

Hardin County Board of Adjustment

Minutes: 21 July 2011

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Chairman Krausman called to order the two hundredth and seventy ninth meeting of the Hardin County Board of Adjustment at 5:05 p.m. on Thursday, 21 July 2011, in the R.R. Thomas Meeting Room on the second floor of the R.R. Thomas County Government Building. In addition to Chairman Krausman, Vice-Chairman Jack Holman and Secretary Brent Goodin were in attendance. Also in attendance were Director Chris Hunsinger, Planner Adam King, Planning Assistant Sandra Martinez, County Engineer Vicki Meredith, P.E., and the individuals listed on the attached sign-in sheet. Senior Planner Wesley Wright was not in attendance. Hardin County Attorney Jennifer B. Oldham, legal counsel for the Board, was not requested to attend the meeting.

At 5:05 p.m. Chairman Krausman appointed Board Member Holman to serve as the hearing officer. Hearing Officer Holman announced that the first item on the agenda is a request for a Variance for relief from the required side building setback line to accommodate the existing building. Vice Chairman Holman conducted the swearing in ceremony for all individuals in attendance that may provide testimony. The proposed site is a 0.90 acre tract with an address of 6270 N. Dixie Highway and being Lot 20 Windsor Hills, Section 2 and located in the North Dixie Corridor Planning Area and zoned General Commercial (C-2). The PVA Map Number is 182-00-01-020. The owner is **James Crouch**. Planner King reviewed the application and the history of the property and presented exhibits. James Crouch, the owner, provided testimony and answered questions from the Board Members and staff. No additional testimony was presented. At 5:20 p.m. the Hearing Officer closed the hearing. Board Member Holman made a motion to grant a variance due to the fact that it will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, the structure was constructed in 1998 and that this request does satisfy the language of the KENTUCKY REVISED STATUTES (Section 100.243. Findings necessary for granting variances) which is as follow:

- The requested variance arises from special circumstances which do not generally apply to land in the general vicinity and the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
- The strict application of the provisions of 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 actions of the applicant taken subsequent to the adoption of this regulation from which relief is sought.

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The following variance was granted with the noted conditions:

1. This VARIANCE will allow for the existing structure to encroach into the 10' side building setback due to no safety hazards or concerns.
2. An Amended Development Plan with a Variance Note shall be required.
3. A Certificate of Land Use Restrictions shall be recorded in the Office of the Hardin County Clerk.

Board Member Goodin provided the second. Motion passed unanimously.

At 5:20 p.m. Chairman Krausman appointed Board Member Holman to serve as the hearing officer. Hearing Officer Holman announced that the next item on the agenda is a request for a Conditional Use Permit for a Home Occupation to operate an Automotive Repair business known as **Rick's Detailing** that exceeds the definition of a home occupation. Vice Chairman Holman conducted the swearing in ceremony for all individuals in attendance that may provide testimony. The proposed site is a 0.701 acre site located on the north side of Rineyville Big Springs Road (KY 220). The property address is 1668 Rineyville Big Springs Road and is owned by **Rickie & Sheila Fegett**. Planner King reviewed the application and exhibits. The owners, Rickie & Sheila Fegett, of 1668 Rineyville Big Springs Road, provided testimony and answered questions from the Board Members and staff. Neighbors, Bobby Jones of 1614 Rineyville Big Springs Road and Carolyn Jones of 1614 Rineyville Big Springs Road, provided testimony and answered questions from the Board Members and staff. At 5:50 p.m., the Hearing Officer closed the hearing. Board Member Goodin stated that this request for a Conditional Use Permit does satisfy the language of the DEVELOPMENT GUIDANCE SYSTEM Ordinance (Section 3.12) Standards for Issuance of a Conditional Use Permit is as follows:

- The use does not tend to change the character and established pattern of development of the area;
- The use is in harmony with the uses permitted by right under the sector and district in question and it does not affect adversely the use of neighboring properties;
- The use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair their value;
- The use shall not adversely affect the health or safety of persons residing or working in the vicinity of the proposed use;
- The use shall not be detrimental to the public welfare or injurious to property or improvements in the vicinity; and,

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- The use shall be in accord with the purposes of this ordinance and the Comprehensive Development Guide System and the comprehensive Development Guide;

According to provisions of the Kentucky Revised Statutes, the Hardin County Development Guidance System, and the proceedings before the Board of Adjustment, Board Member Goodin made the motion to grant the Conditional Use Permit (CUP) with the following conditions:

1. This Conditional Use Permit to allow the definition of a Home Occupation to be exceeded shall be good for three years from 21 July 2011 to 21 July 2014.
2. This Conditional Use Permit will allow for the existing Accessory Structure (20' x 27' garage) to be used for Rick's Automotive Detailing Business.
3. A Building Permit shall be required for the garage and existing carport on site. Additionally, the carport must be moved to comply with the building setbacks.
4. The hours of operation shall be from 8:30 am to 6:00 pm Monday thru Saturday.
5. Only four vehicles associated with the business activity shall be parked or kept on site and must be parked behind the privacy fence. In addition, three (3) personal vehicles and one (1) school bus may also be parked on site.
6. A single sign no larger than six (6) square feet in size may be permitted on site and shall not be located in the Right of Way of Rineyville Big Springs Road (KY220).
7. A Site Plan in compliance with Section 7 of the Zoning Ordinance shall be required.
8. A turnaround shall be provided to prevent vehicles from having to back out into Rineyville Big Springs Road (KY 220).
9. The existing privacy fence must be maintained.
10. This Conditional Use Permit shall be issued to the current property owners, Rick & Sheila Fegett, and shall expire when the property is transferred and not be transferable to another property owner.
11. All construction activities on this site shall conform to the provisions of the Kentucky Building Code.
12. A Certificate of Land Use Restrictions shall be recorded in the Office of the Hardin County Clerk.

Board Member Holman provided the second. Motion passed unanimously.

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At 5:50 p.m. Chairman Krausman appointed Board Member Holman to serve as the hearing officer. Hearing Officer Holman announced that the next item on the agenda is a request for a Conditional Use Permit for an existing Accessory Dwelling (16' x 76' manufactured home) to be allowed to remain on the property. The property is a 36 acre site with an address of 9796 Bardstown Road, and identified with the PVA Map Number 269-00-00-016. The property is owned by **Kevin & Lee Ann Byerly**. The property is located in the East Hardin Planning Area and is zoned Rural Residential (R-2). Planner King reviewed the application and presented exhibits and slides of the property (attached). Kevin and Lee Ann Byerly, the owners, provided testimony including that they want to replace a manufactured home with a site built home, remove from the property a manufactured home used for storage and allow the existing manufactured (16' x 76') to remain on the property. They then answered questions from the Board Members and staff. No additional testimony was presented. At 6:10 p.m. the Hearing Officer closed the hearing. Board Member Goodin stated that this request for a Conditional Use Permit does satisfy the language of the DEVELOPMENT GUIDANCE SYSTEM ordinance (Section 16.3) Standards for Issuance of a Conditional Use Permit as follows:

- The use does not tend to change the character and established pattern of development of the area;
- The use is in harmony with the uses permitted by right under the sector and district in question and it does not affect adversely the use of neighboring properties;
- The use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair their value;
- The use shall not adversely affect the health or safety of persons residing or working in the vicinity of the proposed use;
- The use shall not be detrimental to the public welfare or injurious to property or improvements in the vicinity; and,
- The use shall be in accord with the purposes of this ordinance, the Development Guide System 2009 and the Comprehensive Development Guide 2008;

According to provisions of the Kentucky Revised Statutes, the Hardin County Development Guidance System, and the proceedings before the Board of Adjustment, Board Member Goodin made the motion to grant the Conditional Use Permit (CUP) to allow the existing manufactured dwelling to be a Temporary Accessory Dwelling because the request is in character with the neighborhood and vicinity, the property is a large tract of land, 36 acres and the dwelling cannot be seen from the public right-of-way, to remain on the property with the following conditions:

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1. The Temporary Accessory Dwelling, a Manufactured Home (16'x76') located on the property, shall be a temporary use for no longer than five years from 21 July 2011 and must be removed from the property by 21 July 2016.
2. The existing Manufactured Home on site is the Temporary Accessory Dwelling and has 1,216 square feet of living space which is less than the Local Average Square Foot Standard of 1,707 square feet.
3. The Temporary Accessory Dwelling is for a "family situation" and shall only be occupied by Jerry Byerly and his immediate family.
4. Upon the vacancy of the Temporary Accessory Dwelling, it must be removed from the property within six (6) months.
5. This Temporary Accessory Dwelling shall have a sewerage system (septic tank and lateral lines) approved by the Environmental Services Office of the Hardin County Health Department.
6. This Conditional Use Permit shall be issued to the current property owners, Kevin & Lee Ann Byerly, and shall expire when the property is transferred and not be transferable to another property owner.
7. A Site Plan in compliance with Section 7 of the Zoning Ordinance shall be required.
8. The skirting on the Manufactured Home must be maintained.
9. All construction activities on this site shall conform to the provisions of the Kentucky Building Code.
10. A Certificate of Land Use Restrictions shall be recorded in the office of the Hardin County Clerk.

