

**CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT
MINUTES OF THE
February 18, 2025
MEETING**

MEMBERS PRESENT:

Mr. Justin Verst, Chair
Mr. John Fessler
Mr. Hutch Johnson
Mr. Michael Williams
Mr. Matt Smith, Legal Counsel

MEMBERS ABSENT:

STAFF PRESENT:

Mr. Kirk Hunter, Principal Planner
Ms. Diane Brossart, Admin Assistant

1 Meeting was called to order by Mr. Verst at 6:30 PM. The Pledge of Allegiance was
2 recited. The clerk called the roll, and a quorum was found.
3

4 Mr. Verst then asked for the approval of minutes from the February 4, 2025 meeting. Mr.
5 Fessler said that he would like to make an addition where he made the motion to approve
6 the conditional use to include "that the facts presented by the staff and testimony of staff
7 and witness present at the public hearing, I find that: The proposed use is necessary and
8 desirable and will contribute to the general well-being of the neighborhood and
9 community; it will promote the public health, safety and welfare of those residing and
10 working within the vicinity and is not injurious to the property or improvements in the
11 vicinity; it will not impair the integrity and character of the zone; and that such use
12 complies with Sections 9.14 and 18.7 of the Zoning Regulations."

13 It was seconded by Mr. Johnson. Clerk called the roll. Motion to approve the minutes as
14 corrected passed and minutes were approved.
15

16 Mr. Verst introduced the case of the night as file number BA-25-001; Castle View
17 Enterprises, location is 9008 Mary Ingles Highway, Unincorporated Campbell County, KY,
18 and the request is a setback variance for an accessory structure.
19

20 Mr. Hunter presented the staff report. Notice of the public hearing was published in the
21 LinkNKY. Notice was also sent to neighboring property owners.
22

23 [begin staff report]
24

Campbell County and Municipal Board of Adjustments
Staff Comments, Findings, and Recommendations
Issue to be heard: Tuesday, February 18, 2025

