

**CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT
MINUTES OF THE NOVEMBER 17, 2015 MEETING**

MEMBERS PRESENT:

Mr. Justin Verst
Mr. Joseph Williams
Mr. Michael Williams
Mr. Roger Mason, Vice Chair
Mr. Scott Bachmann, Chair

MEMBERS ABSENT:

Ms. Sharon Haynes, TPO

STAFF PRESENT:

Ms. Cynthia Minter, Director
Mr. Ryan Hutchinson, Planner
Mr. Paul Wischer, Legal Counsel
Ms. Stephanie Turner, Recording Secretary

STAFF ABSENT:

None

Mr. Bachmann asked everyone to stand and face the flag for the Pledge of Allegiance.

Mr. Bachmann called the meeting to order at 7:00 PM and asked for a roll call. Following roll call, a quorum was found to be present. Mr. Bachmann asked if everyone had read the October 20, 2015 meeting minutes and if there were any questions or corrections. There being none, Mr. Bachmann called for a motion. Mr. Verst made a motion to approve the minutes as submitted. Mr. Mason seconded the motion. Mr. Bachmann called for a roll call vote. A roll call vote found Mr. Verst, Mr. J. Williams, Mr. M. Williams, Mr. Mason and Mr. Bachmann in favor. Motion passed.

There being no old business to discuss, Mr. Bachmann introduced the first case on the agenda for a public hearing as Case #BA-08-15 by applicant Paul Carroll requesting a conditional use permit to sale vehicles and a variance for landscaping and pavement at 982 Golfview Drive in the Unincorporated Campbell County. Mr. Bachmann called for the staff report to be given. Mr. Hutchinson presented the staff report as follows:

CASE NUMBER: BA-08-15
APPLICANT: Paul Carroll
LOCATION: 982 Golfview Drive, Unincorporated Campbell County
REQUEST: A conditional use permit to offer vehicles for sale & a variance for landscape and pavement.

Considerations:

1. The one acre site is located at 982 Golfview Drive within the Rural Commercial (RC) Zone. The property abuts Alexandria Pike, former US 27. All adjacent properties are also zoned (RC). Land use to the North and East is residential. The land use to the West is vacant land between US 27 and Alexandria Pike. The land use to the South is commercial. The 2008 Comprehensive plan designates the land and surrounding property as rural mixed use.
2. The Campbell County Zoning Ordinance, Article X, Section 10.22 (RC) Rural Commercial setback regulations:

Minimum Lot Area	One (1) acre
Minimum Lot Width	One hundred (100) feet
Minimum Front Yard Depth	Fifty (50) feet
Minimum Side Yard Width	Restrictions when adjacent to a street or other right-of-way when the required width shall be the same as required for a minimum front yard depth in this zone. When buildings abut each other, firewall construction, as required by the County's Building Code, shall be required. A side yard is never to be less than fifteen (15) feet.
Minimum Rear Yard Depth	Forty (40) feet
Maximum Building Height	Forty (40) feet

3. The applicant runs an auto salvage business, specifically he buys salvage vehicles with the intent to repair and sell. Auto repair shops are permitted in the RC Zone. Vehicle sales is conditionally permitted in the RC Zone per Section 10.22.D. The RC Zone lists conditional uses as follows:

- D. **CONDITIONAL USES** - No building or zoning permit nor certificate of occupancy shall be issued for any of the following uses, nor shall any of the following uses or any customary accessory buildings or uses in connection therewith be permitted until and unless the location of said uses, as determined and set forth in a Development Plan conforming with the requirements for site plans established by Section 9.19 of this ordinance shall have been reviewed and approved by the Board of Adjustment, and a conditional use permit in accordance with Section 9.14 of this ordinance issued therefore:

1. Automobile Sales, New and Used.

Further, no such conditional use shall be permitted until and unless the following performance criteria are fully met:

1. Any lot containing such conditional use shall contain a minimum of one (1) acre of land.
 2. Each such conditional use shall be separated from any residential zone by a landscaped side yard in accordance with Section 10.22 of this ordinance.
 3. In addition to the front yard requirements established by Section (C) of this ordinance, each such conditional use shall have a landscaped area extending from the minimum setback line of the property a minimum of fifty (50) feet to the start of the paved area intended or used for display of vehicles for sale.
 4. No flashing lights, streamers, or lights strung on overhead wires or lines shall be permitted. All signs shall be in conformance with the requirements of Article XIV of this ordinance.
 5. Vehicles offered for sale in or upon such conditional use shall be limited to standard passenger automobiles and light trucks having a gross vehicle weight rating (G.V.W.R.) of one (1) ton or less. Sale of motorcycles, either new or used, shall not be permitted.
4. The applicant is requesting two (2) approvals from the Board:
- a. A conditional use request to sell used automobiles on the premises.
 - b. A twenty five (25) foot front yard variance fronting the display lot.

