

**CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT
MINUTES OF THE APRIL 17, 2012 MEETING**

MEMBERS PRESENT:

Mr. Scott Bachmann
Ms. Connie Schweitzer
Mr. Joseph Williams
Mr. Michael Williams
Mr. Roger Mason, TPO
Mr. Dave Schaber, Vice Chair
Mr. Justin Verst, Chair

STAFF PRESENT:

Mr. Peter Klear, AICP, 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. Mr. Verst asked if everyone had read the March 20, 2012 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. Williams seconded the motion. A roll call vote found Mr. Bachmann, Mr. J. Williams, Mr. M. Williams, Mr. Mason and Mr. Schaber in favor. Ms. Schweitzer and Mr. Verst abstained. Motion passed.

Mr. Verst introduced case #BA-02-12, by applicant Bayer Becker on behalf of the Congregation of Divine Providence for St. Anne's Convent, with a request for an expansion of a conditional use to allow for the construction of an additional administrative office and gathering space. Mr. Hutchinson presented the staff report as follows:

CASE:	BA-02-12
APPLICANT:	Bayer Becker on behalf of the Congregation of Divine Providence (St Anne's Convent)
LOCATION:	1000 Mary Ingles Highway, Melbourne Kentucky.
REQUEST:	An expansion of a conditional use to allow for the construction of an approximate 6,200 SQ. FT. free standing building for additional administrative office and gathering space.

Staff has reviewed the request and finds as follows:

DESCRIPTION OF REQUEST:

The applicant is asking to expand a conditional use to allow for the construction of an approximate 6,200 SQ. FT. free standing building for additional administrative office and gathering space.

CONSIDERATIONS:

1. This site is occupied by St Anne's Convent and fronts Mary Ingles Highway. The land uses surrounding the property to the east, west and south is residential and vacant land.
2. The site is located within the City of Melbourne.
3. The Recommended Land Use Map of the 2008 Campbell County Comprehensive Plan identifies the site and surrounding areas for Village Mixed Use.

4. The property is currently zoned Residential 1A (R-1A). The minimum area and height regulations for conditionally permitted uses are:
 - Minimum lot size 1 ac
 - Minimum lot width 100 ft.
 - Minimum front yard 50 feet
 - Minimum side yard 25 ft.
 - Minimum rear yard 25 ft.
 - Minimum building height 35 ft.
5. A review of the public records indicates there have been no previous conditional use or variances granted by the Board of Adjustment for this site in Melbourne.
6. The submitted drawings indicate the following:
 - a. The site plan shows the proposed building to be 6,152 sq. ft.
 - b. The site plan shows the new building to be directly east of the existing Holy Family Building.
 - c. The site plan shows new concrete sidewalks being extended from the north parking area.
 - d. The site plan shows additional driveway / parking area being extended from the main driveway.
 - e. The proposed parking design does not meet the minimum size requirements of the Zoning Ordinance (10' x 20' feet).
 - f. The parking requirements for the auditorium / assembly hall require 33 spaces. The number of spaces required for the offices are 3. A total of 36 parking spaces are required for this proposed building.
 - g. The proposed height of the building is 1 story or 25' feet.
 - h. The plans do contain proper erosion control measures.
 - i. The site plan shows four trees to be removed.
 - j. The site plan shows an existing underground utility tunnel.
 - k. The site plan shows an existing gas line that needs to be relocated due to the placement of the proposed building.
 - l. The site plan does not show a loading and unloading space.
 - m. The site plan does not show any exterior lighting.
 - n. The site plan does not show any signage.
 - o. The notations included in the drawings need to be updated to reflect the regulations for Melbourne NOT Boone County.

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 site is currently zoned R-1A, and the proposed use will be office space and gathering space for the proposed building addition which will not be a change from the existing use on the property. The Congregation of Divine Providence is in the process of planning for the future of the overall campus and property. The proposed Saint Anne Province Center building addition to the existing Holy Family building will shift personnel from the existing St. Anne Convent building to allow for more efficient organization and operation of the

community. The proposed assembly / gathering area in the building addition will be more centrally located and better serve residents in the existing Holy Family building. The gathering area is consolidating various spaces in the existing St. Anne Convent building into one more efficient and economical space to maintain in the proposed Saint Anne Province Center building addition. The Congregation of Divine Providence has in the past (since 1919) and continues to contribute to the surrounding neighborhood and overall community. Numerous members of the congregation live out in the community."

