

**CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT
MINUTES OF THE
July 18, 2023
MEETING**

MEMBERS PRESENT:

Mr. John Fessler, Presiding
Mr. Michael Williams
Mr. Hutch Johnson
Mr. Joseph Williams

MEMBERS ABSENT:

Mr. Justin Verst, Chair
Ms. Jessica Hurley

STAFF PRESENT:

Mr. Kirk Hunter, Principal Planner
Ms. Kaytlin Lake, Clerk

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

Mr. Fessler then asked for the approval of minutes from the April 18th, 2023 meeting. Mr. Johnson made the motion, and it was seconded by Mr. Michael Williams. The clerk called the roll again, and Mr. Michael Williams, Mr. Fessler, and Mr. Johnson voted in favor; Mr. Joseph Williams abstained. Motion was approved.

Mr. Fessler commented that there was no old business. He introduced the first case of the night as file number BA-23-011; the applicant was Highland Country Club on Blossom Lane in Southgate, KY, and the request was for a setback variance.

Mr. Hunter presented the staff report. Notice of the public hearing was published in the Kentucky Enquirer. Notice was also sent to adjoining and neighboring property owners.

STAFF REPORT:

Considerations: The applicant is requesting a side yard setback variance for the construction of materials storage area comprised of precast block walls.



Figure 1: 2023 Aerial - EagleView

The site is at one of two Blossom Lane frontages of the Highland Country Club Golf Course. The Golf course is approximately seventy-six (76) acres in size. It is located in the City of Southgate. Blossom lane is a County-maintained road. This site is located in the Residential One-E (R-1E) Zone.

The golf course is a conditional use in the zone. The use as materials storage is considered a *customary accessory use* to a golf course. The surrounding properties are exclusively single-family residential. Southgate's city boundary abuts both Fort Thomas and Unincorporated County municipal boundaries at this location. The residences directly across the street from this site on Brushwood Drive are within the City of Fort Thomas.

The Southgate Zoning Ordinance Article X, Section 10.1 classifies the area within the Residential-One E (R-1E) Zone with the following minimum setback distances:

Description:	R-1E Regulations Require:	Applicant's Request:
Minimum Lot Area:	22,500 square feet	
Minimum Lot Width:	150 feet	
Minimum Front Yard Depth:	50 feet	20 feet
Minimum Side Yard Width:	50 feet	
Minimum Rear Yard Depth:	50 feet	
Maximum Building Height:	35 feet	

The Development Controls for the R-1E Zone are as follows:

1. Off-street parking and loading and unloading shall be provided in accordance with Articles XI and XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, road, highway, deeded right-of-way or into any adjacent property.
4. Where any yard of any conditional use permitted in this zone abuts property in a single-family zone, a ten (10) foot wide screening area as regulated by Section 9.17 of this ordinance shall be required.

A review of public records finds that no previous requests for a variance have been submitted for this site.

The applicant has provided a site plan showing the placement of the proposed materials storage area to be approximately twenty (20) feet from the property line.

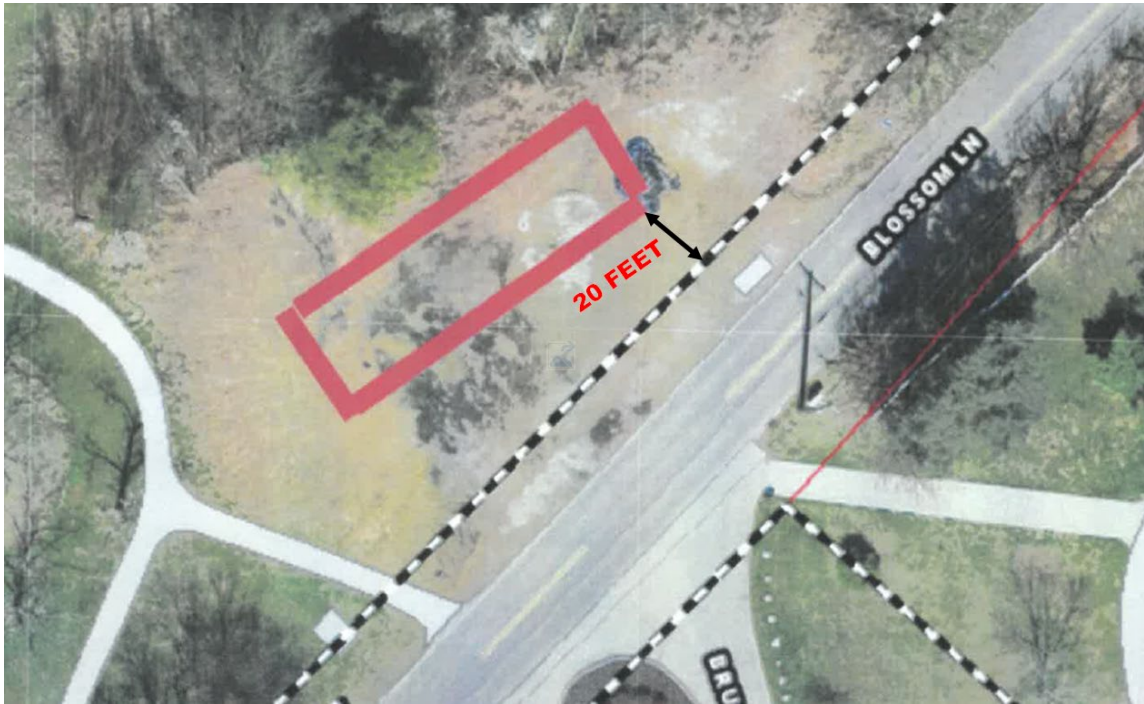


Figure 2: LinkGIS

The yard slopes down considerably at the site, preventing the facility to be located further back.