Display lots shall have a landscaped area extending from the minimum setback line of the property a minimum of fifty (50) feet to start the paved area intended or used for display of vehicles for sale. Because of the location of the existing building and extensive right of way from US 27, the applicant does not have the necessary room to meet the fifty (50) foot screening requirement from the setback.

5. Article IX, Section 9.14 Conditional Uses of the Campbell County Zoning Ordinance continues to specify the following points of interest to the Board:
- A. *The Board of Adjustments may approve, modify, or deny any application for a conditional use permit. If it approves such permit, it may attach necessary conditions such as time limitations; requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature.....The Board shall have power to revoke conditional use permits, or variance for noncompliance with the condition thereof....*
 - B. *Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of this ordinance, the building code, housing code, and other regulations of the County.*
 - C. *In any case where a conditional use permit has not been exercised within the time limit set by the board or within twelve (12) consecutive calendar months from date of issuance, such conditional use permit shall not revert to its original designation unless there has been a public hearing...*
 - D. *If the landowner is not complying with all of the conditions listed on the conditional use permit, the Zoning Administrator shall report the fact in writing to the Chairman of the Board of Adjustments. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time it is furnished to the chairman of the Board of Adjustments. The Board shall hold a hearing on the report within thirty (30) days, and notice of the time and place of the hearing shall be furnished to the landowner at least one week prior to the hearing. If the Board of Adjustments finds that the facts alleged in the report of the Zoning Administrator are true and that the landowner has taken no steps to comply within the time between the date of the report and the date of the hearing, the Board of Adjustments may authorize the Zoning Administrator, to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.*
6. A review of public records indicates the following:
- a. In April 2005, case PZ-24-05 Stage I plan was presented to the Campbell County Planning Commission. That stage I plan was denied for insufficient information.
 - b. On July 12, 2005, case PZ-24-05 a revised Stage I plan for an automotive garage was submitted to the Commission. It was approved with four conditions. 1. That lighting comply with the minimum standards of the ordinance. 2. That the applicant meet the minimum parking standards. 3. That the applicant apply for and receive approval for fences before they are installed. 4. That the applicant apply for and receive approval for signs before they are installed.
7. The site plan submitted by the applicant reflects the following:
- a. The site plan shows the property consists of one lot.
 - b. The applicant owns the parcel directly behind this property. That parcel is not part of this application.
 - c. The site plan shows the existing loading and unloading area is 20x60 feet.
 - d. The site plan shows existing access to the property on Golfview Drive.
 - e. The site plan shows a proposed service entrance off Alexandria Pike. The applicant intends to bring vehicles into the service area from this entrance.
 - f. The site plan shows an existing metal building as 40x80 feet.

- g. The site plan shows an existing lot with a paved driveway area and gravel service area. There is no existing fence between these two areas.
 - h. The site plan shows ten (10) spaces for the proposed display area. The parking for those spaces are 10 X 20.
 - i. *The applicant has indicated there desire to keep the lot gravel. The applicant cited the maintenance of a gravel lot is more cost effective. It's less expensive to install, easier for water runoff, safer in the winter to walk on. The applicant also cited other businesses in the area have gravel lots.*
 - j. The site plan shows a twenty (20) foot drive isle between the display area and the building.
 - k. The site plan shows a landscaped area fronting the display area. The applicant will have mulch and some shrubs.
 - l. The site plan shows underground water, electric and six (6) inch sewer lateral.
 - m. The site plan shows a proposed partial fence for the service area located to the North and the southwest side of the building. There is no indication of the type of fencing or screening.
 - n. The site plan shows three (3) parking spaces fronting the building.
 - o. The site plan does not show any new lighting, but a site visit indicates lighting on the side of the building.
 - p. The site plan does not show any new signage; however there are two (2) existing posts from a former sign. The RC Zone permits a Class 3 and Class 7 pole sign.
8. Article IX, Section 9.14 Conditional Uses of the Campbell County Zoning Ordinance governs the rights of the Board of Adjustment when granting a Conditional Use Permit; the determination that must be made; as well as actions to be taken if the applicant fails to comply with any conditions to an approval of the use. To grant a Conditional Use Permit, the Board must make the following determination:
- A. *That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or the community;*
- The applicant states: "The expansion of this business to sell cars provides a necessary service to the community."***
- B. *That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;*
- The applicant states: "Adding auto sale will not be detrimental to the neighborhood."***
- C. *That such use will comply with any regulations and conditions in this Ordinance for such use.*
- The applicant states: "Use will comply to regulations and ordinance."***
9. Per Article 18, Section 18.6 Variances: VARIANCES: Before any variance is granted, the Board of Adjustment must find that the granting of the variance will not adversely affect the public health, safety, or welfare; will not alter the essential character of the general vicinity; and will not cause a hazard or nuisance to the public. Such variance shall not be granted by the Board of Adjustment unless and until:
- a. That the requested variance arises from special circumstances exist which do not generally apply to land in the general vicinity, or in the same zone.
- The applicant stated "Variance is not due to special circumstance."***