- b. That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

"The proposed building addition and use will improve the quality of service of the individuals living in the existing Holy Family building and the larger congregation. The proposed use of the office space and gathering space will provide a modern efficient space which will not be detrimental to the health, safety, or general welfare of the persons residing or working in the vicinity, or injurious to property or improvements in the vicinity. The use is not different than the existing use that currently occurs on the property. The building addition provides a more effective space for the congregation as they continue to plan for the future."

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

"The proposed use in the proposed building addition will comply with the regulations and conditions outlined in the zoning ordinance. The proposed use will not impair the integrity and character of the existing zone or adjoining zones"

- 2. Per Section 18.6, A., 2., Notice: Notice of public hearing was given in accordance with Section 18.2 of the City of Melbourne Zoning Ordinance.

STAFF RECOMMENDATIONS:

To approve the conditional use permit for the construction of a 6,152 sq. ft. office / gathering space subject to the following conditions:

- 1. That any outside lighting be reviewed and approved by staff.
- 2. That any signage be reviewed and approved by staff.
- 3. That a building permit needs to be submitted and approved by staff prior to construction.
- 4. That the proposed parking spaces meet the minimum size requirements of the City of Melbourne Zoning Ordinance.
- 5. That the required parking for existing and proposed facilities be met prior to approval of the certificate of occupancy on the building.
- 6. That the site plan be revised to include a 12' x 60' foot loading and unloading area, per the City Melbourne Zoning Ordinance.

BASES FOR STAFF RECOMMENDATION:

- 1. Based on the information above, staff finds that the proposed expansion will contribute to the general well being of the neighborhood and community. Further, staff finds that the proposed expansion will not be detrimental to the health, safety, or general welfare of the persons residing or working in the vicinity, or injurious to the property or improvements in the vicinity. Last, the applicant has indicated that they will comply with the regulations of the Melbourne Zoning Ordinance.

2. Melbourne Zoning Ordinance Section 14.1.B. General rules, regulations and limitations: No sign shall be erected, maintained or continued unless it is in full compliance with the regulations for the zone in which it is located...
3. Section 10.1.F.3. Other development controls: 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. Section 11.1, BB. Specific off street parking requirements: Theaters, auditoriums, One (1) parking space for each four (4) seats based on a maximum seating capacity, plus one (1) additional space for each two (2) employees on shift of largest employment.
5. Section 12.1. Off street loading & unloading use and bulk regulations: Off-street loading and/or unloading facilities shall be provided in accordance with the following regulations.

A. Spaces Required: Every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehousing, department stores, wholesale stores, retail stores, market, hotel, hospital, laundry, dry cleaning, dairy, mortuary and other uses similarly involving the receipt or distribution of vehicles, materials, or merchandise and having up to 5,000 square feet of gross floor area shall be provided with at least one loading and/or unloading space. One additional loading and/or unloading space shall be provided for every additional 10,000 square feet, or fraction thereof, of gross floor area in the building. If sufficient proof can be shown that less than these requirements (only that part which has to do with over five thousand (5,000) square feet) will be satisfactory for the operation in question, if approved by the Planning and Zoning Commission.

B. Size of Off-Street Loading and/or Unloading Space: Each off-street loading and/or unloading space shall be at least twelve (12) feet in width and at least sixty (60) feet in length, exclusive of aisle and maneuvering spaces and shall have a vertical clearance of at least fourteen (14) feet; provided however, that when it is demonstrated that a particular loading and/or unloading space will be used by shorter trucks, the Zoning Administrator may reduce the minimum length to not less than thirty-five (35) feet.

Mr. Hutchinson stated that the report should actually have a condition #7 which should state that "Parking spaces should be 10' X 20' per City of Melbourne Zoning Ordinance." Mr. Hutchinson asked if there were any questions he could answer for the Board. Mr. Verst asked if Mr. Hutchinson could clarify if condition #7 as proposed would not actually be covered by condition #4. Mr. Hutchinson agreed that it would. Mr. Verst stated should not condition #7 be added to state "That a site plan shall be revised to remove references to Boone County Zoning Ordinance and meet the City of Melbourne Zoning Ordinance." Mr. Hutchinson agreed that would be correct.