Board Member Holman provided the second. Motion passed unanimously.

At 6:15 p.m. Chairman Krausman appointed Board Member Holman to serve as the hearing officer. Hearing Officer Holman announced that the next item on the agenda is a request for a Conditional Use Permit for a Permanent Accessory Dwelling to be located at 1769 Bethlehem Academy Road. The property is a 5.75 acre site and being Lot 7 of Cowherd Estates, and identified with the PVA Map Number 124-00-00-024.06. The property is owned by **Mack & Lola Morgan**. The property is located in the Natural Resource Planning Area and is zoned Rural Residential (R-2). Planner King reviewed the application and presented exhibits and slides of the property (attached). Kevin Vittitoe of 1769 Bethlehem Academy Road, representative of the owner, provided testimony and answered questions from the Board Members. Floyd and Irene Dodson of 1769 Bethlehem Academy Road provided testimony and answered questions from the

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Board Members and staff. Eddie Bunnell of 1825 Bethlehem Academy Road spoke in opposition to the request stating the property is only allowed one dwelling and permitting the second was not in character of the neighborhood. No additional testimony was presented. At 6:50 p.m. the Hearing Officer closed the hearing. Board Member Goodin stated that this request for a Conditional Use Permit does satisfy the language of the DEVELOPMENT GUIDANCE SYSTEM ordinance (Section 16.3) Standards for Issuance of a Conditional Use Permit as follows:

- The use does not tend to change the character and established pattern of development of the area;
- The use is in harmony with the uses permitted by right under the sector and district in question and it does not affect adversely the use of neighboring properties;
- The use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair their value;
- The use shall not adversely affect the health or safety of persons residing or working in the vicinity of the proposed use;
- The use shall not be detrimental to the public welfare or injurious to property or improvements in the vicinity; and,
- The use shall be in accord with the purposes of this ordinance, the Development Guide System 2009 and the Comprehensive Development Guide 2008;

According to provisions of the Kentucky Revised Statutes, the Hardin County Development Guidance System, and the proceedings before the Board of Adjustment, Board Member Goodin made the motion based on the fact that the request is in compliance with the criteria in the Zoning Ordinance, will not change the character of the neighborhood and vicinity based on location and screening, to grant a Conditional Use Permit (CUP) to allow for a Permanent Accessory Dwelling on the property with the following conditions:

1. The property owners, Mack & Lola Morgan, must occupy either the principal dwelling unit or the Permanent Accessory Dwelling unit as their principal residence, and at no time receive rent for the owner-occupied unit.
2. Adequate on- site parking must be designated on an approved Site Plan.
3. A shared driveway shall be required.
4. The Permanent Accessory Dwelling may contain a maximum of 1,006 square feet of living space.
5. The Permanent Accessory Dwelling shall be located in the rear yard and shall be located as illustrated on the approved Site Plan and in accordance with building setback lines.

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6. The exterior finish materials of the proposed Permanent Accessory Dwelling must be the same or visually match those of the existing principal dwelling in type, size and placement (beige vinyl siding with a green metal roof).
7. Landscaping in the form of 20 white pines trees, 5' tall at planting, planted 10' on center must be illustrated on the Site Plan and maintained. Fifteen (15) trees shall be planted in two staggered rows (eight (8) trees in the front row and seven (7) trees in the back row) along the side property line to the north. Five (5) trees are required along the side property line to the south.
8. The Permanent Accessory Dwelling shall have a sewerage system approved by the Environmental Services Office of the Hardin County Health Department.
9. This Conditional Use Permit is not transferable. New owners must reapply for the Conditional Use Permit and meet the necessary requirements.
10. A Site Plan shall be submitted and approved in accordance with Development Guidance System, Section 7.
11. A Certificate of Land Use Restrictions shall be recorded in the Office of the Hardin County Clerk.

Board Member Holman provided the second. Motion passed unanimously.