- b. That the manner in which the strict application of the provisions of this Ordinance would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant.

The applicant stated "Existing right-of-way is 65 feet nearby right of way is 30 feet. Side yard to neighbors is 15 feet. I believe a 25 foot setback is reasonable and 50 feet is excessive and creates an unnecessary hardship."

- c. That the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

The applicant states "Action after regulation were adopted."

- d. Reasons that the variance will not allow unreasonable circumstance of the requirements of the zoning regulations and will not alter the essential character of the neighborhood.

The applicant states "Expansion will not alter the neighborhood."

- e. That granting the variance requested will not confer on the applicant any special privilege that is not conferred by this ordinance to other lands, structures or buildings in the same zone. No nonconforming use of neighboring lands and structures in the same zone shall be considered grounds for the issuance of a variance.

The applicant states "The applicant is not asking for special privilege."

- f. That the variance requested will not adversely affect the public health, safety, or welfare, will not adversely alter the essential character of the general vicinity, and will not cause a hazard or nuisance to the public.

The applicant states "Variance will not affect public health, safety and welfare."

- g. That the variance will be in harmony with the general purpose and intent of the Zoning Ordinance as well as the Adopted Comprehensive Plan for the County.

The applicant states "The variance will be in harmony with zoning ordinance."

- 10. Per Section 18.6, A., 2., Notice: Notice of public hearing was given in accordance with Section 18.2 of the Campbell County Zoning Ordinance. ***A legal notice appeared in the November 5, 2015 edition of the Campbell County Recorder advertising applicant's request and the hearing to be held on November 17, 2015.***
- 11. According to Section 18.6, A., 4., the Board of Adjustment must find that the granting of the variance will be in harmony with the general purpose and intent of the Ordinance as well as the adopted Comprehensive Plan, and will not be injurious to the neighborhood, or otherwise, detrimental to the public welfare. The use of the property is consistent with the adopted 2008 Comprehensive Plan.

Summary of Applicants Request:

The request is for a conditional use permit for automobile sales, new and used in the Rural Commercial (RC) Zone. The applicant is also asking for a twenty-five (25) foot variance of the required fifty (50) foot screening area fronting the proposed display area. The applicant is also asking to leave the existing gravel lot instead of paving the display and storage area.

Staff Recommendation:

To approve the conditional use permit for the automobile sales, new and used with a twenty-five (25) foot front yard variance for the landscaping, subject to the following conditions:

1. That the applicant be able to continue the use of the existing gravel lot for both display and service/storage.
2. That a fence be installed separating the storage/service area from the display area. Inoperable vehicles shall not be stored in this driveway or display area. That fencing be installed on both the southwest and north east side of the building to screen storage areas. The fence installed must be a Class 5 fence (less than fifty percent (50%) open).
3. That the existing screening buffer along the north and west side of the property be maintained.

Additional Points of Information to the Applicant:

1. An Encroachment Permit is required for all new access points, culverts, drainage and pavement and may include additional conditions.
2. Any changes to be made to the lighting and/or signage be reviewed and approved by staff prior to installation. A Sign Permit would be required.

BASES FOR STAFF RECOMMENDATION:

1. In compliance with Campbell County Zoning Ordinance SECTION 18.7 CONDITIONAL USE PERMITS of the Campbell County Zoning Ordinance, a written application for a conditional use permit and a site plan subject to the applicable requirements of Section 9.19, was submitted to the Board for review and approval;
2. Notice of public hearing was given in accordance with Section 18.2 of the Campbell County Zoning Ordinance;
3. In accordance with KRS. 100.237, the Board of Adjustment shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named herein which may be suitable only in specific locations in the zone.
4. The evidence presented by the applicant and staff is such as to establish beyond any reasonable doubt:
 - a. That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or the community;
 - b. That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.
 - c. That such use will comply with any regulations and conditions in the Campbell County Zoning Ordinance for such use.
5. Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of this ordinance, the building code, housing code, and other regulations of Campbell County.
6. VARIANCES: Before any variance is granted, the Board of Adjustment must find that the granting of the variance will not adversely affect the public health, safety, or welfare; will not alter the essential character of the general vicinity; and will not cause a hazard or nuisance to the public. These findings shall be recorded in the minutes and records and issued in written form to the applicant to constitute proof of the variance. Such variance shall not be granted by the Board of Adjustment unless and until:

- a. That the requested variance arises from special circumstances exist which do not generally apply to land in the general vicinity, or in the same zone.