Mr. Verst asked if there were any other questions for staff. There being none, Mr. Verst asked the applicant to come forward and identify themselves for the record. Mr. Jay Bayer, Bayer Becker Engineers, came forward as the representative for the applicant. Mr. Bayer stated this was truly a unique project for Campbell County and indeed for Greater Cincinnati. The history of such a large 200 acres in one assemblage, Mr. Bayer stated, is in that they had consulted with experts who agree that the timber on this site is some of the oldest forest in Campbell County and in all of Northern Kentucky. Bayer Becker has been working with the Sisters who have been working on a long term plan for the property. In most applicants, they are coming before you because they are expanding because they need more space. This is a unique situation in which they are strategically making a small addition to the building to be able to vacate an extremely large building. Mr. Bayer introduced Sister Alice who would provide the Board with the history of the site and the reasoning behind their strategy to build the addition.

Sister Alice Gerdeman introduced herself as being on the leadership team for the Sisters of Divine Providence. The Sisters of Divine Providence came to Kentucky in 1889 in Newport, Ky. The old Mount St. Martins in Newport which is now the Kmart was our first home. We served in many schools with our first school being the Our Lady of Providence in Newport. We moved to the site in Melbourne in 1919. At that point, the focus of the building was to be the headquarters of the Sisters of Divine Providence in the United States. It has served us in that capacity since that date.

In 1929, we added an addition to the back of it. The top floor was an infirmary for our sisters who were ill and the remaining were small bedrooms for our sisters who came home during the summertime primarily for school and for retreat times. The main building was for two purposes to be an administrative headquarters for our congregation and as a residence to women who were thinking of joining our community and studying to make that a possibility in their lives and for sister students who were going to college and all the other services that we needed to provide for each other in the process of those activities. In our hay-day, we had approximately 450 residents. Presently, we have 115. In addition to the 450, probably about 30-40 resided at St. Anne's and about another 40 were women who were in the process of joining our community. During the summer, the place was filled as sisters came in varied shifts to fulfill a week of prayer and some rest time.

In 1957, we built the Holy Family Building as a place of residence for our retired sisters and onto the back of it we added a nursing facility for our sisters who are quite ill. From 1974 to 1992, we had a Montessori pre-school which was operated on the premises. In the mid 1980's, we began making our retreat center more open to the public. Primarily, it was open to individuals or private groups to be used for retreats or spiritual refreshment. In 1994, we made a decision that a portion of the original 1919 administrative building could also be used for retreat purposes. We have adult groups, engaged encounters, high school groups, various groups from churches of different denominations come in for retreat. We maintain just one small portion of the building for our administrative needs and we have seven sisters living in that building. They will all be moving out of that building by the end of summer either going into retirement or other places of ministry.

In 2009, after an extensive planning session and consultation and much prayer, we made a decision that it was time for us to repurpose or at least move out of the main convent building. With just seven people living in that building and just needing office space for a few of our leadership offices, it did not appear to be a judicious use of our space to continue there. We did an extensive study and brought it to our sisters for consultation and we made a community decision. For the past three years, we have been doing strategic planning for what we would need over the next twenty years. With the addition we are proposing, and our numbers diminishing, we feel we will meet our lodging. We feel our numbers may diminish even further at that point. A couple of auxiliary offices will be moved into the current Holy Family Building.

We also will have what we call a gathering space. We have as a part of our unique lifestyle the need to meet together every five years to completely review our life and to be able to set direction which we do as a communal body. We also meet twice a year, as many as possible of our sisters as possible can get together, for the purpose of reviewing what we are doing by updating ourselves on the plans and for the purpose of building community with each other. That is the purpose of the gathering space. This is not to say the gathering space will never be used for any other purpose because it is possible that it could be. However, we think of it as a huge family room where our family from across the property can come together. It is ideal to us to have it connected to our retirement home so that our sisters who are having difficulty with mobility can be wheeled in or can come on walkers and can be part of it as long as they want to be part of it and can return to their residence whenever they choose. Because of our lifestyle, we do not all have cars. We share those types of things. At the present time, with the uses of the premises, we have not had any parking issues at all. The use of the main building and center we continue to study.

We do not know what its future will be, but we know we will not be using it for our events or purposes. We hope to know by the end of 2012.

