional Use Permits, Docket number 2018-C-08, for a religious institution and day care located at 1423 Scottsville Road; 1506, 1514, 1516, 1565, 1567, and 1569 Newton Avenue; and 1219, 1223, and 1227 Oliver Street, with the following conditions: Conditions for Religious Institution and Accessory Uses: 1) Access to the property will be from the existing entrances to the site. Any new access to the property shall be coordinated with the applicable agency. Conditions for Day Care: 1) Day care-related uses shall be limited to the existing operation at 1423 Scottsville Road and the properties located at 1516, 1514, 1569, 1567 and 1565 Newton Avenue. The homes located on

Oliver Street will not be utilized for any day care-related use. A continuous 5' sidewalk and fence as shown on the attached CUP exhibit shall be installed and extended to each property, in addition to the property located at 1516 Newton Avenue, prior to any of the existing residences being utilized for day care-related purposes. Properties utilized for day care-related use shall also have direct access to the designated drop-off zone via the fenced 5' sidewalk as shown on the attached exhibit. 2) Days and hours of operation: Monday – Friday, 6:30 a.m. – 6 p.m. and during the hours of church services. 3) The maximum number of children that may occupy each of the existing residences shall be limited as follows: 1569 Newton Avenue - 8 children; 1567 Newton Avenue - 8 children; 1565 Newton Avenue - 8 children; 1514 Newton Avenue - 16 children; 1516 Newton Avenue - 12 children. 4) Parking and access to properties located on Newton Avenue in the case of a day care-related use shall be from the existing parking areas that serve the church, with the exception of the designated drop-off zone, as depicted on the attached exhibit. 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. The vote was seven (7) yeas, so approved.

Chairman Davenport stated they have now adjourned last month's meeting and called the meeting to order again. Since roll call was already noted with quorum, he moved to the next item on the agenda.

B. APPROVAL OF MINUTES:

Chairman Davenport asked if there were any questions or comments about the Summary Minutes of the previous meeting held May 10, 2018. There were no questions or comments. The Motion was made by Mr. Lockwood, seconded by Ms. Atkinson, and the Board of Adjustments' members (7 yeas) approved the Summary Minutes of the May 10, 2018 meeting as written.

Hon. Hoy Hodges requested the Chairman order that the Joint Zoning Ordinance of Warren County, Kentucky; and the Comprehensive Plan with all of its elements effective as of this date (June 14, 2018), and the staff reports with all attachments, together with the Board's file for the applications be introduced as exhibits for each of tonight's hearings. He also asked that the Oath be administered to Rachel Hurt and Monica Ramsey and asked that they be sworn in as witnesses before the Board of Adjustments and their oath and qualifications as a Zoning Administrator be reflected in the record for tonight's hearing. Chairman Davenport so ordered and swore in the witnesses. Hon. Hoy Hodges explained that there is an item on the Agenda for an application for a Conditional Use Permit. He explained that there are certain findings the Board must make before approving a Conditional Use Permit and they are set forth in the Zoning Ordinance. In order to prevail, the Board must find that the proposed Conditional Use is not detrimental to the public health, safety or welfare in the zone in which it is proposed; the use will not contribute toward an overburdening of municipal services; the use will not result in increased traffic congestion, additional parking problems, substantial increase in population density, environmental problems or constitute a nuisance; and that the use otherwise meets the requirements of the Zoning Ordinance. Hon. Hoy Hodges stated the other item on the Agenda is a Variance. Hon. Hoy Hodges explained that there are certain findings the Board must make before approving a Variance. Regarding a Variance, the findings that the Board must make are established 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 allow an unreasonable circumvention of the requirements of the zoning regulations. Hon. Hoy Hodges stated for the case to prevail, it will need a majority vote of four positive votes and a “pass” vote has no force or affect. 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.

D. PUBLIC HEARINGS:

Chairman Davenport announced the first item on the agenda.

2018-V-09 – LifeSkills, Inc. has applied for variances on the properties located at 330 East 10th Avenue. This property is zoned CB (Central Business).

Mrs. Monica Ramsey stepped to the podium to present the staff report. *(Note: Staff report available upon Open Records Request).*

Chairman Davenport asked if there were any questions from the Board. Being none, he asked if there was anything the applicant would like to add. Mr. Broderick, attorney for applicant, came forward and explained the reasoning for the variance and the use of the building to help facilitate some of the services they have with the Court Systems. Chairman Davenport asked if there were any questions for the applicant. Being none, he asked if there were any questions or opposition from the audience. Being none, he asked for a motion.

ACTION: A motion was made by Dr. Fitts, seconded by Ms. Atkinson, to approve the request for a variance at 330 E. 10th Avenue, Docket number 2018-V-09: a variance of 9 feet to allow the proposed freestanding sign to be 11 feet from the edge of pavement. 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 seven (7) yeas, so approved.

Chairman Davenport announced the last two items on the agenda:

2018-C-09 – Western Spirits and KYCORE, LLC have filed an application for a Conditional Use Permit in order to allow the storage of explosives, ammunition, etc. on property located at 2520 Russellville Road. This property is zoned HI (Heavy Industrial), with a general development plan and HB (Highway Business).

2018-V-10 – Western Spirits and KYCORE, LLC have applied for variances on the property located at 2520 Russellville Road. This property is zoned HI (Heavy Industrial), with a general development plan and HB (Highway Business).

Mrs. Monica Ramsey stepped to the podium to present the staff report. *(Note: Staff report available upon Open Records Request).* She explained the new condition for number 1 (The only use allowed under this CUP shall be whiskey/bourbon storage, which shall be limited to a maximum of 28,000 barrels.) is at everyone’s desk including an email correspondence with the Rob Clayton with Warren County Schools and the letter from the Fire Department.

