

**CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT
MINUTES OF THE NOVEMBER 19, 2013 MEETING**

MEMBERS PRESENT:

Ms. Sharon Haynes
Mr. Joseph Williams
Mr. Michael Williams
Mr. Roger Mason, TPO
Mr. Dave Schaber, Vice Chair
Mr. Justin Verst, Chair

MEMBERS ABSENT:

Ms. Connie Schweitzer

STAFF PRESENT:

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

Mr. Verst 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. Ms. Minter introduced Mr. Mike Williams to the Board as the new representative for the City of Southgate. Mr. Williams was sworn in just prior to the meeting tonight and fully eligible to participate. Mr. Williams has been a member of the Planning Commission and a past member of the Board. Mr. Verst asked if everyone had read the March 19, 2013 meeting minutes and if there were any questions or corrections. There being none, Mr. Verst called for a motion. Mr. Schaber made a motion to approve the minutes as submitted. Mr. Mason seconded the motion. A roll call vote found Mr. Mason and Mr. Schaber in favor. Ms. Haynes, Mr. J. Williams, Mr. M. Williams and Mr. Verst abstained. Motion passed.

Mr. Verst introduced and recognized Ms. Minter as the new Director of Planning & Zoning. Ms. Minter advised the Commission that she has assumed the role of Director of Planning & Zoning as of September 23, 2013. As a result of this change in her participation with the Commission, there was a vacancy in the role of Chair of the Commission. Mr. Verst was elected to replace Ms. Minter as the Chair of the Commission. So as not to create a conflicting situation in the future, Mr. Verst is stepping down as Chair of the Board of Adjustment. He will still participate as a member of the Board, but will no longer hold the office of Chair. The Board needs to make a decision. It doesn't have to be tonight, but the opportunity is there if the Board so desires. Do you want to elect new officers? The Chair position would currently be vacant; the Vice-Chair is held by Mr. Schaber; and the Temporary Presiding Officer is held by Mr. Mason.

The Board has the option to formulate a Nominating Committee or you can determine that you want to dispense with the Nominating Committee at which point you can proceed to nominating officers. Ms. Minter advised them they also had the option to proceed with business operating under the direction of the Vice-Chair until the normal elections in January. Mr. Verst asked the Board their pleasure. Mr. Mason made a motion to continue operating under the direction of the Vice-Chair, Mr. Schaber. Mr. Verst asked if anyone wanted to second the motion. Ms. Haynes seconded the motion. Mr. Verst called for a roll call vote. A roll call vote found Ms. Haynes, Mr. J. Williams, Mr. M. Williams, Mr. Mason and Mr. Schaber in favor. Mr. Verst abstained. Motion passed.

Mr. Verst and Mr. Schaber switched seats so that Mr. Schaber could conduct the meeting. Mr. Schaber thanked Mr. Verst for his service as Chair. He continued to ask if the Board wanted to create a Nominating Committee. Mr. Verst stated the Board has dispensed with a Nominating Committee for the past few years. Mr. Verst made a motion to dispense with the Nominating Committee. Mr. Schaber

called for a second to the motion. Mr. Mason seconded the motion. Mr. Schaber called for a roll call vote. A roll call vote found Ms. Haynes, Mr. J. Williams, Mr. M. Williams, Mr. Mason and Mr. Verst in favor. Mr. Schaber abstained. Motion passed.

Mr. Schaber introduced case #BA-04-13, by applicants Zack & Kristi Rohlfer, at the location of a 1.35 acre lot at the intersection of Blangey Rd & Mary Ingles Hwy, in the Unincorporated Campbell County, with a request for a 30 foot front yard variance for a 20 foot front yard setback in R-1A zone. Mr. Hutchinson presented the staff report as follows:

CASE NUMBER: BA-04-13
APPLICANT: Zack & Kristi Rohlfer
LOCATION: A 1.35 acre lot at the intersection of Blangey Rd & Mary Ingles Hwy, Unincorporated Campbell County.
REQUEST: To request a 30' foot front yard variance for a 20' foot front yard setback in R-1A zone.

Staff has reviewed the request and finds as follows:

Description of Request:

The applicants are requesting 30' foot front yard variance in the R-1A zone (reducing the setback from 50' down to 20') to build a house.

Considerations:

1. The site in question is currently vacant. Surrounding land uses are single-family residential. The current zoning for the property is R-1A, minimum lot size is 1 acre, minimum front yard depth 50' feet.
2. The site is located at the corner of McDonald Ln (Private Drive) and Mary Ingles Hwy. Corner lots when located along an arterial street shall provide the minimum frontage along both roads.
3. The Recommended Land Use Map of the 2008 Campbell County Comprehensive Plan identifies the site and surrounding areas for higher density single family residential.
4. The submitted site plan indicates the following:
 - a. The plan shows an existing vacant lot with a proposed house on the property sitting 20' feet from the edge of right-of-way along Mary Ingles Hwy (front yard).
 - b. The plan shows the front of the house has a 10' foot porch facing Mary Ingles Hwy.
 - c. The site shows access to the property is off McDonald Ln, a private drive.
 - d. The County topo indicates the site has steep slopes of 20% or greater.
 - e. The site plan shows existing water, sewer and electric lines along McDonald Ln.
 - f. County records indicate three homes within a 300' foot radius of the property don't meet minimum front yard setbacks at 16', 32' and 39' feet from the edge of right of way.