Mr. Bayer thanked Sister Gerdeman for her presentation. He advised the Board that Sister Gerdeman did a better job of presenting their case than he could ever do. Mr. Bayer stated that as far as the conditions listed on the staff report go that they agree with conditions 1, 2, 3 and 4. Condition #6 regarding the loading and unloading dock, Mr. Bayer feels, could be deleted. There is a loading and unloading dock on site, but it is not attached to the proposed addition. Mr. Bayer pointed out the existing loading/unloading dock on the site plan. Mr. Bayer stated that the Zoning Ordinance states "and/or", so they are requesting condition #6 be revised or deleted. As for condition #5, Mr. Bayer stated the applicant does not feel that additional parking is needed as they are attempting to move from one portion of the property to the other. They are vacating one portion of the property for the other. They have a parking for 170 parking spaces. This is not actually an expansion in the truest sense of the word. There will not be additional members or visitors. The parking conditions will remain the same. Mr. Bayer stated he would like to work with staff to reach an agreement to reassess the needs of the facility later if it is determined that the needs have changed, but we would like to submit that the parking meets the needs of the current facility and no additional parking spaces are required. Mr. Bayer asked if there were any questions he could answer for the Board.

Mr. Verst asked if there were any questions for the applicant. There being none, Mr. Verst asked the applicant to be seated. Mr. Verst asked if anyone in the audience wished to speak. There being none, Mr. Verst opened the floor for discussion among the Board. Mr. Verst asked Mr. Bayer if he agreed with the added condition #7 regarding the correction to the plan regarding references to Boone County versus City of Melbourne. Mr. Bayer apologized for the error and stated he completely agreed.

Mr. Schaber asked for confirmation that the Zoning Ordinance does state "and/or" when referencing the loading/unloading dock. Mr. Verst pointed out the paragraph on page 3 of the staff report where it does state "and/or". Mr. Klear stated that the fact that they have the loading/unloading facility on site is acceptable to staff if the applicant can clarify that the proposed addition during the regular course of business would not necessitate a regular delivery increasing the need for the loading/unloading area. Sister Alice stated they were not. Mr. Klear agreed that the utilization of the existing dock would suffice and staff would agree with the removal of condition #6.

Mr. Schaber stated that with that issue resolved it appears the parking issue of condition #5 is the only stumbling block to the approval of this conditional use. Mr. Klear stated there is a clarification he could offer on that issue. It has been staff's typical recommendation to just deal with the new element and that would be the case that the applicant would state they have the parking needed for the proposed addition. We do not have the information to state they have the parking for the existing elements. We are trying to show definitively that they have the parking for the new element. Mr. Schaber stated because we can't determine what they would need for the existing structures. Mr. Klear agreed and stated that especially since they are opening this up to the public and with the sisters who do not have vehicles there is no way to determine what they would need. Mr. Verst asked if they are proposing to vacate the existing building what we would see if there is any change in the use of the building. Would they need to come before the Board? Mr. Klear stated that would not automatically be necessary. Mr. Verst asked if they made physical changes to the building if the Board would see it. Mr. Klear replied that was correct, they would come before the Board at that time or to do the demo of that facility. Mr. Klear stated he believes the applicant, but there is the potential there for users to take advantage of the Board. Mr. Mason stated that the way the condition reads though is that it is up to staff to insure there is adequate parking prior to issuing a certificate of occupancy. So if the Board approves it this way, the staff has to review it and approve it. Mr. Klear agreed but stated the Board has to set the parameter of what the parking needs are and what would need to have done to satisfy those parking needs. Mr. Schaber stated he feels that they should at least have the number of spots needed to support the addition they are proposing. Mr. Verst

asked if he was stating that they needed thirty-six new spaces or just say which of the thirty-six existing parking spaces on the site they are setting aside for this proposed space. Mr. Schaber stated they can use existing spaces, but show me which thirty-six spaces are set aside for this proposed addition. Mr. Schaber stated, as having been up there himself, he has never had an issue with parking at this location. Mr. Mason asked how occupancy would be determined when you have a building that is multi-functional with administrative office and residential homes both being present. Mr. Hutchinson stated a building inspector or fire marshal would probably have to be involved in determining the occupancy level. Each use has a different method of calculation; some based on square footage and others based on the number of seats. Mr. Klear stated that it could be simplified by modifying condition #5 to state "That the required parking for the proposed facilities be met prior to approval of the certificate of occupancy on the building." Mr. Verst stated that would make more sense then trying to determine the use of the existing space given the fact that the sisters do not all have vehicles individually. Mr. Schaber asked Mr. Klear to repeat his proposed changed to condition #5. Mr. Klear stated he needed to remove the words "existing and" and add the word "the" in their place. Mr. Bayer asked for Mr. Klear to clarify that the thirty-six parking spaces were still required. Mr. Klear stated that this would remove the requirement that the applicant review and verify occupancy for the existing facility and document the required parking for the existing facility. Mr. Verst stated this means they would on a revised site plan be required to have just thirty-six parking spaces. Mr. Schaber added that they could be thirty-six parking spaces that are already there. Mr. Klear agreed. Mr. Bayer asked if they had to specifically identify which thirty-six parking spaced were going to be available for the proposed addition. Mr. Klear stated that they would. Mr. Bayer agreed this was an agreeable solution. Mr. Klear added they would need to be the 10' X 20' size parking spaces. Mr. Bayer stated that was acceptable.