The requested variance does arise from special circumstances which exist and do not generally apply to land in the general vicinity or in the same zone. The building exists and it's not possible to meet the fifty (50) foot landscaped area from the property line because of the buildings location.

- b. That the manner in which the strict application of the provisions of this Ordinance would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant.

The application of the provisions of this Ordinance would deprive the applicant of a reasonable use of the land and would create an unnecessary hardship on the applicant.

- c. That the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

The applicant is requesting this variance subsequent to the approval of these regulations.

- d. Reasons that the variance will not allow unreasonable circumstance of the requirements of the zoning regulations and will not alter the essential character of the neighborhood.

The essential character of the neighborhood rural commercial. There are other businesses in the area that are located closer to the right of way and the parking for those business is in the right of way.

- e. That granting the variance requested will not confer on the applicant any special, privilege that is not conferred by this ordinance to other lands, structures or buildings in the same zone. No nonconforming use of neighboring lands and structures in the same zone shall be considered grounds for the issuance of a variance.

This variance would not be granting the applicant a special privilege.

- f. That the variance requested will not adversely affect the public health, safety, or welfare, will not adversely alter the essential character of the general vicinity, and will not cause a hazard or nuisance to the public.

This variance would not adversely affect the essential character of the general vicinity of the neighborhood.

- g. That the variance will be in harmony with the general purpose and intent of the Zoning Ordinance as well as the Adopted Comprehensive Plan for the County.

The requested variance is in harmony with the general purpose and intent of the Zoning Ordinance or Adopted Comprehensive Plan for the County.

Ms. Minter clarified for the Board that the property is located on what is locally referred to as "old US 27" which is now just "Alexandria Pike". State roads are numbered only. When US 27 was realigned, the previous sections of US 27 no longer serviced by the State were added to the local roads as part of the existing Alexandria Pike. Mr. Hutchinson advised the Board that the applicant does desire to keep the parking area as a gravel lot. After site visits by both Mr. Hutchinson and Ms. Minter, it is confirmed that there are other gravel lots in the area namely: a mixed retail site adjacent to this property; a small engine repair shop along Alexandria Pike; a construction company along Alexandria Pike; a former concrete

company site; the transportation lot; a marina lot with a mixture of pavement and gravel; Jolly Nursery; and a mixed use site on Moreland Drive.

Mr. Hutchinson added that there is a distinction between being a salvage vehicle purchaser and a junkyard. Staff's understanding of the applicant's intent is that he would purchase two salvage vehicles and then use the parts from one of the vehicles to repair the other for resale to the public. A junkyard would be better described as a location where you can haul inoperable vehicles for part sales or for disposal purposes. Mr. Hutchinson stated that, in light of this fine distinction between the two purposes, staff would like to propose a fourth condition for the Boards review. The fourth condition would read as:

4. While this applicant will be dealing with inoperable vehicles and his license with the state will likely reference junk or salvage vehicles, the granting of a conditional use shall not be considered an application for a junk yard.

Staff had reviewed and prepared this addition to the report earlier in the day. Mr. Hutchinson submitted to the Board the written statement for their review and consideration. Mr. Hutchinson concluded his presentation by offering to answer any question the Board may have.

Mr. Bachmann asked if there were any questions for staff. Mr. Verst asked if, since the conditional use permit is for sales of vehicles, the vehicles for sale will be operable or inoperable. Mr. Hutchinson answered that it was staff's understanding that all vehicles for sale would be operable. Mr. Verst follow up by asking if the proposed second entrance for the service area would need to be paved. Mr. Hutchinson stated that should the Board approve the gravel lot it would authorize the applicant to apply for an Encroachment Permit. As part of that permit review process, the Road Department would review and advise if any culvert was required, the size of pipe, and they do require the first ten (10) feet of any driveway to be paved to prevent gravel from washing out onto the main road.

Mr. Bachmann asked staff how to proceed with this request. Since there are two requests from the applicant does each have to be voted on separately or can they be considered with one vote. Ms. Minter advised the Board that this was entirely their discretion. If they feel the items are related, it could be considered with one vote. If they feel this is two completely separate requests, they can be broken into two different votes.