February 11, 2025

File Number: BA-25-001

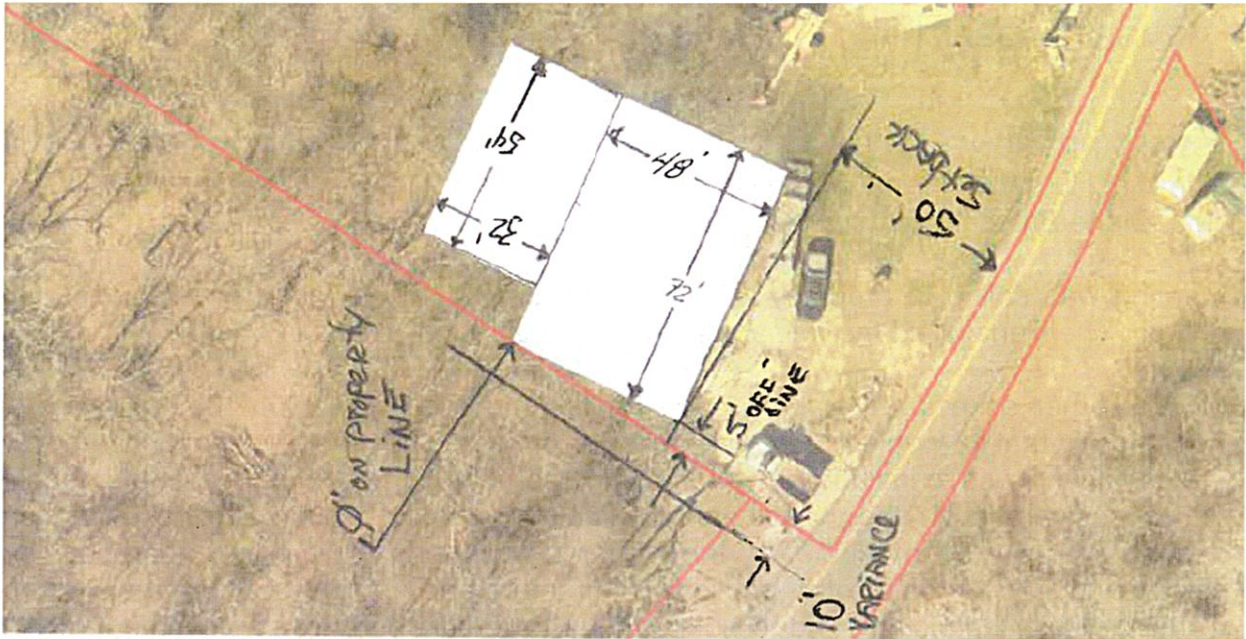
Applicant: John Russell

Location: 9008 Mary Ingles Hwy - Unincorporated Campbell County

Request: Request for a side yard setback variance for an accessory structure

2 **Considerations:**

3 9008 Mary Ingles Highway is at the northwest corner of the intersection with New Richmond Road.
4 There are currently two buildings on the lot. The current use as an auto repair shop is a legal non-
5 conforming use. The applicant proposes an approximately 5,000 square foot accessory structure. The
6 site topography allows the accessory structure to meet the existing front yard setback but the forces
7 the proposed building into the minimum side yard setback. Significant grading and possibly a retaining
8 wall would be necessary to site the new structure behind the required minimum side yard setback.



9
10 Mary Ingles Highway (KY8) is classified as a Rural Major Collector road by KYTC. New Richmond Road
11 (KY1996) is classified as a local road by KYTC. The right of way width here is fifty (50) feet and the
12 pavement width is approximately eighteen (18) feet.

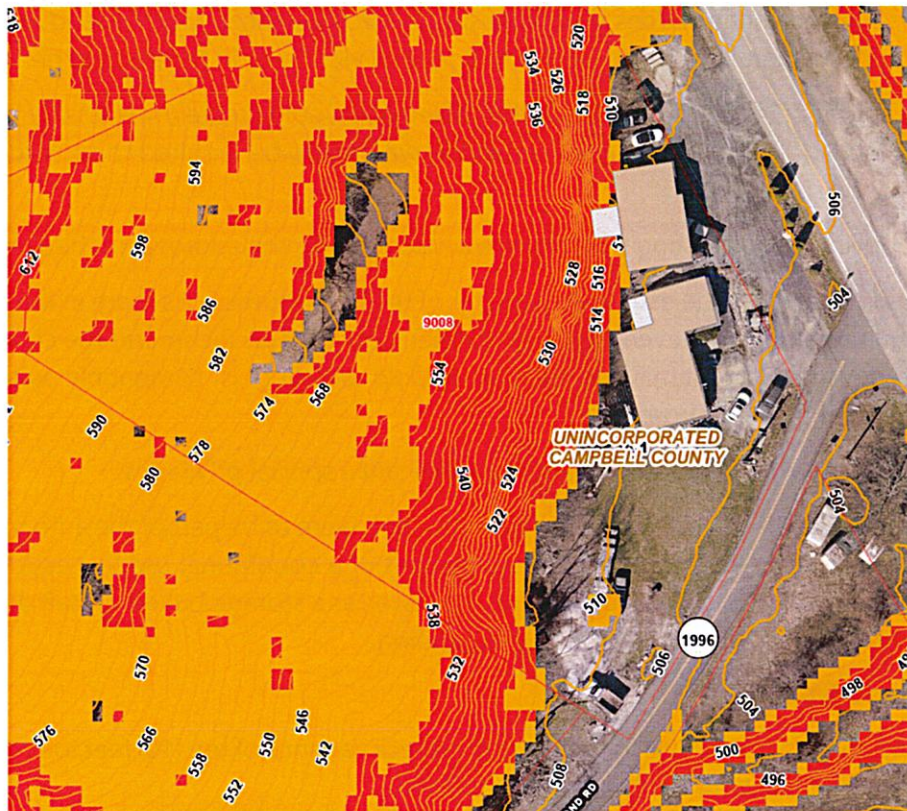
13 The existing front yard setback on the property is twenty-two (22) feet from the KY1996 right-of-way.