Sister Gerdeman asked, if approximately 50 of the sisters attending the gatherings are residents of the property, and given their lifestyle, they share cars and will arrive in groups, why the parking spaces are deemed so necessary. It is not as if every seat in the auditorium will mean a vehicle in the parking area. Many of the attendees are already present and we will just be adding to that number. Mr. Verst stated that the Board did understand that point, but the potential for the gathering space to be used for other public events could create an instance that demanded additional parking spaces be available other than what the sisters would normally require. Sister Gerdeman stated that for the last twenty years there has not been any such occasion. Mr. Bayer stated that the Board has to account for any situation and they can label the first thirty-six parking spaces for this addition. Mr. Schaber reminded Mr. Bayer the spaces needed to be of the length and width to match the City of Melbourne Zoning Ordinance. Mr. Duncan supported Mr. Klear's suggestion as an amicable resolution to this situation.

Mr. Verst asked if there were any other questions or comments. Mr. Mason asked for a reminder of what condition #7 was. Mr. Verst reminded him the issues was a correction of the plan to reflect the City of Melbourne Zoning Ordinance, not Boone County. Mr. Verst asked again if there were any other questions or concerns. There being none, Mr. Verst called for a motion. Mr. Schaber made a motion to approve #BA-02-12, by applicant Bayer Becker on behalf of the Congregation of Divine Providence, with a request for an expansion of a conditional use to allow for the construction of an approximate 6,200 SQ. FT. free standing building for additional administrative office and gathering space with the following conditions:

1. That any outside lighting be reviewed and approved by staff.
2. That any signage be reviewed and approved by staff.
3. That a building permit needs to be submitted and approved by staff prior to construction.
4. That the proposed parking spaces meet the minimum size requirements of the City of Melbourne Zoning Ordinance.
5. That the required parking for ~~existing and~~ **the** proposed facilities be met prior to approval of the certificate of occupancy on the building.
6. ~~That the site plan be revised to include a 12' x 60' foot loading and unloading area, per the City~~

~~Melbourne Zoning Ordinance~~

He cited as his findings of fact that the expansion will contribute to the general welfare of the neighborhood, not be detrimental to health, safety or welfare and that the applicant has agreed to comply with City of Melbourne Zoning Ordinance. Mr. Verst asked if there was any discussion on the motion. Mr. Verst recognized Mr. Klear who asked about the proposed condition #7 which would now be the new condition #6. Mr. Schaber amended his motion to add **condition #6 *That the site plan be revised to reflect the City of Melbourne Zoning Ordinance.*** Mr. Verst asked if there were any additional comments, corrections or additions to the motion. There being none, Mr. Verst called for a second on the motion. Mr. Bachmann seconded the motion. A roll call vote found Ms. Schweitzer, Mr. Bachmann, Mr. J. Williams, Mr. M. Williams, Mr. Mason and Mr. Schaber in favor. Mr. Verst abstained. Motion passed.

There being no other items of action before the Board, Mr. Verst recognized Mr. Klear to present the Director's Report.

DIRECTOR'S REPORT

Mr. Klear advised the Board that the OKI is the transportation authority for our area. They are holding Open House style meetings for their 2040 OKI Regional Transportation Plan to solicit input for recommendations for improvement for our community. This presentation would qualify for the continuing education requirement for Board members. They are holding open houses in several different areas, including Campbell County. Mr. Verst asked if it would be the same presentation at each location. Mr. Klear stated that it is basically the same presentation. It is an open house format which means it will not be a sit down and listen to one long presentation, but rather there are a variety of presentation boards featuring different topics. They should be the same presentation boards at each location; however, there may be some county specific data available as handouts at each location. You are not committed for the entire three hours.

Mr. Verst asked if the Board had any other matters to discuss. There being none, Mr. Verst called for a motion to adjourn. Mr. Schaber made a motion to adjourn the meeting. Mr. Williams seconded the motion. An oral vote found all in favor and none opposed. Motion passed. Meeting adjourned at 7:51 PM.

Prepared by:

Approved:

Peter J. Klear, AICP
Director

David Schaber
Vice Chair