Mr. Bachmann asked if there were any other questions for staff. There being none, Mr. Bachmann asked the applicant to step forward and identify himself for the record. Mr. Paul Carroll of 119 Rosemont in Ft. Thomas came forward. Mr. Carroll explained that this was his business until 2001 when the State acquired his property for the expansion of US 27. He was directly across the street from where he is currently located. The construction work and new location caused his business to decline and he was forced to seek a full time job in Middletown, Ohio. Mr. Carroll is retired now and can dedicate his time towards the business now that the construction in that immediate area had deceased. Mr. Carroll stated that he also was proposing a fence to screen the view of his service area and there is landscaping around the property to make sure there is a buffer. Mr. Carroll also owns the property adjacent to his current lot to insure that there would not be a business too close. Mr. Carroll asked if there were any questions he could answer for the Board.

Mr. Bachmann asked if the Board had questions for the applicant. There being none, Mr. Bachmann asked the record to reflect that there were no audience members to this meeting. Mr. Bachmann closed the public hearing for discussion among the Board. Mr. Verst stated that he feels that the proposed use fits in with the character of the neighborhood; that the application was complete; and staff presented a very thorough report. Mr. Verst stated he was inclined to make a motion to approve the request, but wanted input from the Board before doing so.

Mr. Bachmann asked if there were any other comments or questions regarding this request. There being none, Mr. Bachmann called for a motion. Mr. Verst made a motion on Case #BA-08-15 by applicant Paul Carroll requesting a conditional use permit to sale vehicles and a variance for landscaping and pavement at 982 Golfview Drive to approve the conditional use permit for the automobile sales, new and used with a twenty-five (25) foot front yard variance for the landscaping, subject to the following conditions:

1. That the applicant be able to continue the use of the existing gravel lot for both display and service/storage.
2. That a fence be installed separating the storage/service area from the display area. Inoperable vehicles shall not be stored in this driveway or display area. That fencing be installed on both the southwest and north east side of the building to screen storage areas. The fence installed must be a Class 5 fence (less than fifty percent (50%) open).
3. That the existing screening buffer along the north and west side of the property be maintained.
4. While this applicant will be dealing with inoperable vehicles and his license with the state will likely reference junk or salvage vehicles, the granting of a conditional use shall not be considered an application for a junk yard.

Additional Points of Information to the Applicant:

1. An Encroachment Permit is required for all new access points, culverts, drainage and pavement and may include additional conditions.
2. Any changes to be made to the lighting and/or signage be reviewed and approved by staff prior to installation. A Sign Permit would be required.

The bases for his motion is the information provided in the staff report; testimony by staff and the applicant tonight; and discussion among the Board. Mr. Verst additional made a statement that he feels that the application as submitted is not detrimental to the safety and welfare of the neighbors; provides a benefit to the community; and does not essentially alter the character of the neighborhood. Mr. Bachmann called for a second to the motion. Mr. M. Williams seconded the motion. Mr. Bachmann asked if there were any discussion or questions regarding the motion. There being none, Mr. Bachmann called for a roll call vote. A roll call vote found Mr. Verst, Mr. J. Williams, Mr. M. Williams and Mr. Mason in favor. Mr. Bachmann abstained. Motion passed.

There being no other cases to present to the Board tonight, Mr. Bachmann called for the Director's Report.

DIRECTOR'S REPORT

Ms. Minter distributed a correction to Article XIX of the Zoning ordinance. There was a typo that needed to be corrected. Ms. Minter also provided an update on the vacant seat on the Board. The seat was previously filled by the City of Crestview. Since they have not been able to locate a citizen representative, they have asked the seat to be filled by another jurisdiction. The City of Silver Grove is looking to see if they have a citizen to represent them on the Board. The City of Silver Grove does not currently have a representative on this Board. If they are not able to locate a participant, the Fiscal Court will appoint a representative of the community to take the seat.

Ms. Minter had no other items for discussion. The next potential meeting date would be December 15th. At this point in time, we do not anticipate a meeting, but applicants have until Tuesday, November 24th to submit their requests. Staff will advise the Board if they are meeting or not. Mr. Bachmann asked if there were any other items the Board wished to discuss tonight. There being none, Mr. Bachmann asked for a motion to adjourn. Mr. Verst made a motion to adjourn. Mr. Mason seconded the motion. An oral vote found everyone in favor, none opposed. Motion passed. Meeting adjourned at 7:43 PM.

Prepared by:

Approved:

Cynthia Minter
Director

Scott Bachmann
Chair