

WINCHESTER/CLARK COUNTY BOARD OF ADJUSTMENTS
MINUTES OF MEETING HELD
ON MARCH 5th, 2020

A meeting of the Winchester/Clark County Board of Adjustments was held on Thursday, March 5th, 2020 at 6:00 p.m. in the Commission Chambers at City Hall, Winchester, Kentucky. Chairman Zeldon Angel presided over the meeting. Those present were:

Zeldon Angel, Chairman
David Puckett
Leo Shortridge
Cory Johnson
Candace Quisenberry
Robert Jeffries, Staff
William Dykeman Attorney

MINUTES - Chairman Angel called the meeting to order and presented the December 5, 2019 minutes. Mr. Puckett made a motion to approve the minutes with corrections that were made. Ms. Quisenberry made a 2nd motion to approve the minutes. Motion passed unanimously. Mr. Shortridge presented the treasurer's report and accounts payable. Mr. Shortridge made a motion to approve treasurer's report and accounts payable. Mr. Puckett made a 2nd motion to approve. Motion passed unanimously.

PUBLIC COMMENTS: There were none.

01-20-V Review a height variance request allowing a fence/wall up to 30 feet (22 foot variance) on the west property line and up to 20 feet (14 foot variance) on the south east property line for 6169 Lexington Road, in a B-4 zoning – Stuff Properties LLC

Mr. Jeffries presented the staff report. The applicant (Stuff Properties, LLC) is requesting a height variance on a proposed fence/wall to be constructed along the west property line, on the gate and on top of the fence currently located on the southeast corner of the property. The fence/wall is proposed to be up to 30 feet in height along the west property line, the gate at 20 feet in height, and the fence located in the southeast corner to increase an additional 3 feet (currently it is approximately 10 feet tall). The site plan is attached to the staff report. Staff report **is attached**.

Mr. Jeffries said typically we do not require a building permit, but the height on this one will require one if it is approved. The Commission asked if any requests like this have been requested before. Mr. Jeffries said not while he has been the Planning Director.

Mike Eaves of 218 W. Main St. Richmond Ky – attorney for Stuff was sworn in to testify. Mr. Eaves said about a year ago he was contacted by the transportation department stating they need a permit for screening. Staff submitted this design to the transportation department, and they approved it. Mr. Eaves said he then contacted Rob Jeffries about any type of permit etc. Mr. Jeffries told them he would need to get this approved. Mr. Eaves said this is not a fence it is a screening. He said it is for the sole purpose of meeting the requirements by the state transportation department. He said the utilities would be dealt with later if this is in fact approved. Mr. Shortridge asked if the state is just requiring it to be screened. Mr. Eaves told the board to look at the letter from the state. He said they submitted the application as required by the state. The application was approved by the state.

Shelby Gil of 707 Princeton Drive was sworn in to speak against the variance. He asked Mr. Joiner if he would like all that noise beside his residence. He said no action has been done for a couple of years

Ms. Bridges of 899 Clintonville Rd. was sworn in to testify against the variance. She said there would be a hearing in April to determine what was recycling. She quoted the KRS and said it says no expansion of business and footprint. However, there has been a huge intensity of the business. Ms. Bridges said the fence shows we cannot enforce the ordinance. She said in the Fiscal Court they have been talking about the US 60 corridors and is this what we really want to see? Ms. Bridges said this is a state road and that is why regulations are in place. She said the fire department is out there weekly because of smoke etc. This is an eyesore when you come into Clark County along with the Stull's property across the street. She said she would so appreciate it if the board would deny this variance application.

Ann Johnson 405 Clinton Rd. Lexington, Ky was sworn in. She said she is there representing the property next door. She said this business should not have been allowed to come to this site and it should be in an industrial zone. They have pushed the limits even more. To approve any more would just be fixing a mistake with more mistakes. Ms. Johnson said the property at one time had livestock on it but cannot due to debris blowing from Stuff.

Shelly Johnson of 15 Robin Drive was sworn in. She said she looks at the pile of junk daily and hears the loud noise daily. The junk is also piled in front by the gate. Ms. Johnson said he is expanding his operation and he is not supposed to according to 2012 meeting of the BOA. If we keep allowing this to further expand it will only lead to bigger issues.