All Requests:

1. The applicant shall submit and/or present factual evidence demonstrating:
 - 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 proposed building is within the existing zoning requirements and will be a residential property."

- 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 proposed building is a residence it will have no negative impact on health, safety or general welfare of persons residing or working in the vicinity.”

- c. That such use will comply with any regulations and conditions in this ordinance for such use.

“No change of use is requested, only a setback variance is requested.”

- 2. Per Section 18.6 Variances: Change from one nonconforming use to another, conditions governing applications: procedures.

DIMENSIONAL VARIANCES: Before any dimensional variance is granted, the Board of Adjustment must find all of the following, which shall be recorded along with any imposed conditions or restrictions in its minutes and records and issued in written form to the applicant to constitute proof of the dimensional variance. Such dimensional 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 “The setback we are requesting is on the front property line. The adjoining property on the front side is an approximately 75’ foot long (from the edge of pavement to our front property line) unused parcel owned by the KYTC. Per conversation with the Cabinet there is no intent to use this land. The adjoining land was purchased by the Cabinet while they were acquiring land in the area for the I-275 bridge project. Now that it is complete they have no further purpose for the property and furthermore have already granted us an easement to run our sewer line across their property. Being as it is an unused property it allows for a minimum of 75’ feet between our property line and Mary Ingles Highway.”

- 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 “if we cannot move the house towards the front property line the grade is too steep to place the house without costly modification. Specifically, the elevation difference between the front left corner of the house and the back right corner of the house is currently a 15 foot difference. By moving the house forward 30 feet we can alleviate the steep elevation change.”

- 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 “N/A.”

- 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 “The neighborhood is extremely rural in character and this request will have no adverse impact. Of the five properties that adjoin there are only two with

houses even with the proposed setback. Our house would sit further back from Mary Ingles Highway than the nearest house.”

- 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 “This proposal for a setback variance is not a request for a special privilege. This request is not based on any nonconforming use by neighboring lands.”

- 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 “The proposed structure is a conforming use within the R-1A zoned land and is a setback variance request only; therefore there will be no adverse effect on the public health, safety or welfare to the public.”

- 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 “We are requesting a variance of 30’ feet on our front property line. The reason for this request is that the current location that the house has to be set back puts the house on a hill that causes issues.

The first issue is that the elevation difference between the front left corner and back right corner is 15 feet. Without moving the house off of the hill we would have to do expensive modifications to the foundation of the home or extensive grading and dirt removal. By moving the house forward we can set the house on a much let steep slope alleviating the elevation issues.

The second issue is that the current setback puts the house on the backside of the hill. This location obstructs the view of the river which we fear would be detrimental to the property value of the home, as well as the enjoyment of our property once the house is built”

- 3. Per Section 18.6, A., 2., Notice: Notice of public hearing was given in accordance with Section 18.2 of the Cold Spring Zoning Ordinance. (Published in the Campbell County Recorder on November 7, 2013).
- 4. 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.

Staff Recommendation:

To approve the front yard variance request, subject to the following condition:

That the applicant complies with the Campbell County Zoning Ordinance and building codes.

Supporting Information/Bases for Staff Recommendation:

1. DIMENSIONAL VARIANCES: Before any dimensional variance is granted, the Board of Adjustment must find all of the following, which shall be recorded along with any imposed conditions or restrictions in its minutes and records and issued in written form to the applicant to constitute proof of the dimensional variance. Such dimensional 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 proposed location of the house is a reasonable circumvention of the requirements of the zoning regulations. Other homes in the area have similar setbacks.

- 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 because there are houses with similar setbacks.

- 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 after the adoption of the zoning 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.

There are other structures in the neighborhood that are within the front yard setback.

- 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 confer on the applicant any special privileges because other homes in the neighborhood have similar setbacks.

- 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 variance will not adversely affect the public health, safety or welfare, nor alter the character of the general vicinity and will not cause a hazard or nuisance to the public.

- 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 house will be in harmony with the general character of the area because there are other structures in the neighborhood also encroaching in the front setback.

Mr. Hutchinson asked if there were any questions he could answer for the Board. Ms. Haynes asked if there were any issues relating to the flood zone. Mr. Hutchinson showed slide 6 which shows the floodplain in relation to the site. It is very close to the northern edge of the property line, but the proposed home is well out of the floodplain.

Mr. Schaber asked if there were any additional questions for staff. There being none, Mr. Schaber asked the applicant to come forward and state his name and address for the record. Mr. Zack Rohlfer of 6560 Murnan Road, Cold Spring, Kentucky came forward to address the Board. Mr. Rohlfer stated he really didn't have anything to add and asked if the Board had any questions he could answer for them. Mr. Schaber asked the Board if they had any questions for the applicant. Mr. Duncan asked if Mr. Rohlfer could adopt his written answers as part of his testimony. Mr. Rohlfer stated that he did so.

Mr. Schaber asked if there were any questions for the applicant. There being none, Mr. Schaber asked if anyone in the audience wished to speak either for or against the request. There being no one who wished to address the Board regarding this issue, Mr. Schaber closed the public comment portion of the hearing. Mr. Schaber opened the floor for discussion among the Board.

