

**CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT
MINUTES OF THE MAY 17, 2011 MEETING**

MEMBERS PRESENT:

Mr. Scott Bachmann
Mr. Paul Johnson
Ms. Fran Reitman
Mr. Roger Mason, TPO
Mr. Dave Schaber, Vice Chairman

MEMBERS ABSENT:

Ms. Connie Schweitzer
Mr. Justin Verst

STAFF PRESENT:

Mr. Michael Duncan, Legal Counsel
Mr. Peter Klear, AICP, Director
Ms. Stephanie Turner, Recording Secretary

Mr. Schaber called the meeting to order at 7:05 PM. Mr. Schaber asked for a roll call. Following roll call, a quorum was found to be present. Mr. Schaber asked if everyone had read the April 19, 2011 meeting minutes and if there were any questions or corrections. There being none, Mr. Schaber called for a motion. Mr. Johnson made a motion to approve the minutes as submitted. Mr. Bachmann seconded the motion. A roll call vote found Mr. Bachmann, Mr. Johnson, and Mr. Mason in favor. Ms. Reitman and Mr. Schaber abstained. Motion passed.

Mr. Schaber introduced Mr. Klear. Mr. Klear reminded the Board that at the April 19th meeting case #BA-07-10 for the Oakland Methodist Church was tabled. The Board asked the applicant to submit a construction timeline showing the completion dates for the construction of the addition to the church, the picnic shelter, storage shed, and parking lots on both the north and south sides of Stonehouse Road. The applicant has submitted both a narrative and graphic depiction for the Board's review. It was mailed to the Board members as part of their meeting packets. Based upon this information, Mr. Klear stated the applicant has satisfied the Board's request and staff is asking this case be brought off the table for further discussion of this case. Mr. Schaber called for a motion to this effect. Mr. Mason made a motion to bring case #BA-07-10 off the table for further discussion and review. Ms. Reitman seconded the motion. A roll call vote found Ms. Reitman, Mr. Bachmann, Mr. Johnson, and Mr. Mason in favor. Mr. Schaber abstained. Motion passed.

Mr. Schaber asked Mr. Klear to continue his presentation. Mr. Klear stated that packets that were mailed to the Board included a memo from staff summarizing the applicant's submission and a copy of the timeline submitted by the applicant. Mr. Klear stated he is not going to read this information to the Board. Instead, he would like to focus on the drawing which the applicant submitted. Referencing the drawing, Mr. Klear stated as you can see from the color coding of the drawing there are six distinct stages to the construction timeline proposed by the applicant. The "pink" indicates the picnic shelter/pavilion area which the applicant has stated can be completed within three months from the issuance of a building permit on or about 10/29/2011. The "green" area includes the exterior of the church and activities listed within Phase I would be completed by 06/30/2012. The "blue" area is the north parking lot surrounding the church which could be paved by 07/30/2012. The "yellow" area includes the storage shed and would be completed by 05/30/2016. The "salmon" area includes the parking lot on the south side of Stonehouse Road which would be completed by 05/30/2016. The "green" area includes the interior of the church and activities listed within Phase II which would be completed by 05/30/2016. That is the proposed timeline from the applicant. Mr. Klear asked the Board if they had any questions that he could answer for them.

Mr. Schaber asked the Board if they had any additional questions for Mr. Klear. There being none, Mr. Schaber asked the applicant to come forward, state his name and address for the record. Mr. Joe Kramer, Cardinal Engineering, 1 Moock Road, Wilder, KY came forward. Mr. Kramer advised the Board he was acting on behalf of the applicant. Mr. Kramer stated that he also did not want to revisit every detail but rather focus on the handout. The handout was meant to highlight the points of their history and development to demonstrate how they got from point A to point B. The narrative shows in red points where they did not comply with zoning and the steps taken to remedy this miscommunication between the parties involved. The drawing shows the plan of how the church wants to proceed to complete their expansion project. Members of the church are here tonight to discuss their plan with you. Mr. Kramer stated he was here tonight to clarify any issues that arise from the zoning issues. Mr. Kramer explained that a question that arose last month was if a grading permit was in place at the time grading took place behind the church. If you look at the narrative, you will see that they had a grading permit that was granted during the Stage II Improvement Planning Stage, but it covered only the south side of Stonehouse Road. A Grading Permit was submitted and approved, but the approval was granted after the case was heard before the Board. The dirt was cut from the north side of Stonehouse to fill in the south side of Stonehouse. This was an unfortunate communication issue between Cardinal and our client. Eventually, the grading permit issue was resolved and the work completed. Mr. Kramer asked the Board if they had any questions he could answer for them.

