

S U M M A R Y M I N U T E S

CITY-COUNTY BOARD OF ADJUSTMENTS

August 9, 2018 @ 5:00 p.m.
City Commission Chambers
1001 College Street, Bowling Green, Kentucky

MEMBERS PRESENT:

Mike Davenport
Dr. John Fitts
Danny Howell
Courtlann 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 Rachel Hurt 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. APPROVAL OF MINUTES:

Chairman Davenport asked if there were any questions or comments about the Summary Minutes of the previous meeting held June 14, 2018. There were no questions or comments. The Motion was made by Mr. Lockwood, seconded by Mrs. Atkinson, and the Board of Adjustments' members (7 yeas) approved the Summary Minutes of the June 14, 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 (August 9, 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 Ben Peterson, Monica Ramsey and Rachel Hurt 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.

C. PUBLIC HEARINGS:

Chairman Davenport announced the first item on the agenda.

2018-V-12 – Skees Development Group, LLC has applied for variances/waivers on a portion of the property located at the end of Skees Road. The property is zoned AG (Agriculture.)

Mrs. Rachel Hurt 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. The board asked if this was approved and the cell phone tower didn’t approve of the application going forward what would happen. Mrs. Hurt stated if the variance is approved it will still be in effect whether the Zone Change is approved or not. Dr. Fitts asked what would happen if the tower broke. Mrs. Hurt stated the towers are designed to break mid-way. Mr. Chris Davenport came forward as the attorney for the applicant. He stated his client purchased the property already and their intent is to develop it in conjunction with the adjoining developing subdivision on Nashville Road. He explained that usually cell phone tower guidelines are to protect existing developed property where this case is a variance being sought is only impacting property that is owned by his client and stated the variance will not impact any of his neighbors. Dr. Fitts asked if they could add the condition if the zone change wasn’t approved, the variance is null and void. Hon. Hoy Hodges stated they could and Mr. Davenport stated they agreed to that condition. Mr. Howell asked if this variance would cause the houses around them to be in danger of radio waves. Mr. Peterson stated that per federal guidelines and law, health consideration is not allowed to be a consideration of the application. Luke Williams, 1550 Westen, came forward and was sworn in. He stated that a farm house could come in today and be built right next to the tower. He explained with the setback on the currently shown lot, the tower would not fall on the house. Chairman Davenport asked if there were any other 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 variances on Skees Road, Docket number 2018-V-12: 1) A variance of 43% (125.9 feet) from the minimum required setback of 60% (176.5 feet) of the overall height of the tower, for the tower to be located 50.6 feet from the nearest property line. 2) A variance of 900 feet from the minimum required setback of 1000 feet from any residential district, structure or use, for the tower to be located 100’ from the nearest residential property. These variances will be null and void if the rezoning does not go through. 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 next item on the agenda:

2018-V-13 – Neal & Judy Turner have applied for variances/waivers on the property located at 854 Lain Court. This property is zoned GB (General Business).

Mrs. Rachel Hurt 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. Chairman Davenport if the properties near this one has the same back setback. Mrs. Hurt stated she was not sure. Chairman Davenport asked if there were any other questions from the Board. Being none, he asked if there were any questions or opposition from the audience. Marilyn Guy, 801 Josephine Street, came forward and was sworn in. She expressed concern about water runoff. Chairman Davenport explained that the City has to approve the permit and they have to contain their own water. Ms. Guy stated there was a sinkhole there. Dr. Fitts asked if the property was already paved. Mr. Neal Turner, 720 Huntington Street, came forward and was sworn in. He stated there is gravel there now and didn't know if he would blacktop it or not. Mr. Peterson stated he would have to blacktop it, gravel is not allowed. Mr. Justin Neal, 730 Edgewood Street, came forward and was sworn in. He stated he didn't have any objection but asked if there could be a condition with the building only being one story. Mr. Turner agreed. Chairman Davenport asked if there were any other questions or opposition. Being none, he asked for a motion.

ACTION: A motion was made by Dr. Fitts, seconded by Ms. Atkinson, to the request for a variance and waiver at 854 Lain Court, Docket number 2018-V-13: 1) a variance of 25 feet to allow the proposed building to be located 15 feet from a single family residential district or use; and 2) a waiver of 6 percent to allow 86 percent lot coverage on property zoned GB (General Business). There is a stipulation that the building not be more than one story tall. The testimony presented in this public hearing has shown that the granting of this variance and 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 The vote was seven (7) yeas, so approved.

Chairman Davenport announced the next two items on the agenda:

2018-C-10 – Deena Brooks has filed an application for a Conditional Use Permit in order to operate a group living facility on property located at 1289 Clay Street. This property is zoned RM-4 (Multi-Family Residential).