Mr. Verst stated that it seems like a very straight forward request. With the other houses sitting so close to Mary Ingles Highway and along the private drive, it seems like a pretty good justification for the variance. Mr. Schaber added that the Board could also allow the variance based upon the average of setbacks within the vicinity. Mr. Hutchinson agreed.

Mr. Schaber asked if there was any further discussion. There being none, Mr. Schaber called for a motion. Mr. Verst made a motion on case #BA-04-13, by applicants Zack & Kristi Rohlfer, to approve their request for a 30 foot front yard variance for a 20 foot front yard setback in R-1A zone. The basis for Mr. Verst's motion was that the applicant's responses satisfied the requirements for a dimensional variance and the findings of facts is the information supplied within the staff report and the testimony submitted by the applicant. Mr. Schaber called for a second. Mr. Mason asked if Mr. Verst wanted to amend his motion to include the condition set forth in the staff report that the applicant would comply with the Campbell County Zoning Ordinance and building codes. Mr. Verst stated that he would like to amend his motion to include staff's recommendation of that condition. Mr. Schaber called again for a second. Ms. Haynes seconded the motion. Mr. Schaber called for a roll call vote. A roll call vote found Ms. Haynes, Mr. J. Williams, Mr. M. Williams, Mr. Mason and Mr. Verst in favor. Mr. Schaber abstained. Motion passed.

Mr. Schaber introduced case #BA-05-13, by applicant Bobbie Joering, at the location of the lot directly west of 3742 Fender Road in Melbourne, Kentucky, with a request to vary Section 9.28, 2, of the Zoning ordinance that states "Individual mobile home sites must have 150' feet of road frontage." The applicant is requesting an 85 foot variance because they have 65 feet of frontage on an existing lot. Mr. Hutchinson presented the staff report as follows:

CASE NUMBER:	BA-05-13
APPLICANT:	Bobbie Joering
LOCATION:	The lot is directly west of 3742 Fender Road Melbourne KY 41059, Unincorporated Campbell County.
REQUEST:	To vary Section 9.28, 2, of the Zoning ordinance that states "Individual mobile home sites must have 150' feet of road frontage." The applicant is requesting an 85' foot variance because they have 65' feet of frontage on an existing lot.

Description of Request:

The applicant is requesting a waiver of the minimum amount of road frontage needed for a mobile home lot 150' feet. They are requesting an 85' foot variance allowing the mobile home to sit on an existing lot 65' feet wide.

Considerations:

1. The site in question, containing approximately 9.865 acres, is located on the north side of Fender Road, Unincorporated Campbell County. The Campbell County Zoning Ordinance classifies the plat within the A-1 Zone, Agriculture Zone, requiring a minimum lot size of one acre, lot widths of 100 feet, minimum setback dimension of 50 feet, side yards of 10 feet (one side) and 25 feet (total both sides), and a minimum rear yard depth of 35 feet, not including flag lots and/or mobile home lots. Mobile home lots shall have a minimum frontage of 150' feet and have 100' foot front yard setback and 50' foot side yard setback. Mobile homes also must be located further than 125' feet from other dwelling units.
2. The Recommended Land Use Map of the 2008 Campbell County Comprehensive Plan identifies the site in question for and surrounding areas for Agricultural.
3. The site in question is currently vacant. The property does share a common access point with the adjacent property.
4. A review of the public records indicates there are no previous conditional uses or variances granted by the Board of Adjustment for this site.
5. The submitted information indicates the following:
 - a. The proposed mobile home of 26' x 60' will meet minimum front, side and rear yard setbacks.
 - b. The proposed mobile home is shown to be set on an existing lot with 65' feet of road frontage.
 - c. The applicant is showing that the septic system will be in front of the mobile home.
 - d. Aerial photographs and a site visit confirm a large amount of debris on the side of the road located on this property. This debris includes a skid of rubber mats, scrap metal, parts of various machines. The location and storage of this material is considered unsightly per Section 9.8 of the zoning ordinance.

All Requests:

1. The applicant shall submit and/or present factual evidence demonstrating:
 - 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 wellbeing of the neighborhood or the community.

"I bought this property for the sole purpose of placing a doublewide home, for my family to live in. By allowing me to place the double wide home, I will be able to provide a safe environment for my family. Once the home is placed on my property, the county and Campbell County Schools will benefit from the increase in property taxes. Once we are moved into our home, we will be spending money in local stores, also increasing their revenue."
 - 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.

“Placing the double wide on the permanent foundation will not be detrimental to the health, safety, or general welfare of persons residing in the area. I am following property protocol for obtaining a residential building permit. I have been granted a septic permit and have been approved for a water tap by the NK water district. The contractors who are doing the delivery and set up of our double wide are insured.”

- c. That such use will comply with any regulations and conditions in this ordinance for such use.

“I have obtained all permits that are required prior to applying for the residential building permit. I would be in full compliance if I did not lack the 150 feet of road frontage. By asking for a variance on the road frontage, I am following proper protocol for Campbell County. If approved for the variance, I will continue to work with Campbell County P&Z to ensure I am in compliance with the regulations.”

- 2. Per Section 18.6 Variances: Change from one nonconforming use to another, conditions governing applications: procedures.

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 applicant stated “The shape of the lot is different than other lots in my area. My lot has a long narrow entrance, which is approximately 65’ wide and 312’ long before it widens out to 340’ feet.”

