

MINUTES

**CITY-COUNTY BOARD OF ADJUSTMENTS
OF WARREN COUNTY**

**November 12, 2009 @ 7:00 p.m.
City Commission Chambers
1001 College Street**

MEMBERS PRESENT:

**Courtlan Atkinson
Dr. John Fitts
Albert Haley**

**Al Kaelin
David Coverdale**

**Mike Davenport
Charles Adams**

The City-County Board of Adjustments of Warren County was called to order by the Chairman, Mike Davenport. He requested Sandy Clark, Executive Secretary, call the roll and determine a quorum. It was determined that a quorum was present with all seven members present at the time of roll call.

Chairman Davenport asked if there were any questions or comments about the Minutes of the previous meeting of October 22, 2009. There were no questions or comments. The Motion was made by Mr. Coverdale, seconded by Ms. Atkinson, and the Board of Adjustments' members unanimously approved the Minutes of the October 22, 2009 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 (November 12, 2009) 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 Steve Hunter, Executive Director, and asked that he be sworn as a witness before the Board of Adjustments and his oath and qualifications be reflected in the record for tonight's hearing. Chairman Davenport so ordered and swore in the witness.

Hoy Hodges, the attorney for the Board of Adjustments, stated tonight there is 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 essential to, or would promote the essential public health, safety or welfare; 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 is a matter of public need or convenience; and that the use is otherwise in agreement with the Zoning Ordinances. 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 as being described as a request for a Conditional Use Permit, as follows: *2009-C-07 Susan Cox Development, LLC and Garland Richardson & Odell Sparks have applied for a Conditional Use Permit in order to have a commercial structure up to 10,000 square feet on property with a septic system. The property is located at 11770 Nashville Road. This property is zoned GB (General Business).*

Steve Hunter presented the staff report and stated the applicant is requesting a Conditional Use Permit (CUP) in order to have a commercial building with greater than 6,000 square feet on property that is less than 5 acres. Mr. Hunter said that about a year ago that staff at the Planning Commission went to Woodburn and worked with the City Commission to lay out land uses in Woodburn as most of the City was zoned Agriculture. Some of the properties were zoned General Business, Highway Business and some Industrial were set out on the zoning map, then a clean up and update of the land uses took place. Mr. Hunter then said that the applicants are proposing to demolish the existing building on the property and build a commercial building not to exceed 10,000 square feet. Under Article **1.12.2 Not Within 1,500 Feet of Sewer:** *A Conditional Use Permit is required in order to have between 6,000 and 10,000 square feet of structures on a site with at least three acres for commercial use.* The applicant has 3.2 acres. If someone were to build a new building and have a new business, then you would need a minimum of three acres. In another scenario an applicant would need to get more land (at least 5 acres) in order to have a building of 6,000 square feet or larger. This particular request is for a Dollar General store with simple standard bathroom and a wash area. The applicant tonight wants to go beyond the 6,000 square feet and go to a 9,100 square foot building. The Barren River Area Health Department will have to approve the septic system before the construction begins. The applicant has investigated the property and staff is not sure if the Health Department has performed a site evaluation or exactly what has been done to date. Applicant can discuss this matter when the representative comes forward.

Chairman Davenport then asked if there were any questions or comments from the Board for Mr. Hunter. One member asked when the drainage and parking would be determined. Mr. Hunter explained that storm water issues will be handled through the Building Permit process when the storm water regulations will have to be met, along with landscape requirements, pavement, etc.

When asked for a representative for the applicant, Michael Hansen of 124 South 31st Street, Paducah, Kentucky, stepped to the podium and was sworn in by Chairman Davenport to testify before this Board. Mr. Hansen stated that he is a representative for the applicant and wanted to let the Board know that they have met with the Barren River Area Health Department and had a site assessment conducted. The Health Department advised the size of the tank and how big the field would have to be. Basically, the Health Department has approved the site and the Storm Water Management Plan has been submitted and approved using an underground detention system with large pipes that discharge with small outlets to control the water level at the site.

Mr. Hansen then said that once this request is approved, hopefully tonight, then a Building Permit will be applied for and hopefully approved in the near future. The applicant has already submitted the bond requirements with the Highway Department for the insurance and after tonight, they will be ready to go. He then said this will be a Dollar General store with two (2) bathrooms and a sink in the back room.

Chairman Davenport asked for any other questions or comments from the audience. Being no other questions or comments for staff, or the applicant, Chairman Davenport asked for a Motion.

ACTION: Dr. Fitts made a Motion, seconded by Ms. Atkinson, to approve the request for a Conditional Use Permit, Docket # 2009-C-07, in order to build a commercial structure up to 10,000 square feet on property located at 11770 Nashville Road with the following condition: site must meet all rules and regulations of the Barren River Area Health Department and the City-County Planning Commission. 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 over-burdening of municipal services; will not result in significant increase in 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 Conditional Use Permit was approved by a vote of 7 yeas, so approved with one (1) condition.

OLD BUSINESS:

Chairman Davenport asked for any old business. Being none, he moved on to New Business.

NEW BUSINESS:

Chairman Davenport noted the next item on the agenda is the Schedule for the 2010 meetings of the Board of Adjustments as presented and asked for any comments. Mr. Hunter explained that the BOA November and December meeting which have been held on the second Thursday of the month have worked well and with a change in one of the other Board dates, Mr. Hunter asked if the Board would consider moving all the meeting to the second Thursday of the month for the year 2010. The Board members discussed this idea and then asked if the meeting could be at 5:00 p.m., instead of 7:00 p.m. for any conflicts that any of the Board members may have on Thursday.

ACTION: Dr. Fitts made a Motion, seconded by Mr. Haley, to approve the 2010 Meeting Schedule for the Board of Adjustments for the second Thursday of each month at 5:00 p.m. Said meetings will be held in the City Commission Chambers. All members concurred.

Being no new business, and with no other business to conduct, the meeting was adjourned. All members agreed.

MIKE DAVENPORT, CHAIRMAN

Sandy M. Clark, Adm. Exe. Secretary