2018-V-14 - Deena Brooks has applied for variances/waivers on the property located at 1289 Clay Street. This property is zoned RM-4 (Multi-Family Residential).

Mrs. Rachel Hurt stepped to the podium to present the staff report. (Note: Staff report available upon Open Records Request). There is a revised exhibit at everyone's desk with the exact measurement of a variance of nine feet.

Chairman Davenport asked if there were any questions from the Board. Chairman Davenport asked about the parking condition. Mrs. Hurt stated one would be for the advisory but the maximum of 3

occupants can have a vehicle. Mr. Ferguson mentioned that it was brought to his attention about an issue of panhandling in surrounding neighborhoods of half-way houses or recovery homes. Mr. George Hampton, 1706 North Campbell Road, came forward and was sworn in. He will be operating the recovery facility on the property. He says he is operating a couple of "Learning to Leave" recovery homes and haven't had that problem but if he hears of something like that they will be removed from the program. He explained that in days he has them in employment and shouldn't have to panhandle. Dr. Fitts stated this was a good location since it was close to the bus pickup. Deena Brooks, 1660 Camden Court, came forward and was sworn in. She agreed to a condition where the CUP will be null and void if she sold it to anyone besides the "Learning to Live" people. Chairman Davenport asked if there were any other 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 Mrs. Atkinson, to approve the Conditional Use Permit, Docket number 2018-C-10, for a group living facility located at 1289 Clay Street, with the following conditions: 1) There will be a director on duty at all times. 2) There will be no violent crime offenders or registered sex offenders. 3) Smoking must be done off property. 4) Visiting hours from 4:00 to 8:30 p.m. 5) Residents must be 18 years of age. 6) The property will have a maximum occupancy of 10 adults including at least one staff member on duty twenty-four hours per day, seven days per week. 7) The number of occupants permitted to have a vehicle on site will be limited to the number of total parking spaces located on site, minus one space per employee. 8) Occupants shall be subject to the list of House Rules provided and signed-off when moving in. 9) There will be no signage on the property. 10) If the property is sold the CUP will be null and void unless it is sold to Mr. George Hampton. 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 in regards to the variance.

ACTION: A motion was made by Dr. Fitts, seconded by Mrs. Atkinson, to approve the request for variances at 1289 Clay Street, Docket number 2018-V-14: 1) A variance of 2 feet from the 10-foot average landscape buffer between a vehicle use area (VUA) and a common property line, for the proposed average landscape buffer to be 8 feet along the northwestern property line; 2) A variance of 6 feet from the 10-foot average landscape buffer between a VUA and a common property line, for the proposed average landscape buffer to be 4 feet along the northeastern property line; 3) A variance of 4 feet from the 10-foot minimum landscape buffer between a VUA and right-of-way, for the minimum landscape buffer to be 6 feet. 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 vote was seven (7) yeas, so approved.

Chairman Davenport announced the next item on the agenda:

2018-V-15- Manojkumar Patel and Judith A. Martin have applied for variances/waivers on the property located at 1603 US 31 W Bypass. This property is zoned GB (General 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 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 Mrs. Atkinson, to approve the request for variances at 1603 US 31W Bypass, Docket number 2018-V-15: 1) A variance of three (3) feet, along the northern portion of the property, from the required separation distance of one hundred (100) feet between retail sales with a drive-through or pick-up window with no speaker from the nearest residential property; 2) A variance of fifty-two (52) feet, along the western portion of the property, from the required separation distance of one hundred (100) feet between retail sales with a drive-through or pick-up window with no speaker from the nearest residential property. 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 vote was seven (7) yeas, so approved.

Chairman Davenport announced the last two items on the agenda:

2018-C-11- South Warren Church of Christ and Norma Wilson have filed an application for a Conditional Use Permit in order to operate a religious institution on property located at 8500 Nashville Road. This property is zoned AG (Agriculture).

2018-V-16- South Warren Church of Christ and Norma Wilson have applied for variances/waivers on the property located at 8500 Nashville Road. This property is zoned AG (Agriculture).

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 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 Mrs. Atkinson, to approve the Conditional Use Permit, Docket number 2018-C-11, for a religious institution located at 8500 Nashville Road with the following condition: 1) 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. The vote was seven (7) yeas, so approved.

Chairman Davenport asked for a motion for the Waiver.

ACTION: A motion was made by Dr. Fitts, seconded by Mrs. Atkinson, 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. The vote was seven (7) yeas, so approved.

D. OLD BUSINESS:

Chairman Davenport asked if there were any old business. Being none, he moved to new business.

E. NEW BUSINESS:

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



MIKE DAVENPORT, CHAIRMAN

9/13/18

Date

** Audio is available upon Open Records request. This concludes the Summary of Minutes.*