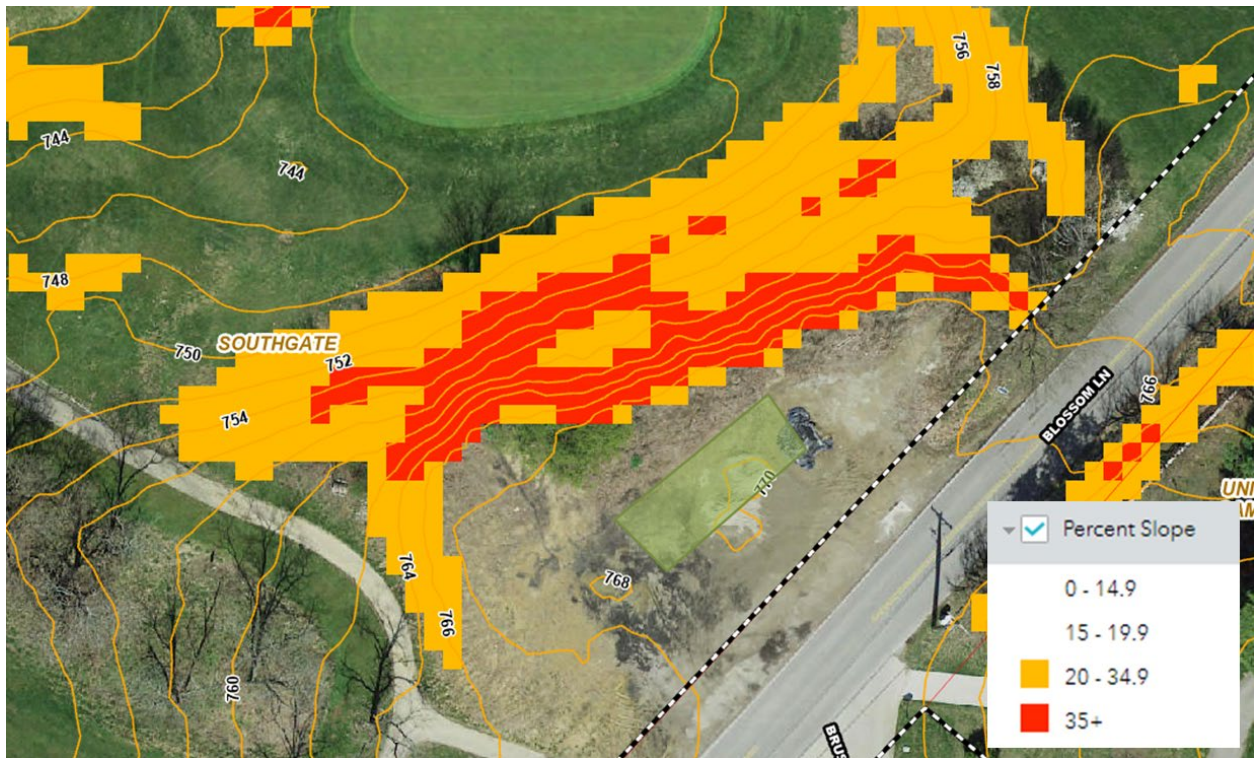


Figure 3: LinkGIS

The applicant has provided this image of the type proposed storage bins that would be placed at the site:



Figure 4: Photo Provided by Applicant

The Development Controls for the R-1E zone require outdoor storage of any material only within enclosed containers. They also require a ten-foot wide screening area. See appendix for screening area requirements.



Figure 5: December 2006 Aerial – EagleView

The site has been used continuously for many years as a storage and staging area for materials used on the golf course. The use predates the construction of the Ft. Thomas Overlook Subdivision and Brushwood Drive.

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

1 nuisance to the public. Such variance shall not be granted by the Board of Adjustment
2 unless and until it can determine that:

- 3 a. That the requested variance arises from special existing circumstances which do
4 not generally apply to land in the general vicinity;
- 5 b. That the manner in which the strict application of the provisions of the Zoning
6 Ordinance would deprive the applicant of a reasonable use of the land or would
7 create an unnecessary hardship on the applicant;
- 8 c. That the circumstances are the result of actions of the applicant taken
9 subsequent to the adoption of the zoning regulation from which relief is sought;
- 10 d. Reasons that the variance will not allow unreasonable circumstance of the
11 requirements of the zoning regulations and will not alter the essential character of
12 the neighborhood;
- 13 e. That granting the variance requested will not confer on the applicant any special
14 privilege that is not conferred by this ordinance to other lands, structures or
15 buildings in the same zone;

16 **Applicant Comments:**

17 *"Highland Country Club is looking to install a concrete pad with precast concrete wall*
18 *blocks for our bulk material storage. This will be located on Highland property at the*
19 *intersection of Blossom Lane and Brushwood Drive.*

20 *We are currently using this area for our sand, mulch, gravel storage but we are looking*
21 *to improve the aesthetics of the area along with reducing waste from contamination.*
22 *Attached with this statement will be pictures of what the area looks like now, overhead*
23 *picture of where the concrete pad would be located, drawing of the dimensions and a*
24 *picture of a similar material storage taken at Bzak landscaping.*

25 *It should be noted that Highland Country Club is not the only beneficiary of this. Often*
26 *the sanitation district, road department and landscapers servicing the brushwood and*
27 *fairway crossings subdivisions use this area to stage equipment and materials. We have*
28 *also seen Riegler asphalt using this lot to install curbing along Blossom Lane,*
29 *homeowners having seamless gutters rolled out and contractors working in the*
30 *neighborhood using it for parking instead of parking along the streets. Highland Country*
31 *Club has never had an issue with this shared usage. In fact, we are happy to help. It is a*
32 *good location for these types of things and makes sense for everyone.*

