



**CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT
MINUTES OF NOVEMBER 16, 2021 MEETING**

MEMBERS PRESENT:

Mr. Michael Williams
Ms. Jessica Hurley
Mr. Justin Verst, Chair
Mr. John Fessler, TPO

STAFF PRESENT:

Mr. Kirk Hunter, Principal Planner
Mr. Matt Smith Legal Counsel
Ms. Emily Woodward, Secretary

MEMBERS ABSENT:

Mr. Joseph Williams
Mr. Scott Bachmann

Mr. Verst called the meeting to order at 6:30 PM.

Following the Pledge of Allegiance, attendance was taken. With Mr. Mike Williams, Ms. Jessica Hurley, Mr. Justin Verst and Mr. John Fessler in attendance, a quorum was found. Mr. Verst then turned the board's attention to the previous meeting's minutes. Mr. Williams made a motion to approve the minutes as submitted. Seconded by Ms. Hurley, a roll call vote found Mr. Fessler abstaining, Ms. Hurley, Mr. Verst and Mr. Williams in favor. The minutes were approved as submitted.

Mr. Hunter then presented the staff report for case BA-21-0019 as follows:

File Number: BA-21-019

Applicant: Corey Pelle

Location: 5578 Owl Creek Rd. Unincorporated Campbell County, KY

Request: Front yard setback variance due to topographical concerns related to flooding



Considerations:

The applicant is requesting a front yard setback variance for the construction of a pole barn. The topography of the lot in relation to the flood zone limits the buildable area to the front. To meet the zoning requirements, the barn would need to situate within an “AE” flood zone. Formerly referred to as “100-year”, AE flood zones are areas that present a 1% annual chance of flooding and a 26% chance over the life of a 30-year mortgage. The location within the flood zone would require additional cost for either floodproofing or flood insurance. The ideal position requires the house to be positioned closer to the front property line, encroaching on the minimum front yard setback.



1. The site is one (1) acre in size. It is located in Unincorporated Campbell County on Owl Creek Road, a County-maintained road. This site is located in the Residential Rural Estate (R-RE) Zone. The Recommended Land Use Map of the 2008 Campbell County Comprehensive Plan identifies the site and surrounding areas as Lower Density Single-Family Residential.
2. The applicant's primary residence is located on the parcel adjoining to the southwest. The applicant intends to combine the two parcels.
3. Currently, the surrounding land is zoned Residential Rural Estate and comprised primarily of residential uses, agricultural uses and open, undeveloped land.
4. The Campbell County Zoning Ordinance Article X, Section 10.1 classifies the area within the Residential Rural Estate Zone. Customary accessory structures are a permitted use within this zone.
5. The minimum setbacks for the R-RE zone are:

R-RE Zone

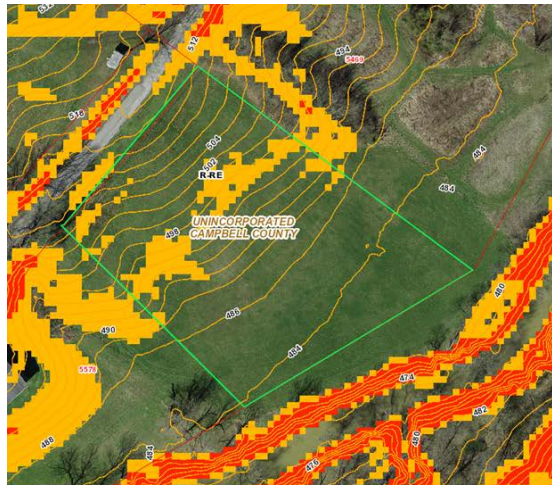
Description:

Regulations Require:

Applicant's Request:

Minimum Lot Area: One (1) acre

Minimum Lot Width:	One hundred (100) feet	
Minimum Front Yard Depth:	Fifty (50) feet	<i>Zero</i>
Minimum Side Yard Width:	Total - Twenty-five (25) feet One side – ten (10) feet	
Minimum Rear Yard Depth:	Twenty-five (25) feet	
Maximum Building Height:	Thirty-five (35) feet	