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Chairman Davenport asked if the residential variance was for the apartments across the street. Ms. Ramsey stated she believed so. Chairman Davenport asked if there were any questions from the Board. Being none, he asked for the applicant to come forward. Jeff Arnold, 412 Stone Bluff Lane, Daniel Whitley, 7008 Old Greenhill Road and Tim Livesay, 351 Augusta Avenue came forward and all three were sworn in. Mr. Arnold stated their summary in the staff report explains their position pretty well. He stated there have been two whiskey/bourbon warehouse fires in the state of Kentucky in the last 20 years and it has been warehouses that were not sprinkled. He explained that the barrels will leak when they heat up and never build up pressure. He stated they have talked to multiple distillers and was told that there is no history of fires in sprinkled warehouses since if there was a fire they get put out very quickly. Mr. Arnold stated they spoke to multiple fire departments as well. Chairman Davenport asked for any opposition or comments from the audience.

Mr. Ian Loos, attorney with Bell Orr Ayers and Moore, came forward as representation for the Warren County Schools. He stated the school district has received numerous phone calls in regards to this application of concern parents. He stated the Department of Education in Frankfort received some phone calls as well. He stated the school district doesn't take a strong position one way or the other but felt that two conditions needed to be consider, which one was to the first condition that was changed since the packet to satisfy their concerns. He stated the other condition would be that the CUP would not run with the land going forward if ever sold or transferred. He suggested the language: "Should the property be sold or transferred, the Conditional Use Permit will expire and become null and void." Chairman Davenport stated that is a common conditional use condition. Ms. Jean Baglan, 2513 Edgehill Place, came forward and was sworn in. She asked if it was 28,000 or 208,000 barrels. Chairman Davenport stated it was 28,000. She stated there was no way that the applicant could guarantee that this will not catch on fire or explode because the Heaven Hill fire was 17,000 barrels that was struck by lightning. She expressed her concern about the water pipes possibly being frozen or sparks from machinery created a spark. She explained the video she watched of Heaven Hill's fire. She expressed her concern about this property being uphill and a possible fire going downhill to her property, the school, apartments, and a gas station. She stated that law was there to protect them. She expressed her opposition against the variance, and how she was totally against the request. Mr. William Traugott, 505 Sumpter Ave, came forward and was sworn in. He stated he was there on behalf of his father that owns property at 2649 Russellville Road. He stated he doesn't know the background of whiskey storage, but expressed concern if murphy law's applied here. Chairman Davenport asked if anyone else would like to make a comment or concern. Being none, he asked if the applicant would like to address these concerns.

Mr. Jeff Arnold returned to the podium. He stated that Heaven Hill fire was not a sprinkled warehouse and didn't have any containment area. He stated that since that fire, the Kentucky Building Code made a whole subsection just for housing of whiskey/bourbon. He stated at this particular site, as well as any new facilities in Kentucky, he stated that if the worst happened and all barrels catch on fire, they will be containing it all on site. He stated they have to in order to get their State licenses. He stated it is contained in the building and they will be berming around the site to contain it there as well. He stated they will have a dry sprinkle system that will prohibit it from freezing. He agreed to the condition requested on behalf of the schools. Mr. Feguson asked if it was kind of like a refinery. Mr. Arnold stated it doesn't have the flashpoint like gasoline but does have similar guidelines. Mr. Feguson stated firearms and ammunition isn't part of the application. Mr. Arnold stated no and it was unfortunate that they fall under that category. Mr. Livesay came forward and explained the bourbon process and explained there will be some evaporation and will be around 50% empty. Mr. Feguson asked about security. Mr. Livesay stated Triple A is providing constant video monitoring and the Federal Government requires certain

locking on all doors. He stated the building is metal and three walls has concrete block 8 feet up. Chairman Davenport asked if there were any further questions. Being none, he asked for a motion on the Conditional Use Permit first.

ACTION: A motion was made by Dr. Fitts, seconded by Ms. Atkinson, to approve the Conditional Use Permit, Docket number 2018-C-09, to allow the storage of explosives, ammunition, etc. in the HI (Heavy Industrial) zoning district located at 2520 Russellville Road with the following conditions: 1) The only use allowed under this CUP shall be whiskey/bourbon storage, which shall be limited to a maximum of 28,000 barrels. 2) The site will comply with all required fire control and spill containment requirements. 3) Currently the property is split zoned between Heavy Industrial and Highway Business. The conditional use permit request is only for the Heavy Industrial portion of the property. 4) Existing municipal services and utilities will remain unchanged with the exception of necessary upgrades for fire protection and upgrades for other utilities to meet state codes for spirit storage. 5) There will not be an increase in traffic or parking required as a result of the proposed use. 6) Fire suppression plans shall be submitted to BGFDD for review, existing FDC shall be relocated per BGFDD to a remote location within 25' of existing FH, and vegetation shall be removed along north property line. 7) CUP will cease if the property has new owners. 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. The vote was seven (7) yeas, so approved.

Chairman Davenport asked for a motion on the variance.

ACTION: A motion was made by Dr. Fitts, seconded by Ms. Atkinson, to approve the request for a variances at 2520 Russellville Road, Docket number 2018-V-10: a variance of 366 feet from the required distance of 500 feet from any other structure, for the proposed facility to be located 134 feet from any structure; and a variance of 872 feet from the required 1,500 feet from any residence, for the proposed facility to be located 628 feet from any 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 vote was seven (7) yeas, so approved.

E. NEW BUSINESS:

Chairman Davenport asked if there was any new business. Being none, the meeting was adjourned.



MIKE DAVENPORT, CHAIRMAN

Date



8/9/18