33 *By building a concrete pad we will be able to maintain the area in a neater fashion for*
34 *ourselves and the Blossom Lane residents. It will also create more room for our*
35 *neighbors that would like to use it without getting in our way or contaminating our*
36 *materials.*

37 *Those familiar with the neighborhood will remember that several years ago we removed*
38 *the old chain link fence and brush that ran down blossom lane. Then we had a 1000-*
39 *yard PVC white fence installed. This was a great improvement for both the country club*
40 *and the neighborhood. Now you get a nice golf course view driving down Blossom Lane*
41 *and it is well kept with regular mowing and tree maintenance. I hope you would consider*

1 *the money we have invested in improving the road when looking into this zoning. We are*
2 *trying to continue to improve by reworking our bulk storage area and making it more*
3 *accessible to the rest of the neighborhood and maintenance departments.”*

4 **Staff Comments:**

- 5 • The use as a materials storage area has been in place continually for more than a
6 decade. The open storage of materials at this location is a pre-existing non-
7 conforming use. The requested variance is an expansion of the use, but also
8 includes accessory structures that have not previously been in place. The
9 proposed structures would provide partially enclosed storage of the materials, an
10 improvement over the existing situation.
- 11 • The requested variance does arise from special circumstances, due to topography,
12 which exist and do not generally apply to land in the general vicinity or in the same
13 zone. The topography of the lot drops off significantly beyond this location,
14 precluding the placement out of the minimum setback distance.
- 15 • The application of the provisions of this Ordinance would create unnecessary
16 hardship on the applicant.
- 17 • The applicant is requesting this variance subsequent to the approval of these
18 regulations.
- 19 • The essential character of the neighborhood is single-family residential and active
20 recreational and this action is compatible with those uses.
- 21 • This variance would not be granting the applicant a special privilege.

22 **Summary of Applicant's Request:**

23 The applicant is requesting a thirty-foot variance for the construction of a materials
24 storage facility and reducing the fifty (50) foot setback to approximately twenty (20) feet.

- 25 1. Per Section 18.6, A., 2., Notice: Notice of public hearing was given in accordance with
26 Section 18.2 of the Campbell County Zoning Ordinance. ***A legal notice appeared in***
27 ***the Kentucky Enquirer advertising applicant's request and the hearing to be held***
28 ***on July 18, 2023. All adjoining property owners were sent a legal notice via US***
29 ***Postal service.***
- 30 2. According to Section 18.6, A., 4., the Board of Adjustment must find that the granting
31 of the variance will be in harmony with the general purpose and intent of the Ordinance
32 as well as the adopted Comprehensive Plan, and will not be injurious to the
33 neighborhood, or otherwise, detrimental to the public welfare. **The use of the**
34 **property is consistent with the adopted 2008 Comprehensive Plan.**

35 **Staff Recommendation:**

36 To approve the applicant's request for a front yard variance of thirty (30) feet for a
37 materials storage facility. With the following conditions:

- 38 1. The facility be screened with at least a ten (10) foot wide screening area as

regulated by Section 9.17 of the zoning ordinance.

2. The entrance to the facility shall not be aligned with the intersection of Brushwood Drive.

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 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.

As Mr. Hunter concluded the staff report, Mr. Fessler asked if there were any questions from the Board.

Mr. Michael Williams requested clarification on the Southgate Zoning Regulations Section 10.1 regarding "accessory uses." He asked if this request would be considered a customary accessory use for a golf course, and Mr. Hunter responded in the affirmative.

1 Mr. Michael Williams then requested the Board review the photo shown in Figure 4 of the
2 staff report asking if this is how the storage would look from the road.

3
4 Mr. Jeff Brenneman, applicant and Golf Course Superintendent of the Highland Country
5 Club, interjected from the audience and said that he brought better photos with him to the
6 meeting (see Exhibit A). Mr. Brenneman explained that the picture in Figure 4 is an
7 example from Coldstream [Country Club] in Anderson Township along Asbury Road, and
8 what the Highland Country Club was interested in were the pre-cast concrete blocks.



9
10 As Exhibit A was passed around to the board members, Mr. Michael Williams asked again
11 if this is what the storage would look like from the road. Mr. Brenneman said yes.

12
13 Mr. Michael Williams asked if these storage bins were supposed to be enclosed. Mr.
14 Hunter said they are, and that issue is part of the variance request. At Coldstream, they
15 have screening along Asbury Road with a fence and trees. Mr. Hunter said that as of right
16 now, [Highland Country Club] has completely open storage which was grandfathered in
17 that way; with this project, they would at least be partially enclosing the material storage.
18 Mr. Hunter said that complaints are received about how the area looks, mostly from
19 neighbors across the street. Staff feels that adding the condition of screening would
20 improve the aesthetics of the area.
21

1 Mr. Johnson asked if these complaints alluded to by Mr. Hunter were formal complaints
2 in response to the legal advertisement. Mr. Hunter said no, he has no record of the
3 complaints – it is just “chatter” and also comes from talking to county administration
4 including Judge/Executive Steve Pendery and County Administrator Matt Elberfeld. The
5 idea was to compromise on the screening requirement since there are steps being made
6 to improve the area despite being grandfathered in as is. Mr. Hunter also spoke with the
7 supervisor of the County Road Department on the matter, and the supervisor had no
8 preference as to where the maintenance area entrance was. However, for the sake of the
9 neighbors and the aesthetic of the area, the plan was to move the entrance off center of
10 Brushwood Drive.