- 14 1. 9008 Mary Ingles Highway is 1.9 acres in area. It is located in unincorporated Campbell County
15 within the Agricultural-One (A-1) Zone. The Recommended Land Use Map of the 2008 Campbell
16 County Comprehensive Plan identifies the site and surrounding areas as Agricultural.
- 17 2. The lot has approximately four hundred and forty (440) feet of road frontage along both KY8 and
18 KY1996.
- 19 3. The surrounding land is zoned Agricultural-One (A-1) and primarily residential, agricultural and
20 undeveloped open space.
- 21 4. The Campbell County Zoning Ordinance Article X, Section 10.1 classifies the area within the
22 Agricultural-One (A-1) Zone.
- 23 5. Legal non-conforming uses are considered conditional uses.
- 24 6. The minimum setbacks for the A-1 zone are:

	A-1 Zone Regulations Require:	Applicant's Request:
Minimum Lot Area:	Three (3) Acres (Conditional Uses)	

Minimum Lot Width:	One Hundred (100) Feet	
Minimum Front Yard Depth:	Fifty (50) Feet	
Minimum Side Yard Width:	One Side: Ten (10) Feet Total Both Sides: Twenty Five (25) Feet	Zero (0)
Minimum Rear Yard Depth:	Thirty-five (35) feet	
Maximum Building Height:	Thirty-five (35) feet	

7. A review of public records finds no other requests for this site
8. The proposed setback variance will not interfere with the line-of-sight for motorists.
9. Staff adds that an approximately twenty-eight (28) foot front setback variance is already grandfathered-in at this location.
10. The proposed site plan shows the building in relation to the steep slopes of the property, requiring a setback variance of ten (10) feet from the required ten(10).



11. The applicant also owns the neighboring 19-acre parcel. Because of mortgage considerations and a recent divorce, that parcel is not currently available to be divided and partially conveyed to the 9008 Mary Ingles. That option will present itself in the next year.
12. The applicant is intending to re-zone the corner to Highway Commercial (HC) when the 19 acres is available for division.
13. Because of the applicant's timeline, he is asking to build the storage building prior to the land addition and re-zoning.
14. Notice of public hearing was given in accordance with the Campbell County Zoning Ordinance and Kentucky Revised Statutes (KRS).
15. According to Section 18.6, A., 4., the Board of Adjustment must find that:

- a. The requirements of this section have been met by the applicant for a variance;
- b. The reasons set forth in the application justify the granting of variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and
- c. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance as well as the Adopted Comprehensive Plan and will not be injurious to the neighborhood, or otherwise, detrimental to the public welfare.

Summary of Applicants Request:

The applicant is requesting a ten-foot side yard setback variance for the construction of an accessory building.

Staff Comments:

- The use of the property as an auto repair shop has been in place more than ten years.
- The requested variance does arise from special circumstances which exist *due to topography* and do not generally apply to land in the general vicinity or in the same zone.
- The application of the provisions of this Ordinance would create unnecessary hardship on the applicant. Additional fill and a new retaining wall would be required to construct the building behind the side setback.
- The applicant is requesting this variance subsequent to the approval of these regulations.
- At this intersection, the essential character of the neighborhood is more in line with a Highway Commercial zone. However, as you go further west on New Richmond the character returns to lower-density single-family residential. A pole building is compatible with the essential character of the neighborhood.
- This variance would not be granting the applicant a special privileges.
- Staff notes that if activity within the new structure were to be part of the auto repair business, it would constitute an expansion or enlargement of a conditional use, necessitating a separate application for a conditional use permit. However, as a storage building, staff does not consider that the conditional use is technically expanding.

Staff Recommendation:

To approve the applicant's request for a side yard setback variance of ten (10) feet to construct a storage building at a zero-lot line with the following conditions:

1. No activity related to the auto repair business take place in the building,
2. If, within 18 months, the applicant fails to apply for zone change, or the zone change is denied, that:
 - a. The applicant apply for a Conditional Use Permit for the expansion of the auto repair business; and
 - b. Convey enough land from the neighboring parcel to bring the total acreage of 9008 Mary Ingles Highway to at least three (3) acres, the minimum lot size for conditional uses in the A-1 zone.