Ms. Reitman asked Mr. Kramer where the dirt was originally planned to come from if not the north side of Stonehouse Road. Mr. Kramer replied that since the church originally did not own the property to the north and it was not an option. They had planned to import dirt for another location. Once the church was able to acquire the property to the north, it was just logical to cut the dirt from the north side of the property to use on the south side of Stonehouse Road.

Ms. Reitman asked if at the time of the original expansion request in 2007 a playground and shelter area was discussed with Cardinal. Mr. Kramer stated that at the time of the original expansion request, the church did not have an option on the land to the east so it was not even possible to have a playground area. A small shelter was planned for the parking lot on the south side of Stonehouse Road. It wasn't until the church acquired the property next door that the playground became possible.

Mr. Schaber asked if there were any other questions for Mr. Kramer. There being none, Mr. Schaber asked if anyone else in the audience that wished to speak. No one came forward. Mr. Schaber opened the floor for discussion among the Board. Mr. Mason asked if it was wise to issue an expansion of a conditional use for a storage shed that was not going to be constructed or in use for another 5 years. Mr. Schaber stated that was up to the individual members to decide and determine. It could be part of the motion made that the storage shed not be allowed or included. Mr. Schaber reminded that there were other items that fell upon that same completion date such as the parking lot on the south side of Stonehouse Road. Mr. Schaber stated that, if you refer back to staff's report, there was discussion of bringing that item back at a later date, but if you look at the applicant's submission, it looks like they want to pave it and keep it. Ms. Reitman stated that her view was that the applicant is stating each item would be completed no later than the date reflected. It could very well be completed sooner than the date listed, but definitely no later than that date. If that date rolls around and the item is not completed, we can revisit the situation. Ms. Reitman stated this way the church has some flexibility in their timeline.

Mr. Johnson stated he read the packet and thought he was prepared, but now has questions. Mr. Johnson feels there are items reflected in the timeline that doesn't need to be present such as the engineering work. Mr. Johnson stated only the items that were discussed last month should be present. This information may be helpful to the church and their volunteers, but it isn't pertinent to our discussions. Mr. Johnson

like the idea of pulling the storage shed off the plan since it was so far distanced into the future. It will be dealt with at whatever time it needs to be dealt with. The issues, as Mr. Johnson sees them, are paving the parking lot on the north side of Stonehouse Road around the church building, completing the exterior of the church, and paving the lot on the south side of Stonehouse Road. Mr. Johnson stressed it would be to the church's advantage to complete the interior of the church as quickly as possible, but not as vital as the exterior. Mr. Schaber stated the mitigating factors affecting this case are that the applicant came in for a conditional use permit and didn't complete the conditions, and then came in for an expansion of a conditional use and didn't complete the conditions, and then started putting in the playground and shelter area without even applying for the expansion of the conditional use. Mr. Schaber stated there doesn't necessarily have to be a natural flow, but there has to be order and items need to be completed before the next move is made. It's like throwing down small squares on a piece of paper and saying, "we're going to do this" and "we're going to do this" and before you get one square done, you throw down the next square down and say "we're doing this now". If the Board so chooses to allow the church to progress in this manner with the shelter and playground, they can. Ms. Reitman asked Mr. Schaber if the timeline addressed concerns Mr. Schaber had regarding this situation. Mr. Schaber stated the timeline didn't have to address his concerns, but the concerns of the entire Board.