11
12 Mr. Johnson asked how wide the screening was recommended to be. Mr. Hunter said it
13 would essentially be to screen the use, and the details could be negotiated by the Board.
14 Mr. Hunter said the primary issue is the setback variance for now.

15
16 Mr. Michael Williams asked to review the aerial photograph of the site (Figure 5). He asked
17 if this piece of the property adjoins any residential property. Mr. Hunter said no, the only
18 residential property would be across the roadway. There was some discussion about the
19 nearby properties in relation to the maintenance area. Mr. Hunter asked Mr. Brenneman
20 how far he thought the houses were from this area, and Mr. Brenneman estimated about
21 100 yards to the first house which is also the newest house.

22
23 Mr. Joseph Williams asked to confirm that staff was not specifying whether the screening
24 had to be fence or landscaping. Mr. Hunter said he would recommend using the Zoning
25 Ordinance as a guide on what type of screening was required, specifically Section 9.17
26 [of the Southgate Zoning Ordinance].

27
28 Mr. Fessler asked for the applicant to be officially read into the record, and Mr. Brenneman
29 approached the podium. Mr. Brenneman said that one problem he had with the screening
30 requirement was that he regularly has 18-wheelers that come to dump materials.
31 Therefore, he has to be careful where he puts up a fence or trees in order to allow these
32 trucks room to unload.

33
34 Mr. Brenneman also referenced the aforementioned complaints by community members
35 saying that Southgate’s Code Enforcement officer had been contacted several times
36 through the years by a neighbor across the street complaining of materials being dumped
37 there and tall grass as a code violation. Mr. Brenneman said that part of the problem with
38 maintaining the grass is the issue of his material being on the ground. This project would
39 contain his materials and reduce contamination (like dirt, gravel, and grass getting into his
40 sand) by getting it off the ground and into these concrete bins, thereby reducing waste
41 being pushed over the hill. He admitted that the area looks “awful” in its present state.

42
43 Mr. Brenneman said that he has asked the Highland Country Club to fund this
44 maintenance project for close to 15 years, and he has only now been approved with a
45 budget of \$20,000 - \$25,000 which is the estimated cost of the concrete alone. If he has

1 to put up a \$10,000 fence per the screening ordinance, he may not be able to complete
2 the project at all.

3
4 Mr. Brenneman asked what the alternative would be if he was denied this variance request
5 because he would basically have to continue as is since it is grandfathered in that way,
6 and no improvement would be made to the site.

7
8 Mr. Brenneman talked about the history of the area saying that the land the Brushwood
9 neighborhood is built on used to be owned by the country club. It is there that materials
10 used to be stored, and it was out of sight for everyone. Since the property was sold,
11 however, this maintenance area in reference has been used more extensively than before.

12
13 Mr. Brenneman said that the country club's board only approved three bins from a cost
14 perspective, but he would really need four in order to store all of his materials. He warned
15 that the problem will most likely not be resolved completely by this project, but it is a good
16 start.

17
18 Mr. Michael Williams asked Mr. Brenneman how much space there would be in that area
19 to maneuver machinery/equipment if he was asked to put up a fence or other type of
20 screening. Mr. Brenneman said he had more than enough room for his use because the
21 tractors and turf trucks that he uses are relatively small. The only concern would be the
22 semi-trucks that deliver materials. Mr. Brenneman clarified that right now, the semi-trucks
23 have no problem getting in and out; he just worries that there could be a potential issue
24 in the event of a screening requirement.

25
26 Mr. Fessler asked if the semi-trucks go in one end and out the other. Mr. Brenneman
27 responded that the area is flat, and the drivers can pull past the area on Blossom Lane,
28 back in, dump, and then turn back out onto the road.

29
30 Mr. Michael Williams said that he is familiar with the area, and he isn't sure how there
31 would be room for these tractor-trailer deliveries with screening in place. He also added
32 that they wouldn't be able to move the area further back because it abuts a hill.

33
34 Mr. Brenneman said that it would be difficult. He and Mr. Hunter had discussed the idea
35 of a sliding gate, but it would probably be more expensive.

36
37 Mr. Brenneman emphasized how often the lot is used by the community, and he views
38 this as a nice perk for that area.

39
40 Mr. Michael Williams pointed out that the published legal notice was only for a setback
41 variance, and it did not include language about screening.

42
43 Mr. Fessler said that basically, the only thing that would be within the scope of the notice
44 would be a concrete pad. Mr. Brenneman added that it would also include the three pre-
45 cast blocks.

1 Mr. Brenneman said he could play with the margins and try to make compromises, but to
2 accomplish his goals, he would need the setback dimensions requested.

3
4 Mr. Michael Williams again asked if there would be enough room for these semi-trucks to
5 do what they need to do with a screening requirement in place, even if the project was
6 moved back 10-20 feet. Mr. Brenneman said he did not think so.

7
8 Mr. Brenneman proposed doors being placed on the storage bins, but he was not sure
9 what the details would look like in that case such as what they would be made of, etc.

10
11 Mr. Fessler doubted the doors on the bins would hold up over time.

12
13 Mr. Brenneman conceded that the screening requirement would prove difficult to make
14 work. He said that his intent is to clean the area up and that they have already done a lot
15 to clean up Blossom Lane.

16
17 Mr. Michael Williams said that he thinks the Board understands what is being proposed,
18 but this issue is that legal counsel is not present, so he isn't sure how much legal leeway
19 they have on the matter. The regulation requires screening.