Greg Wood of 531 Clintonville Rd. was sworn in. He stated he is a real estate agent. He said the neighboring property is being brought down because of this business and this is called external obsolescence. Mr. Wood stated the piles have just gotten bigger and bigger and now they are recycling concrete.

William Elkins of 2290 Goshen Rd. was sworn in. He said he is there as a citizen not an attorney. The positive thing here is that we agree on that this is not working out for the county. He said there is a practical solution. Mr. Elkins said he saw the application asking for a variance. He stated the statue said if a request for a variance is a product of will full violations subject to zoning enactment it is a (shall not). He suggested a denial tonight.

Mr. William Swope of 6188 Lexington Rd. was sworn in. He asked what the transportation cabinet was requiring. Mr. Jeffries explained this again. Mr. Swope said the noise was bad at 6:30 in the mornings. He went on to speak about the business but was neither for nor against the variance.

Shane Bridges of 899 Clintonville Rd was sworn in. He said the department of transportation would not enforce anything and it would be up to this Board.

Mr. Shortridge said he feels they are just adding to their already current violations.

Chairman Angel closed the hearing for further discussion and action by the board.

. Counselor Dykeman said something briefly about the litigation. The reason a hearing hasn't been scheduled is because there was a (stay). The judge ruled only employee parking was allowed in the front of the building.

Chairman Angel stated when the BOA approved this non-conforming use in 2012 there were neighbors stating the business had been there for over 10 years and that is why they approved the non-conforming use. But it was made clear no expansion was to be made. He said in his opinion it has expanded and what is happening now was not the board's intent in 2012.

Mr. Puckett made a motion to deny the variance allowing Stuff Properties, LLC to construct a 30 foot fence/wall along the west property line and a fence/wall up to 20 feet in height (including the gate as proposed) on the southeast property line located at 6169 Lexington Road, as described in the meeting and proposed on the site plan, based on the fact that the proposed variance will alter the essential character of the general vicinity and strict application to the regulation for which relief is sought, Article 13.41 of the Winchester/Clark County Zoning Ordinance – restricting the height of walls and fences, will not deprive the applicant from reasonable use of the land. As Mr. Robert Baker from the Transportation Cabinet states in this email dated, January 31, 2020 – the height of the piles of materials could be reduced which would reduce the height of the screening. The applicant may revise their screening plans to comply with the issues, considerations, and concerns described in the staff report and stated at this meeting. Mr. Shortridge made a 2nd motion to deny. Motion to deny passed unanimously.

Proposed FY21 Budget and fee schedule: Mr. Jeffries said in the draft budget for FY21 he added a court stenographer for certain meetings like the one we just had. He said they charge per page. There are 2 options you can record and send it to them or they can be present at the meeting. Mr. Dykeman said we should get a videographer for the meetings. He said videos are acceptable if we must go to court. Mr. Shortridge suggested Mrs. Greene be here for the bigger meetings. The cost of court reporter etc. was discussed. Mr. Shortridge said it would be nice to keep money for the stenographer in the budget. Mr. Johnson said not to. Mr. Jeffries said he was increasing the budget requested from the City & County in the previous FY year. This is to help pay for the pay increase of members. Mr. Jeffries said if the city and county will not adhere to the increase in the budget the hearing fees will have to be increased. Mr. Jeffries made some suggestions for helping with the fees etc. He said he will check other surroundings counties. After further discussion by the board Mr. Johnson made a motion to approve the budget draft excluding the court reporter expenses and reducing the city appropriations and the county appropriations to \$3,000 each from \$3,500 dropping the total to \$9,342.00. Motion passed 4-1 with Mr. Shortridge voting no.

Mr. Puckett made a motion to table the application fees increase until next meeting so Mr. Jeffries can check surrounding counties. Ms. Quisenberry made a 2nd motion to table fee increase. Motion passed unanimously.

Staff Comments: Mr. Jeffries informed the member that a training session is coming up in June and he would email them with the date in the morning.

Board Member Comments:

Being no further business, Mr. Puckett made a motion to adjourn. Meeting was adjourned.

Chairman/Chairperson