- 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 “The strict application of the provisions of the regulation would deprive my family of the reasonable use of the land or create an unnecessary hardship, by not allowing a double wide to be placed on the property. If not approved for the variance, I would attempt to sell the property but I could not sell it to someone in hopes to place a double wide”

- 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 “The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the layout of the parcel has not changed in recent years.”

- 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 “The variance will not allow unreasonable circumstances of the requirements of the zoning regulations since my property has enough road frontages to build stick-built-home. The variant will not alter the essential character of the neighborhood as the double wide that I am choosing has many similarities to house in 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 “Approval of this variance will be a special privilege as I do not have enough road frontage, as required by this ordinance. With that said, other lots in my area do not have the same layout as mine. The owner of surrounding lots will not run into this issue.”

- 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 “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 variant will not alter the essential character of the neighborhood as the double wide that I am choosing has many similarities to houses in the neighborhood.

The variance will not cause a hazard or nuisance to the public and the home will set back from the property line, following Campbell County’s regulations.”

- 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 the general purpose and intent of the Zoning Ordinance as well as the Adopted Comprehensive Plan for the County.”

- 7. 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. (Published in the Campbell County Recorder on November 7, 2013).
- 8. 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.

Staff Recommendation – Campbell County Zoning Ordinance:

To deny the requested variance to place a mobile home on a lot 65’ feet wide instead of the minimum 150’ feet of road frontage.

Supporting Information / Basis for Recommendation

- 1. 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 not arise from special circumstances which exist and do not generally apply to land in the general vicinity or in the same zone. The request is to place a mobile home on a lot that does not meet the minimum 150' road frontage.

- 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 not deprive the applicant of a reasonable use of the land and would not create an unnecessary hardship on the applicant. The lot can be used for a stick built home or modular home.

- 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 lot does not meet the minimum requirements for a mobile home.

- 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 be granting the applicant a special privilege because no other variances have been granted in this area for mobile homes on lots with less road frontage.

- 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.

Allowing the placement of a mobile home on a lot that does not meet the minimum standards in the A-1 zone would be a safety issue. The current lot design is 312' feet before it widens out to the minimum width of 100' feet.

- 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 not in harmony with the general purpose and intent of the Zoning Ordinance or Adopted Comprehensive Plan for the County because the zoning ordinance specifically states how wide the mobile home lot should be.

During the course of presenting his staff report, Mr. Hutchinson commented that a safety concern exist on this site relating to the length of the fire hoses. The flag lot design allowed by our Zoning Ordinance allows the stem to go back only 250 feet. This is because the fire hoses are only 500 feet long generally speaking. For fire safety, we don't want to have the homes set so far off the road that the fire hoses cannot reach them. The stem of this particular lot is 312 feet long. This could potentially be a fire safety issue.

Mr. Hutchinson asked if there were any questions he could answer for the Board. Mr. Verst asked about the different lengths of the flag stem given in the report, versus the presentation, versus the applicant's drawings. Mr. Hutchinson stated that he had spoken to the applicant prior to the meeting tonight. The actual depth of that lot from Fender Road to the line where the lot widens is 312 feet. There was some discrepancy in the information they submitted to staff. Mr. Verst commented that the 312 feet does not match our current Subdivision Regulations for flag lots which state the maximum length is 250 feet. Mr. Hutchinson stated that was for a flag lot. This lot does not even meet the minimum standards for a flag lot. Mr. Verst asked if the lot met the standards for a flag lot when it was created. Mr. Hutchinson stated he could not confirm that because he does not know when the lot was created. He can confirm it does not meet the minimum flag lot standards according to our previous version of the Subdivision Regulations and they were adopted in 1982.

Mr. Verst stated he could not tell from the way the Regulations read, but would a mobile home be allowed on a flag lot. If so, are there separate requirements for when the mobile home is placed on a flag lot. Mr. Hutchinson stated that a mobile home would not be allowed on a flag lot because the Regulations specifically state that a mobile home has to have 150 feet of road frontage. The whole design of a flag lot is that it does not have the allowed road frontage to meet the minimum Regulation requirement of 100 feet of road frontage. Mr. Verst read the A-1 Zone requirements that state you must have a minimum of 1 acre with 100 feet of road frontage. Mr. Verst continued that he could not locate anything in the Regulations that says that a mobile home is not permitted on a flag lot in general. Mr. Hutchinson stated that, in his experience, we have not allowed any mobile homes on flag lots. We stick to the language that specifically calls out for 150 feet of road frontage. Mr. Verst asked if there were any other mobile homes in this area. Mr. Hutchinson stated that, when he performed his site visit, you could not tell if there were other mobile homes or not. The area has dense vegetation and wooded areas and the topography was steep.

Mr. Schaber asked if there were any additional questions for staff. Mr. M. Williams asked how close would that mobile home be to any other structures. Mr. Hutchinson stated it would be more than 125 feet. As far as the setbacks go, for where they intend to place the home, the location exceeds all the required setback amounts. The only item in contention is that the site did not meet the road frontage amount. Mr. M. Williams asked if the applicant's statement that they would be in full compliance except for the 150 feet of road frontage was correct. Mr. Hutchinson stated that it was correct. If it were a stick built home, there would be no issues with their request.