20
21 Mr. Johnson asked if the 30-foot setback is to the front of the proposed bins. Mr. Hunter
22 said yes. Mr. Johnson asked if the screening could essentially go right up against the
23 easement line forward of the setback. Mr. Hunter said yes.

24
25 Mr. Fessler asked how far the right-of-way was from the road. Mr. Hunter said that it is a
26 50-foot right-of-way. Mr. Brenneman estimated that the closest he could get to the road
27 would be 15 feet.

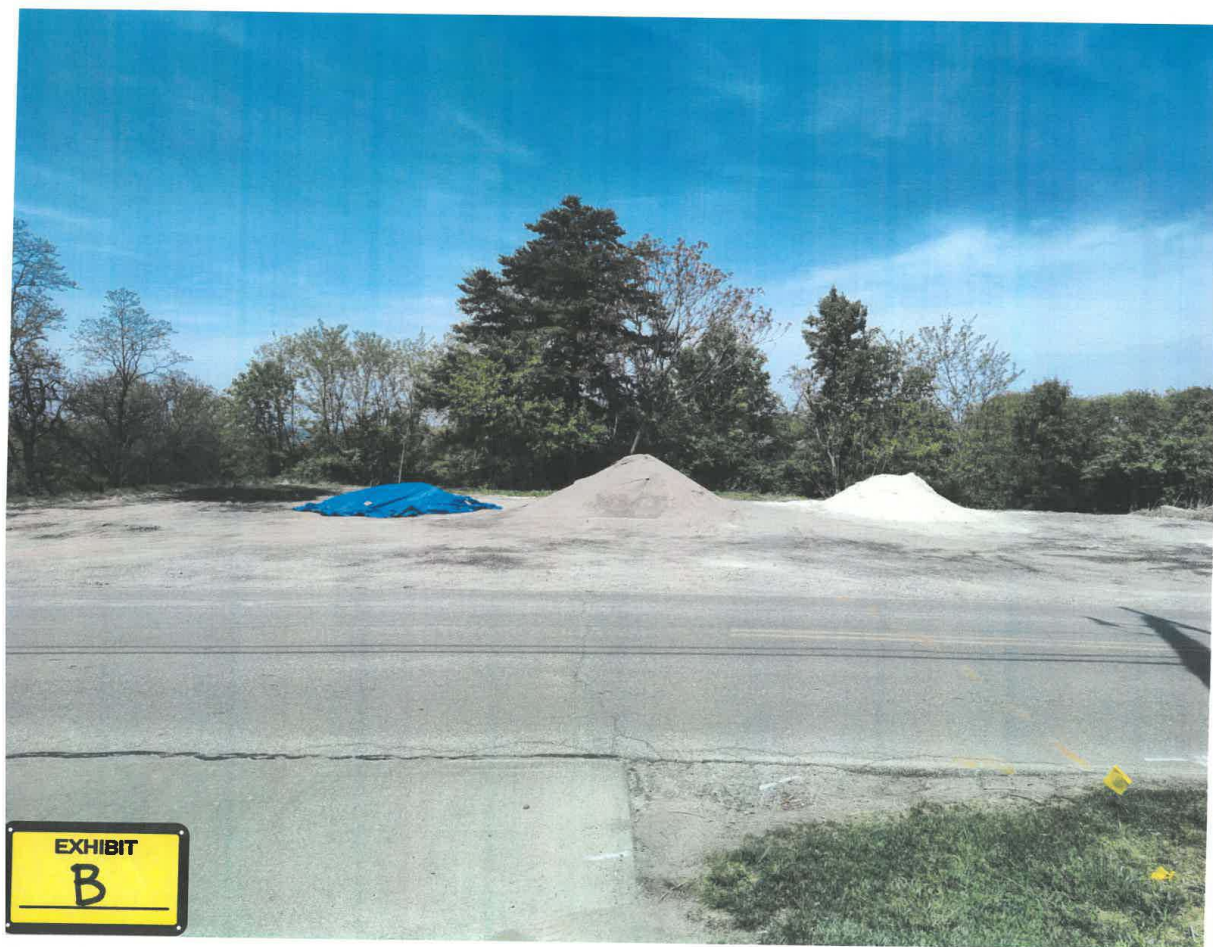
28
29 Mr. Michael Williams asked if the bins would be 20 feet back. Mr. Brenneman said that he
30 was out measuring again, and 25 feet is about as far back as he could set them from the
31 road.

32
33 Mr. Michael Williams said he was mistaken in thinking that the screening had to start 20
34 feet back, but that in reality, the screening would be closer to the right-of-way.

35
36 Mr. Johnson asked if they could negotiate screening to be young planted trees, would
37 that be doable. Mr. Brenneman said that without consulting a semi-truck driver, he has a
38 hard time saying how much room they would really need to maneuver.

39
40 Mr. Johnson asked if the semi-trucks usually just dump the materials in one spot and then
41 a Bobcat or similar type of machinery moves it into the bins. Mr. Brenneman said that he
42 would like for the drivers to be able to dump the materials right into the bins because the
43 moving of material is what causes contamination.

44
45 Mr. Brenneman then provided a second picture from last week showing the three piles of
46 materials, and he said that is a pretty average day's storage.



1
2 Mr. Fessler asked if it would help to put two screens parallel to the road, but Mr.
3 Brenneman replied that the semi-truck drivers would have the same issue.

4
5 Mr. Michael Williams said it seemed like the Board was leaning in favor of the idea
6 proposed, however, a decision could not be made without dimensions and screening
7 details being provided. He proposed they continue the hearing.

8
9 Mr. Hunter agreed that they needed to consult legal counsel on the matter in order to try
10 and negotiate the screening requirement, and they needed to publish a new legal notice
11 to include language about screening.