Basis for Recommendation

1. In accordance with the Campbell County Zoning Ordinance, notice of public hearing was given.

2. In accordance with KRS 100.241 Variances, the board shall have the power to hear and decide on applications for variances. The board may impose any reasonable conditions or restrictions on any variance it decides to grant.

3. The evidence presented by the applicant and staff is such as to make a finding that:

a. The requirements for a variance have been met by the applicant for a variance and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

b. 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 and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board considered whether:

i. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;

ii. 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; and

iii. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

iv. The variance will not allow unreasonable circumvention of the requirements of the zoning regulations and will not alter the essential character of the neighborhood.

v. 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.

[end staff report]

Mr. Verst asked for a clarification on the pre-existing non-conforming use. Council stated that if the zone permits the non-conforming use through a conditional use permit, they could apply for a conditional use permit, but if the existing zone does not allow for a conditional use for that non-conforming use, then the commission is not allowed to expand the non-conforming use. Mr. Verst asked if A1 zone allows auto repair as a conditional use. Mr. Hunter said no.

Mr. Verst opened the floor to the applicant for further discussion.

Mr. John Russell, 3940 New Richmond Rd, California approached the microphone. Mr. Johnson asked if the new building is only going to store vehicles temporarily. Mr. Verst said the applicant could build the building but not do anything with it until he's able to get the zone change. He could use it for personal storage but not use it for the business.

Mr. Verst closed audience participation and asked for public comment.

Mr. Verst closed the public comment due to no participation.

1 Mr. Verst opened the board for discussion.

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3
4 Mr. Fessler made a motion in reference to case BA-25-001 to approve a zero-setback
5 variance. I find, based on the facts and considerations contained in the staff report, based
6 on the testimony of staff and witnesses present at the public hearing, and after having
7 considered the matter, I find that the variance arises from special circumstances which
8 do not generally apply to land in the general vicinity; that strict application of the provisions
9 of the zoning regulation would deprive the applicant of the reasonable use of the land and
10 would create an unnecessary hardship on the applicant; and The circumstances are the
11 result of actions of the applicant taken subsequent to the adoption of the zoning regulation
12 from which relief is sought. I further find the variance should be approved because it will
13 not allow an unreasonable circumvention of the requirements of the zoning regulations; it
14 will not alter the essential character of the neighborhood and general vicinity; it will not
15 confer on the applicant any special privilege that is not conferred to other lands, structures
16 or buildings in the same zone; the reasons set forth in the application justify the granting
17 of a variance and the variance is the minimum variance that will make possible the
18 reasonable use of the land; that granting the variance will be in harmony with the general
19 purpose and intent of the Zoning regulations, Comprehensive Plan and will not be
20 injurious to the neighborhood or otherwise detrimental to the public welfare; and the
21 variance is consistent with Section 18.6 of the Zoning Regulations. With the conditions
22 that the structure will not be used for the business purposes until such time a zoning
23 change is acquired that would permit this use to expand into that structure.

24 Motion was seconded by Mr. Johnson.

25
26 The clerk called the roll. Motion passed.

27
28 No further new business.

29
30 Mr. Verst asked if anything in the administrator's report.

31
32 Mr. Hunter shared the House Bill 160 being talked about that relates to mobile homes. It
33 will nullify stricter setback requirements for manufactured homes. if this goes into effect
34 the commission will see fewer setback variances for mobile homes. The county is in favor
35 of this language.

36
37 Mr. Verst asked for a motion to adjourn. Mr. Johnson made a motion to adjourn the
38 meeting. Ms. Dischar seconded the motion. All voted in favor. The meeting was officially
39 adjourned at 7:19 PM.

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42
43 Respectfully Submitted,

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46
47 Kirk Hunter
48 Principal Planner

Approved:

Justin Verst
Chair