Mr. M. Williams asked whose debris was on the site. Was it the applicant's or was it on the property when she bought it? Mr. Hutchinson stated he did not know as he did not address this issue with the applicant. Mr. Schaber advised Mr. M. Williams that he could ask that question of the applicant when they come forward to speak. Mr. Schaber continued that if the Board so chose they could make the debris removal as part of their recommendation. Mr. M. Williams stated that what he is having trouble with is, with what the photographs show as being there, how a mobile home would change the general character of the vicinity. Mr. Schaber asked if they could postpone that comment until they reach the discussion portion of the hearing tonight. Mr. Schaber stated he thought it might be better for the Board to discuss that comment and right now they were just in the question and answer session for staff. Mr. M. Williams stated that was fine with him, but if Mr. Hutchinson knows the answer then he might be able to shed some

light on the topic. Mr. Schaber asked Mr. M. Williams to clarify his inquiry as to what his main concern is. Mr. M. Williams stated that there were several comments as to the “essential character” of the vicinity. Mr. M. Williams stated he doesn’t understand how a mobile home would affect it, but we can discuss it after the applicant has had an opportunity to speak.

Mr. Schaber asked if there were any additional questions for staff. Mr. Verst asked Mr. Hutchinson about his comment that if this were a stick built home that he wouldn’t have a problem with it. If it were a stick built home, it still would need to have the minimum lot width of 100 feet so they would still need a variance. They would need the same variance, but it would be for a different amount. Correct? Mr. Hutchinson stated that was not the case. The lot is pre-existing non-conforming. It would be grandfathered in for a stick built home. Mr. Duncan stated he could clarify this for the Board. This is a pre-existing non-conforming lot. Legally, we could not prohibit the use of this lot as a farm or to add a residence. Kentucky law allows us to distinguish between mobile homes, stick built home and modular homes. There are different rules under the law for each of those homes. This Board did not create this Ordinance. The Fiscal Court did. The issue of if we can put a mobile home in violation of the literal terms of the Ordinance is not discretionary for you. What is discretionary for you is if there are grounds to make findings that would substantiate a variance. Mr. Duncan stated he agreed with the staff report that there would not be an issue for any dimensional standards if it were a stick built or modular home because the requirement for the 150 foot frontage is limited to mobile homes.

Mr. Schaber asked if Mr. Hutchinson had anything to add to Mr. Duncan’s comments. Mr. Hutchinson replied that he did not. Mr. Schaber asked if there were any additional questions for staff. There being none, Mr. Schaber asked the applicant to come forward and state her name and address for the record. Ms. Bobbie Joering of 3742 Fender Road Melbourne, Kentucky came forward to address the Board. Ms. Joering first wanted to address the safety issue that Mr. Hutchinson discussed with the fire trucks not being capable of traveling the distance with their hoses. If Ms. Joering were building a stick built home, the distance would be the same. Ms. Joering stated this is a moot point and not a real justification for not allowing a mobile home on the property.

As far as the debris on the site, Ms. Joering stated that was from the previous owner. She bought the property from her parents. She also owns the 13.33 acres to the east of this site. The 13.33 acre property has at least 200 feet of road frontage. Ms. Joering stated that she would be in compliance with all the rules and regulations for building a (stick built) home. Unfortunately, she is financially not able to afford the cost of a stick built home. This is why she is planning for a mobile home on a permanent foundation so that it would not be capable of moving. Ms. Joering stated there are several other mobile homes in this area. On Fender Road alone, she counted 4 mobile homes which she printed off to show the Board. There are 2 directly across the road from her, 1 that is about 3 houses down from her property, and then 1 further up Fender Road. There are mobile homes in this area. Ms. Joering stated that, as she mentioned, her home would be on a permanent foundation. It would be anchored to a concrete foundation so that it would be secure. The people doing this for her are certified and insured. Ms. Joering stated that she did previously speak with Mr. Hutchinson and agreed with him on the distance from the road. Ms. Joering asked if the Board had any questions for her.

Mr. Mason asked about the additional land that Ms. Joering owns. Does it have road frontage? Mr. Mason asked Mr. Hutchinson to go back to the slide showing her property. While Mr. Hutchinson was locating the slide, Mr. Duncan asked if Ms. Joering could adopt her written answers as part of her testimony. Ms. Joering stated that she did so. The slide was located. Mr. Mason asked why the road frontage issue could not be resolved with an addition from the 13.33 acre parcel to the property where she wants to place the mobile home. Ms. Joering stated that the 13.33 acre parcel was under a mortgage and when she approached the bank about doing so, they were not willing to allow this without a survey plat which would be quite expensive. Ms. Joering decided to ask for a variance instead. Ms. Haynes asked when Ms. Joering purchased the property from her parents. Mr. Joering replied it was in December 2012.

Ms. Haynes asked how long her parents owned the property before her. Ms. Joering replied roughly 30 years and it was owned by their family before that.

Mr. Verst asked if Ms. Joering had any idea how much road frontage the 13.33 parcel had. A gentleman from the audience answered it was 180 to 187 feet. Mr. Verst stated that in previous testimony from staff they were unable to see the homes from the road. Mr. Verst asked Ms. Joering if anyone would be able to see her home from the road. Ms. Joering stated they would not. The site has woods along the driveway and her home is intended to be placed behind that line.