12
13 Mr. Brenneman asked if the concrete blocks constituted a structure because they could
14 be picked up and moved. Mr. Hunter said he thinks they would be considered a structure
15 and that it would be a slippery slope to interpret it otherwise.

16
17 Mr. Fessler said it might be helpful if the applicant could draw up dimensions for all of it.

18
19 Mr. Hunter said that when Mr. Brenneman applied, the details of the project were unclear,
20 but now they might be able to adjust their request accordingly.
21

1 Mr. Brenneman said he would be happy to come back with dimensions and perhaps talk
2 to a semi-truck driver in the meantime in regards to space needed for deliveries.

3
4 Mr. Johnson said it may be more feasible if they split the bins up as well.

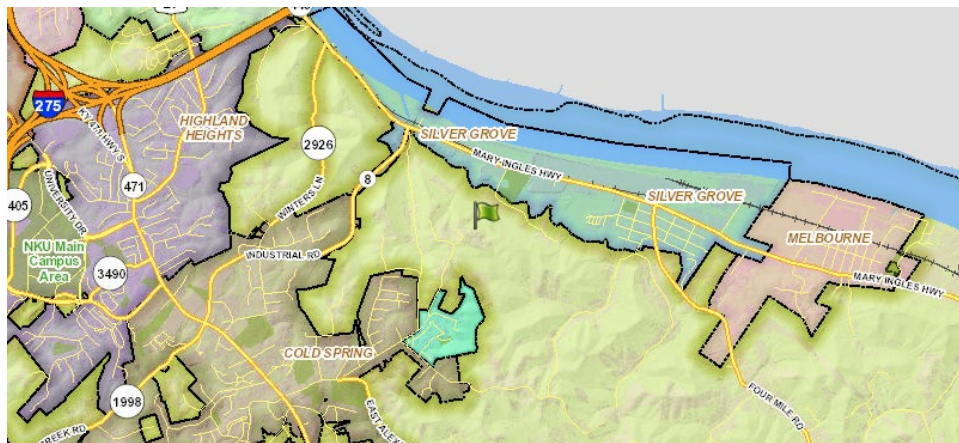
5
6 Mr. Michael Williams noted that the aerials make the maintenance area look bigger than
7 it really is, and Mr. Brenneman agreed.

8
9 Mr. Michael Williams made a motion to continue the case to the next meeting. Mr. Joseph
10 Williams seconded the motion. Mr. Fessler asked for all in favor. No opposition. Case
11 continued.

12
13 Mr. Fessler introduced the next case as BA-23-012; the applicant was Tim Burks Builders
14 Inc., and the location is 5056 Bella Vista Drive. The request was a front yard setback
15 variance of 10 feet due to site topography.