Topography and Slope

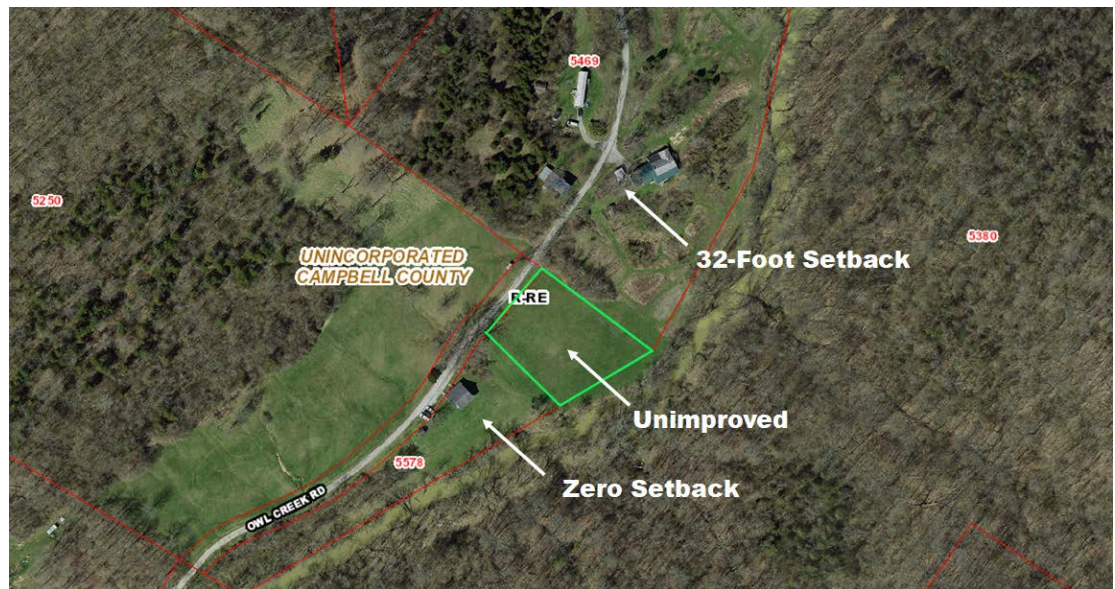


Flood Zones

6. A review of public records indicates the following:
 - a. No previous requests for a variance have been submitted for this site.
 - b. The dedicated public right-of-way on this parcel is twenty-five (25) feet from the center of the road.
7. The applicant has provided a site plan showing the proposed placement of the proposed pole building.



8. As per Section 9.13 Exceptions and Modifications, Paragraph C, item 2.: *In any residential zone, no front yard shall be required to exceed the average depth of existing front yards on the same side of the street within the same block, when fifty-one percent (51%) or more of lots within that block are improved with residential buildings, whichever is greater.*



- a. There are structures on the adjoining lots that can be included to calculate the average setback distance for this site in order to grant an administrative variance. However, the result of sixteen (16) feet average is greater than the applicants request of a zero setback for the pole barn. This variance cannot be approved at the staff level.
9. The proposed setback variance will not interfere with the line-of-sight for motorists on this section of Owl Creek Road. In addition to being a mostly straight stretch of road, the proposed building site is at a high point in the road.
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 September 30, 2021 edition of the Campbell County Recorder advertising applicant's request and the hearing to be held on October 19, 2021. All adjoining property owners were sent a legal notice via US Postal service.***
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.**

Supporting Information

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, 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 existing circumstances which do not generally apply to land in the general vicinity.
- b. That the manner in which the strict application of the provisions of the Zoning Ordinance would deprive the applicant of a reasonable use of the land or 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.
- 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.
- 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.

Staff Comments:

The requested variance does arise from special circumstances, related to topography, which exist 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.

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

The essential character of the neighborhood is agricultural and large-lot residential and this action is compatible with those uses.

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

Summary of Applicants Request:

The applicant is requesting a fifty (50) foot front yard variance due to topographical

conditions for the construction of an accessory structure and reducing the fifty (50) foot setback to zero.

Staff Recommendation:

To approve the applicant's request for a front yard variance of fifty (50) feet for a new pole barn with the following condition:

1. That the parcel be combined with the adjoining parcel owned by the applicant.

Basis for Recommendation

1. In accordance with Section 18.2 of 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 circumstance 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.

There was some discussion amongst the board and staff regarding draining in the area and possible alternate locations of the structure, as well as stream construction permit requirements.

Mr. Verst then called for members of the public who wished to speak. There being none, he concluded the public comment portion of the meeting.

The members of the board then discussed the distance of the building from the road center as well as the location of other buildings in the area and traffic in this location.

With no additional discussion Mr. Verst opened the floor for a motion.

Mr. Fessler made the motion to approve the request as recommended by staff. Ms. Hurley seconded the motion, a roll call vote found all in favor and the motion was approved.

With no additional discussion Mr. Verst called for a motion to adjourn.

Mr. Mike Williams made the motion, seconded by Ms. Hurley. An oral vote found all in favor and the meeting was adjourned at 7:05 PM.

Approved:

Cindy Minter
Director