Ms. Haynes asked if there were any structures on the 13.33 parcel that she owns. Ms. Joering replied there was the family home where she grew up and a barn. Mr. Verst asked Mr. Hutchinson to show the aerial slide with the property lines showing. Mr. Verst stated that Mr. Mason mentioned moving the property line and Mr. Verst wants to see how close the structures are to the property line. Ms. Minter located the slide requested. Mr. Verst stated the home was just to the right of the property line. If we were to make the applicant add the necessary road frontage footage to the existing lot, would it make the property line go through the middle of the structures. Ms. Joering replied that it would.

Mr. Schaber asked if there were any questions for the applicant. Mr. M. Williams asked if Ms. Joering held title to the neighboring property. Ms. Joering replied that she did. Mr. Schaber asked if there were any other questions for the applicant. There being none, Mr. Schaber asked if anyone in the audience wished to speak either for or against the request. There was. Mr. Schaber asked him to step forward and state his name and address for the record.

Mr. Joe Joering of 3742 Fender Road, Melbourne, KY, stepped forward to address the Board. Mr. Joering stated that the debris in question is along the 13.33 acres parcel. It is just some roofing that was left there and they have to get rid of it. The rest of the stuff is left over from his being the resident there. There are gravel trucks and piles down there for building the road up to the double wide. The topsoil is also there for the same reason. The other stuff can be cleaned up pretty much in a day or so.

Mr. Joering stated that, directly across from this property, there is a mobile home and it has a driveway that is probably longer than ours. He doesn't think they have 100 feet of frontage. There is another mobile home next to it. It also has a very long driveway. Mr. Joering stated he does not feel that they have 150 feet of whatever it is you are looking for. There are other mobile homes in the area. They are all kept looking nice. It is just that kind of community. There is a lot of farming that is going on there. The land it used for hay and cattle. This mobile home is not going to change the existing environment.

Mr. Joering pointed out that they (staff) provided legal notice to everyone and no one showed tonight to protest it. They have a lot of money invested in this situation and she has permits for everything. She is just trying to obey the law. Mr. Joering doesn't see the difference that 65 feet of road frontage will make. Fire trucks can still get up there if they needed to every bit as easy as to their neighbors. Mr. Joering concluded that he doesn't feel there are any safety issues.

Ms. Minter was recognized by Mr. Schaber. Ms. Minter advised the Board that she did have a visitor at the staff's office regarding this case. The owner did not have any issues with placing a mobile home on this site. Ms. Minter also spoke with the Solid Waste Coordinator in regards to the blight concerns on the site. The Coordinator visited Fender Road and confirmed there were some blight issues on the site, but they are willing to work with the applicant to get this issue resolved.

Mr. Schaber stated since there were no more speakers he would like to close the public portion of this hearing. Mr. Verst asked to address the applicant. Mr. Schaber agreed. Mr. Verst stated that, when he previously asked what the road frontage was of the additional lot she owned, he forgot to write the number down and asked Ms. Joering to repeat that answer for him. Ms. Joering replied the other lot is

187 feet wide. Mr. Verst asked if the home built on the additional site was a mobile home or stick built home. Ms. Joering replied it was a stick built home.

Mr. Schaber asked if there were any further questions of the applicant. There being none, Mr. Schaber closed the public comment portion of the hearing. Mr. Schaber opened the floor for discussion among the Board. Mr. M. Williams stated that he had the same question as before. How is a mobile home on this site going to alter the essential character of the neighborhood? Mr. Schaber stated that would be a reasoning aspect of every member of the Board in making their decision. Mr. Mason stated he felt the same way. Is it just the issue of 150 feet of road frontage? Mr. Schaber stated that is why the applicant is before to ask for the variance based on Section 9.28 requirements. Mr. Mason stated that the facts are that we have a non-conforming lot that was created before the zoning ordinance. Ms. Haynes stated that she feels the circumstances with the other lots are not clear. They are saying there are other mobile homes in the area not meeting the setbacks, but this was not confirmed in our discussions, so it is focused again on the flag lot. Mr. Schaber stated there was no confirmation other than what was given in testimony. Ms. Haynes stated it was given verbally, but it has not been confirmed via data. Mr. Schaber stated that Mr. Hutchinson stated he was not able to see any, but that doesn't mean they aren't there. Ms. Haynes stated that they had not been validated. Mr. Schaber agreed.

Mr. Mason asked how many homeowners had been notified of this request. Mr. Schaber stated it would be anyone who bordered upon this property. Mr. Mason stated so it would have them and then the notice was in the paper. Mr. Schaber agreed. Ms. Minter confirmed it was all adjacent property owners notified. Mr. M. Williams asked if we know the purpose and intent of the mobile home regulations. He assumes the reason why you would have the regulations is because you wouldn't want to have a subdivision of houses and then there is a mobile home and then there are more houses and then another mobile home. This site is in the "country". Does a mobile home really violate the purpose and intent of the mobile home regulations? Having never lived in a "mobile home", if it is permanently anchored with a foundation, then just how mobile is that? Mr. M. Williams stated that he sees these homes all the time and they just look like homes to him.