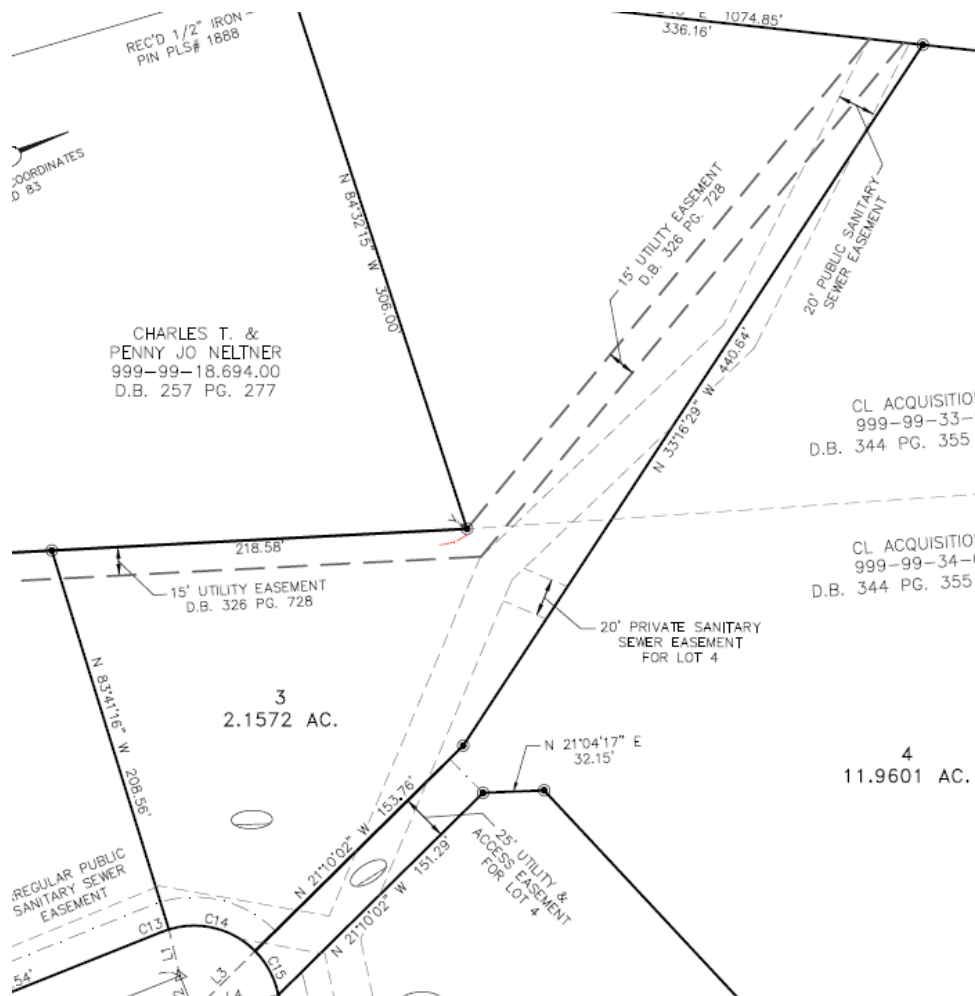
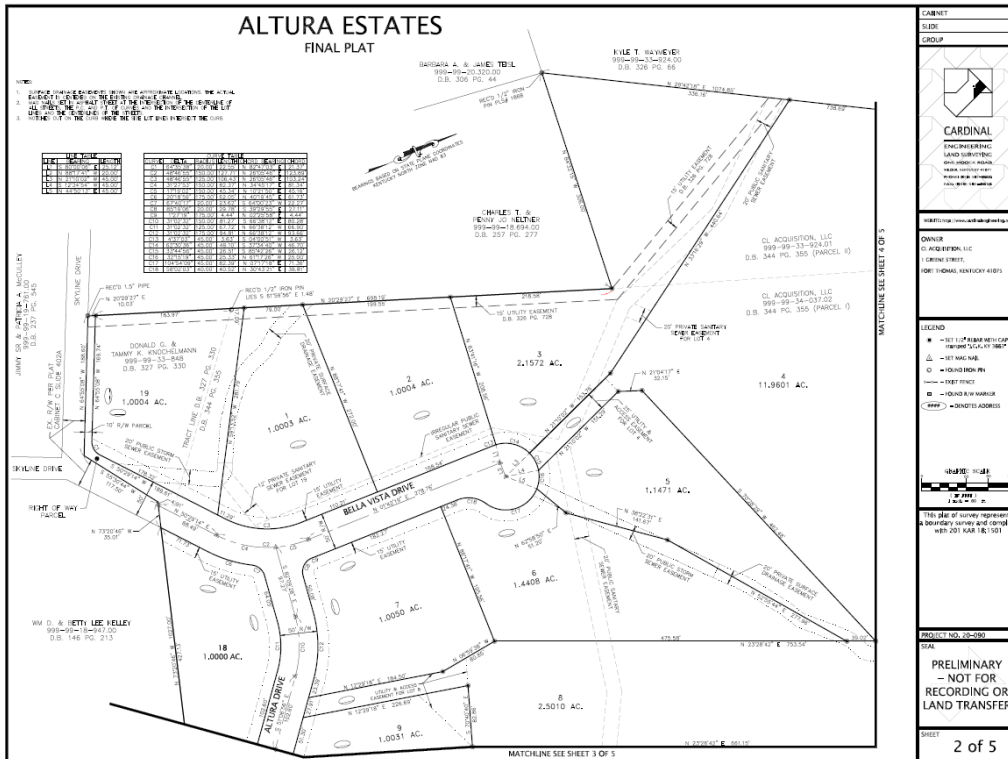
16
17 Mr. Hunter gave the staff report. Notice of the public hearing was published in the
18 Kentucky Enquirer. Notice was also sent to adjoining and neighboring property owners.

19
20 **STAFF REPORT:**



22
23
24 **Background:**

25 Stage 1 plans for the development of this area into 19 lots were approved in 2020. The site is lot 3 of
26 that development. The location is the site of the former Campbell Lodge.



Considerations:

The applicant is requesting a front yard setback variance for the construction of a new single-family house.

1. The site is approximately two (2) acres in area. It is located in unincorporated Campbell County on the site of the former Campbell Lodge on Skyline Drive. 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 parcel is lot 3 of the Altura Estates Subdivision.
3. Currently, the surrounding land is zoned Residential Rural Estate (R-RE).
4. The Campbell County Zoning Ordinance Article X, Section 10.2 classifies the area within the Residential Rural Estate (R-RE) Zone.
5. The minimum setbacks for the R-RE zone are:

Description:	R-RE Zone 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>Ten (10) Feet</i>
Minimum Side Yard Width:	One Side: Ten (10) Feet Total Both Sides: Twenty Five (25) Feet	
Minimum Rear Yard Depth:	Twenty-Five (25) feet	
Maximum Building Height:	Thirty-five (35) feet	

6. A review of public records indicates the following:
 - a. The lot was previously home to the Campbell Lodge. As such, it was permitted by Conditional Use Permit. The Conditional Use Permit was originally issued in 1980 and subsequently updated in 2007 when a setback variance was granted for an expansion.
 - b. There have been two similar requests within this subdivision.
 - i. In September, 2021 a setback variance was approved by the Board of Adjustments for 5161 Skyline Drive.
 - ii. In July of 2022 a waiver of subdivision regulations was approved by staff for 5050 Bella Vista Drive.
7. The proposed setback variance will not interfere with the line-of-sight for motorists.
8. The submitted site plan shows the proposed house in relation to the contour lines.

[illegible]

3



10. Notice of public hearing was given in accordance with the Campbell County Zoning Ordinance and Kentucky Revised Statutes (KRS). *A legal notice appears in the June 23, 2023 edition of the Kentucky Enquirer advertising applicant's request and the hearing to be held on July 18, 2023.*

11. 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 (10) foot front yard setback variance for the construction of a house, reducing the fifty (50) foot setback to forty (40) feet.

Staff Comments:

- The use of the property is consistent with the adopted 2008 Comprehensive Plan.
- 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.
- The applicant is requesting this variance subsequent to the approval of these regulations.
- The essential character of the neighborhood is lower-density single-family residential and this action is compatible with those uses.
- This variance would not be granting the applicant a special privilege.

Staff Recommendation:

To approve the applicant's request for a side yard variance of ten (10) feet for a house.