At 7:00 p.m. Chairman Krausman appointed Board Member Holman to serve as the hearing officer. Hearing Officer Holman announced that the next item on the agenda is a request for a Variance for relief from the required front building setback line to accommodate a proposed residential addition and an attached garage. The proposed site is a 3.0 acre tract with an address of 465 Jeffries Road and being Lot 1 of Stark Subdivision in the Natural Resource Planning Area and zoned Planned Unit Development (PD-1). The PVA Map Number is 1225-00-00-062.01. The owners are **Charles and Lisa Jeffries**. Planner King reviewed the application and the history of the property and presented exhibits. Charles and Lisa Jeffries the owners, provided testimony and answered questions from the Board Members and staff. Charles and Romona Jeffries of 670 Jeffries Road provided testimony and answered questions from the Board Members and staff. James Jeffries of 576 Jeffries Road provided testimony and answered questions from the Board Members and staff. No additional testimony was presented. At 8:00 p.m. the Hearing Officer closed the hearing. Board Member Holman made a motion to grant a variance due to the fact that it will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and that this request does satisfy the language of the

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KENTUCKY REVISED STATUTES (Section 100.243. Findings necessary for granting variances) which is as follow:

- The requested variance arises from special circumstances which do not generally apply to land in the general vicinity and the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
- The strict application of the provisions of 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 actions of the applicant taken subsequent to the adoption of this regulation from which relief is sought.

The following variance was granted with the noted conditions:

4. This VARIANCE will allow for the construction of a residential addition and attached garage that are no closer to the front property line than the existing house and a covered front porch no larger than 5' x 12' that shall not be enclosed.
5. A Site Plan with a Variance Note shall be required.
6. A Certificate of Land Use Restrictions shall be recorded in the Office of the Hardin County Clerk.

Board Member Krausman provided the second. Motion passed unanimously.

At 8:00 p.m. Chairman Krausman announced that there were two additional unfinished business items on the agenda. On 5 May 2011, the Board had tabled a request for an Administrative Review of a decision to not revoke the subdivision plat of Honey Locust Estates and/or a request for relief from the required road frontage standard and the lot 1:3 width-to-length ratio. The proposed site is three tracts totaling 13.479 acres with addresses of 5012, 4028 and 5032 Sonora Hardin Springs Road and including Lots 1 & 2 of Honey Locust Estates Subdivision. The owners are **Glynda Himebaugh and John Ferguson**. Director Hunsinger stated that the request needed to remain tabled until additional information is provided to the staff. The item will remain tabled until the next Board meeting.

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Director Hunsinger reported that the County Attorney had made the decision that Charles Nall & Sons' facility did meet the definition of a **truck terminal** and therefore the Conditional Use Permit would be required. Chairman Krausman called for consideration and action on the Conditional Use Permit as presented at the 7 July 2011 meeting. Member Goodin made a motion to approve the Conditional Use Permit as presented. Member Holman provided the second. Motion passed unanimously.

Chairman Krausman called for consideration and action on the **Minutes** of the 7 July 2011 meeting. Member Goodin made a motion to approve the minutes as presented. Member Holman provided the second. Motion passed unanimously.

Director Hunsinger reported **Gary Cooper Jr.** (Variance denied in 2011 & Conditional Use Permit denied in 2010) has purchased Lot 1 of Song Dog Way (two properties away from his father's 11 acres).

Director Hunsinger reported that the civil court case of **Tabor v Hatfield** resulted in a \$30,000 credit as part of the Civil Action. Hatfield has since used the credit and an additional \$81,600 to purchase 38 acres from Tabor.

Director Hunsinger reported a fire destroyed a unit at 192 Second Street in **Plantation Park** that had previously received a Variance from the Board of Adjustment.

THE FOLLOWING SUBDIVISION PLATS HAVE BEEN APPROVED AND RECORDED:

FP RECORDED	SUBDIVISION NAME	LOTS	ACCESS ROAD
22 June 11	Dranes Lake Subdivision	1	Long Grove Road (KY 1375)
28 June 11	Zollinger Addition	1	Lower Colesburg Road
29 June 11	Shipley Estates	1	Rineyville Road (KY 1600)
05 June 11	Pump Station Subdivision	1	Ford Highway
08 June 11	Fragrant Acres	2	Hardinsburg Road (KY 86)
08 June 11	Essex Place, Lots 30 & 31	-2	Flint Hill road (KY 720)
13 June 11	High School Court Subdivision of Tom Smith Farm	-14	Howe Valley Road
SINCE LAST MEETING		-10	
2011 TOTAL		7	

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THE FOLLOWING SITE PLANS HAVE BEEN APPROVED

DATE	SITE PLAN	OWNER	ACCESS ROAD
05-July-11	Accessory Structure	Donald & Sharon Walters	Middle Creek Road
05-July-11	Accessory Structure	Robert & Debra Krieger	Berrytown Road
	Since Last Meeting	2	
	2011 Total	12	

Chairman Krausman announced that the next Board meeting is scheduled for Thursday, 4 August 2011, and declared the meeting adjourned at 8:15 p.m.

ADOPTED AND APPROVED THIS 18th DAY OF AUGUST 2011 BY THE HARDIN COUNTY BOARD OF ADJUSTMENT.

Brent Goodin, Secretary