Mr. Mason asked if there was a definition of a mobile home or a modular home. Mr. Verst stated he believes we may have encountered this discussion previously. If it comes with an axle and wheels, and they stay on the home, it is a mobile home. Mr. Schaber stated not only that, but there is a tag that stays with the home that says it is a mobile home. Mr. Schaber could not recall who it is approved by. Mr. Hutchinson stated that a mobile home is a building standard. They are not built to the same specifications as a stick built home. That is how the classification is different. They are not built to the same specifications. Mr. Duncan stated that the Board has hit on the main differences between the types of homes, but the main difference according to state law is that a modular home and a stick built home are built according to standards set by the State of Kentucky. Mobile homes and double wide mobile homes are not required to be built to the Kentucky standard, but rather they are constructed to federal standard which differentiates them from stick built homes and modular homes. Mr. M. Williams stated that aside from the definition differences; the reality is if it is anchored, then it is no longer mobile, if he understands the definition of "mobile" according to Webster's definition of the term. Mr. Schaber stated that the structure itself is still built differently. The building standard does not change just because it is affixed to a foundation.

Mr. J. Williams asked what bearing the building standard has on the lot variances. He doesn't see that it would even matter. Mr. Schaber stated that the classification is a mobile home so the fact that there are additional standards that must be met according to our Zoning Ordinance is the only bearing this plays. Mr. M. Williams asked how this would not comply with the purpose and intent of the mobile home regulations. Other than not having 150 feet of road frontage, does this home violate the intent and purpose of the mobile home regulations. Mr. Schaber stated that if they had the minimum road frontage and lot size then this would be a cake walk. According to the Zoning Ordinance, these are the minimum

standards that have been set by the Fiscal Court with some input from the Planning Commission. Mr. M. Williams stated that she owns both lots so she would have the frontage.

Mr. Verst stated that the County imposed the mobile home regulations for whatever reason. He believes that Mr. M. Williams is correct that it was to protect properties in a subdivision from having stick built homes and then a mobile home. Whatever the reason for the regulations, they exist. Mr. M. Williams and Mr. Mason both agreed that if there are other mobile homes in the area, then the applicant would not in this instance alter the nature of the neighborhood. Mr. Verst stated that, even if the lot were 100 feet wide, the home may be placed in the exact same location. If we grant this dimensional variance, we might not be altering the nature of the community. Ms. Haynes stated that we would be creating a precedent if we allowed the variance. Mr. Verst stated he doesn't believe that is true. The Board is not saying they think you only need 65 feet of road frontage to have a mobile home as a permanent change. The Board would be saying this is a non-conforming lot with special circumstances that in this situation a lot with 65 feet of road frontage is adequate for a mobile home to be placed on it.

Mr. Schaber asked if there any other discussion or if a motion were ready to be made. Mr. Duncan stated that, while they are considering their options, he would like to read from the current version of what KRS says about mobile homes. If there is a motion to approve, your findings will need to address the findings that the statute defines. Under KRS 100.243, it states that before any variance is granted, the board must find that the granting of the variance: 1) Will not adversely affect the public health, safety or welfare; 2) Will not alter the essential character of the general vicinity; 3) Will not cause a hazard or a nuisance to the public; and 4) Will not allow an unreasonable circumvention of the requirements of the zoning regulations.

These are the findings you have to make if you are going to approve the request. The statute goes on to state that in making these findings, the board shall consider whether: (a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone; (b) 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 (c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. Mr. Verst stated that this information is in the staff report, but not in the same order as in the statute.

While the Board was looking through the staff report to organize their thoughts, Ms. Minter was recognized by Mr. Schaber. Ms. Minter stated that the applicant has just supplied her with photos of properties in that area that reflect other mobile homes and they would like to submit this information into record. Mr. Schaber accepted the photos and distributed them among the Board for review.

Mr. Schaber asked if there was any further discussion. There being none, Mr. Schaber called for a motion. Mr. Verst made a motion on case #BA-05-13, by applicant Bobbie Joering, to approve her request for an 85 foot variance from the lot width requirement for a mobile home in the A-1 Zone to permit a mobile home on a site with just 65 feet of road frontage. The basis for Mr. Verst's motion was that the testimony heard tonight, discussion among the Board and information within the staff report support the findings that the variance will not adversely affect the public health, safety or welfare. There are other mobile homes in the area so this variance will not alter the essential character of the general vicinity. There is screening from the road so the home won't even be seen at times so the variance will not cause a hazard or a nuisance to the public. Mr. Verst finds that the requested variance arises from special circumstances that exists on this site that do not generally apply to land in the vicinity in the same zone such as the lot configuration and being a pre-existing non-conforming lot of record. He further finds that not granting the variance would deprive the applicant of a reasonable use of their land or create an unnecessary hardship since there are already other mobile homes in the area. The circumstances are the result of actions taken by the applicant after the adoption of the zoning regulations and the variance will

not allow an unreasonable circumvention of the requirements of the zoning regulations or alter the essential character of the neighborhood. By granting the variance, the Board will not confer upon the applicant any special privilege that is not conferred by this ordinance to other lands, structures or buildings in the same zone. Mr. Verst stated he feels this variance would be in harmony with the general intent and purpose of the Zoning Ordinance, as well as the adopted Comprehensive Plan. Mr. Duncan identified that Mr. Verst did not list in his finding of fact the photos exhibit that were handed out. Mr. Verst re-stated that the basis for his motion is the information in the staff report, the testimony by the applicant tonight, and the information submitted at the meeting by the applicant. Mr. Schaber asked if there were any conditions to the motion. Mr. Verst stated that there are 2 conditions to this motion:

1. That debris on the site will be removed in a timely manner.
2. That all construction of the mobile home will comply with the Campbell County Zoning Ordinance and building codes.