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.

Mr. Hunter noted a typo in the staff report originally given to the board members prior to the meeting which was corrected in the presentation. The applicant is requesting a 10-foot variance in order to have a 40-foot setback.

Mr. Michael Williams asked to review the “special circumstances” mentioned in the Staff Comments section of the staff report. Mr. Hunter clarified that the requested variance does arise from special circumstances which exist due to topography. Mr. Michael Williams asked to review the topography, and Mr. Hunter brought back the contour map. Mr. Hunter said there are steep slopes in excess of 20% on the majority of the site.

Mr. Michael Williams asked to clarify that the “excessive hardship” would be the fact that the applicant would have to build on the steep slopes which would be more expensive and perhaps impossible. Mr. Hunter confirmed.

Mr. Johnson asked to confirm that it was a 10-foot variance. Mr. Hunter confirmed saying that right now, the minimum setback is 50 feet, and they want to go to 40 feet.

Mr. Michael Williams asked if this was the first variance request from this applicant. Mr. Hunter said that it was the first variance request for this site, not from this applicant.

Mr. Fessler asked if the applicant would like to come forward.

Mr. Tim Burks introduced himself and noted that the setback request is really only for one section of the property, and that much of the house will be behind the 50-foot setback. He said that it is all about the view up there. He reiterated that it would cost more money to build the house back further.

Mr. Johnson asked if there were any specific objections submitted for this request, and Mr. Hunter said no, there were no submitted objections from the neighbors and no community members in attendance at the meeting.

1 Mr. Fessler asked if there was an existing house on either side of the property. Mr. Burks
2 said there will be one on the left who is working with him, and the one on the right is back
3 on a flag lot.

4
5 Mr. Hunter began to read Mr. Justin Verst's comments which were submitted prior to the
6 meeting since he was absent.

7
8 The first question was "The minimum lot width of 100' is measured at the building setback
9 line. Since that is a cul-de-sac lot, by allowing a reduced front yard setback, would we
10 effectively also be allowing a reduced lot width?"

11
12 Mr. Hunter disagreed with this saying that by asking for a front yard setback variance,
13 they are not moving the front yard line. They are just putting the house further into the
14 front yard (closer to the front yard line). Mr. Joseph Williams speculated that maybe Mr.
15 Verst was asking if it would affect the side yard setbacks if you brought the house forward,
16 but Mr. Joseph Williams and Mr. Fessler did not feel that applied to this case because the
17 lot was not changing.

18
19 Mr. Hunter continued with the second of Mr. Verst's comments: "That lot 3 was created
20 with the topography that is currently there. The topography has not changed. The
21 developer of the subdivision must have thought you could build a house on lot 3 when
22 they platted that lot."

23
24 Mr. Burks said that you can certainly build a house on the lot with enough money.

25
26 Mr. Hunter read the third comment: "That hand drawn house sketch is a bit rough, but
27 looks to me like there is still enough topography left on the right side of that lot that they
28 could rotate the house counterclockwise a bit and get the house out of the setback. I am
29 guessing they are trying to stick the house into the setback so they can preserve some
30 extra level space for a pool or yard. The sketch looks like a custom house, which is
31 typically designed to fit the lot, not vice versa."

32
33 Mr. Burks said that they are more concerned with preserving the view. Mr. Hunter asked
34 if the view was part of the value of the home and if limiting the view would create financial
35 hardship. Mr. Burks said he knows what the buyers are paying for the lot, and that the
36 same lot without the view would not be worth the same amount of money.

37
38 Mr. Hunter read the last two comments:

- 39
- 40 • *Since this is a cul-de-sac lot, maybe the house being rotated like that and pulled*
41 *forward might look ok and fit the rest of the neighborhood. If this were in the middle*
42 *of the block, it would look out of place, but this might look ok.*
 - 43 • *I don't see any public safety issues here or a real negative impact with the setback*
44 *reduction that they are proposing, so I guess if someone can come up with a*
45 *compelling argument / justification for what this variance is needed, I wouldn't see*
46 *it causing a problem.*

1
2 Mr. Johnson commented that the side yard width is within the minimum 12.5 feet on both
3 sides. Mr. Hunter said that technically, it can be as low as 10 feet on one side if it is 15ft
4 on the other (25 feet collectively).

5
6 Mr. Michael Williams asked how the applicant would be denied reasonable use of the
7 property without the variance request being approved. Mr. Hunter said he thinks part of
8 the reasonable use of the lot is the high value, and that the position of the house is
9 intended to maximize the value of the space with minimal impact on the rest of the
10 neighborhood. Mr. Hunter said reducing the value of the property may speak more to the
11 hardship on the applicant, and he acknowledged the gray area. The special circumstance
12 is still the topography and how the topography determined the entire subdivision, he said.
13 Mr. Hunter said the lot is not a conventional shape, and is almost useless without a house.
14 The topography dictated the lot divisions and now dictates the design choices and how
15 to maximize the value and view on each lot.

16
17 Mr. Michael Williams moved to grant the applicant's request, and Mr. Johnson seconded
18 the motion. The clerk called the roll and all members present voted in favor. None
19 opposed. Motion passes and variance is approved.

20
21 Mr. Fessler asked if there was an administrator's report, and Mr. Hunter said no.
22 Scheduling of the next meeting was discussed.

23
24 Mr. Michael Williams moved to adjourn the meeting. Mr. Joseph Williams seconded the
25 motion. The meeting was officially adjourned at 7:41 PM.

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33
34
35 Respectfully Submitted,

Approved:

36
37
38 _____
39 Cindy Minter
40 Director

John Fessler
Temporary Presiding Officer