Mr. Mason asked if he wanted to firm up the “timely manner”. Mr. Verst stated that he did not. He would prefer to allow staff to work through that issue with the applicant. Mr. Schaber asked if there were any other questions regarding the motion. There being none, Mr. Schaber called for a second. Mr. M. Williams seconded the motion. Mr. Schaber called for a roll call vote. A roll call vote found Mr. J. Williams, Mr. M. Williams, Mr. Mason and Mr. Verst in favor. Ms. Haynes voted against the motion citing that she feels that the applicant may have alternate means of resolving this issue and she fully supports staff’s recommendation. Mr. Schaber abstained. Motion passed.

DIRECTOR’S REPORT

There being no other cases to come before the Board of Adjustment, Mr. Schaber called for the conclusion of the Director’s Report. Ms. Minter reminded the Board that they discussed earlier deferring the election of their officers until their next meeting. Ms. Minter continued with some routine maintenance items for the Board. There was a handout provided for each of the Commissioners to update their personal contact information. With bad weather approaching, staff wants to make certain that they have the most accurate email addresses and phone numbers where the Commissioners could be reached.

Ms. Minter advised the Board that if they downloaded the Zoning Ordinance from our website to their I-pads, they will need to update their records. There was a change made in the text at the Fiscal Court meeting when the ACD Zone was adopted. Those changes were not reflected on our website. Those documents were updated recently to reflect those changes.

Ms. Minter advised the Board that, as regulated by House Bill 55, there are training obligations that staff will be trying to assist in getting satisfied. Mr. Hutchinson has scheduled to borrow training session cds that will be available for the Board to borrow and complete. You will need to fill out a form to submit to staff and they will prepare the necessary paperwork. If you have had training offsite, please let us know so that we can get that approved by the Planning Commission.

Ms. Minter stated that she was not certain if the Board was aware of this, but not only are they the Board of Adjustment to hear variance, condition use permit requests and appeals, but they are also the Board of Appeals and Variances for the Floodplain. When we have floodplain issues, they will come before this Board for resolution. Along those lines, Ms. Minter had a handout for each of the Board members for training with FEMA regarding the floodplain. It is about a 20 minute video. There are also other items available for training on their website. If you desire to take advantage of this opportunity, please bring this handout back with your name and the amount of time you spent on this website and we will get the training approved by the Planning Commission for you.

Ms. Minter advised the Board that they were invited to a Celebration of Stewardship of the St. Anne Woods and Wetlands being held on November 21 at 3:00 PM. There was a handout provided to each Board member. The issues with the St. Anne's did not necessitate coming before the Board, but they appeared several times before the Planning Commission.

Ms. Minter reminded the Commission that after the start of the year we would be working to update our Comprehensive Plan. It will not be very intensive, but it will need to be done. She asked that they all locate their copies of their Comprehensive Plan and let staff know if they needed copies so that we could begin to prepare for this update.

Ms. Minter stated the format of the presentation has changed slightly from what they have seen in the past and hopes the Board found it helpful. With that, Ms. Minter concluded her Director's Report and offered to answer any questions the Board may have for her. Mr. M. Williams asked about training requirements for those people who were on both the Board and the Planning Commission. Ms. Turner advised that the training requirement would cross both positions. It does not double his training requirements. Mr. Verst asked about the Zoning Ordinance on the website. He would like to see a link so the entire document could be downloaded and not have to download each section individually. Ms. Minter advised him that there were going to be some changes on the website coming up and they would list that as one of the items to consider. Mr. Verst stated he would like to see the Zoning Ordinances of the individual cities as well. Ms. Minter stated that would probably be a little different since not all our member cities have their Zoning Ordinance in an online format yet.

Ms. Haynes asked about the status of the Melbourne case that was heard a few months ago. Has the case been heard yet in the court system? Mr. Duncan stated he could give a report on that. An appeal was filed on the decision of the Board which was filed as a lawsuit. The County's insurance has provided defense. The attorneys selected are excellent. Mr. Thomas Nienaber and Mr. Dale Wilson are defending the position of the Board. We are being heard by Judge Stein who has jurisdiction over this case. He set up a briefing schedule which has been met. There was a brief by the appellant, a reply brief, a response brief by us and then another reply brief. Mr. Duncan stated that he and the attorneys felt like they needed to supply some additional information so we filed a sur-reply brief very recently. This Thursday or Friday, Judge Stein is holding a status conference on the appeal. At this time, he will advise the attorneys if additional information is needed or if oral arguments are required. Mr. Duncan feels very confident with the Board's position and with the information that has been submitted thus far. You never know exactly how these things are going to come out, but we should have a decision here shortly. Judge Stein is very diligent in reading all the material and he is a good judge. Mr. Duncan feels confident with the information submitted thus far. Ms. Haynes asked if he had any knowledge of how the US Army Corps of Engineers turned out. Mr. Duncan replied that he did not have any information regarding that.

Ms. Minter advised the Board they did have a case to hear in December. Mr. Schaber asked if there was any other business to discuss. There being none, Mr. Schaber asked for a motion to adjourn. Mr. Verst made a motion to adjourn. Both Ms. Haynes and Mr. M. Williams seconded the motion. An oral vote found everyone in favor, none opposed. Motion passed. Meeting adjourned at 8:38 PM.

Prepared by:

Approved:

Cynthia Minter
Director

David Schaber
Chair