Ms. Reitman rephrased her question to ask if the timeline presented showing the church addition exterior and Phase I completed by 06/2012 and the parking around the church completed by 07/2012 would suffice to allow for the picnic shelter and playground to be completed this year. Mr. Schaber stated, in fairness knowing now how their monies are allocated to them for a specific project, this timeline is more than they came with to last month's meeting. Mr. Schaber stated the entire Board had to reach the decision that the information was sufficient to grant an expansion of the conditional use permit. Mr. Schaber stated he felt order was absolutely necessary to succeed and he was concerned.

Mr. Schaber also reminded the Board that staff had conditions that were non-negotiable such as the consolidation plat of the lots that the playground and picnic shelter sat upon. Mr. Schaber asked the applicant for an update on that issue. Mr. Kramer stated that an application and drawing had been submitted, but that a miscalculation in the fee left a balance owed. Mr. Kramer stated the church was going to issue the remainder owed since it was for a larger amount, but they had not dropped off the payment yet. Mr. Mason asked Mr. Klear if that was the land consolidation plat mentioned in his memo as being incomplete. Mr. Klear stated that it was. Mr. Klear stated that his office had the plat, but the fees were not paid. Until the fees are paid, there is no review performed. Mr. Klear stated once the church paid the fees, his office would begin the review. Typically, once the plat has been reviewed and approved, the plat would be taken to an attorney who would prepare a deed. The deed with the drawings must be recorded in the County Clerk's office to be officially complete in the process of consolidating the lots.

Mr. Schaber asked if there were any other questions or discussion. Mr. Bachmann stated he just didn't understand the urgency for the picnic shelter in the first place. It seems that the 120 days they are going to be spending on the picnic shelter is 120 days they could be using to complete the expansion of the church which would be the priority you would think. Mr. Jeremy Gosney, Oakland United Methodist Church, Chairman of the Building Committee, 7867 Stonehouse Road, Melbourne, KY came forward and was recognized by Mr. Schaber. Mr. Gosney stated that as he had explained previously their church members are free to donate money and earmark it for certain causes. It is their policy to use the funds for the intentions in which it was donated and honor the wishes of the church members. This donation is what caused this priority to change and push ahead of the completion of the addition to the church. The pavilion is something that can really be used with the programs and activities we have right now and will have this summer until we get the Phase I of the addition to the church completed. It can be an outdoor classroom to meet, especially on Wednesday night services, for the children to cool off and gather. Mr. Gosney stated that they didn't originally have that property in 2007 and now that they have it they want to

utilize it. Mr. Gosney stated that if a little old lady gives you money for a church pew, you don't spend it on anything but a church pew even if it means holding it and saving a little more until you have enough to buy the church pew. Mr. Bachmann stated that was his point. What is preventing the church from putting all their efforts into completing the addition to the church both exterior and interior and putting the pavilion in once the addition is complete? Mr. Gosney replied there was nothing preventing them from doing that, but if they could do it in conjunction with work continuing on the addition, why shouldn't they pursue both projects. Mr. Gosney stated it's not like they plan to quit working on the church so that they can complete the pavilion. Their plan is to have a team work on constructing the pavilion while the remaining team keeps moving forward with the church addition project. Mr. Gosney reminded the Board that their decision to construct the church addition in phases came about so that they would not be under any financial hardship or burdened by debt to a bank to complete the project. Mr. Bachmann asked if the volunteer worker status was the issue preventing the work from getting completed in a more timely fashion. Mr. Gosney stated they were ahead of schedule as to where they thought they would be and they do hire contractors from jobs where it is called for. Mr. Gosney does not feel that the volunteer worker status is delaying the completion of the construction. Mr. Gosney stated they had made great strides since the last meeting. The trusses have been set and sheathed and are ready for shingle insulation scheduled for next week. The air conditioning pads have been put on the back of the building and the air conditioning units for the existing building have been installed and will be fired up for this Sunday's service. The correlation for getting power to the new section of the church from Duke Energy has been set up for next week. A lot of stuff has been happening here recently with the weather breaking. A lot of stuff will be done on the interior with volunteers, but we use contractors to do the items that are too large or that require contractors to be licensed. We are not building this whole thing with volunteers. Earl Woeste with Woeste Builders set the trusses for us. We have used contractors that are in Campbell County and have paid a little more to be able to do that. The trusses were made and came from Louisville, but there wasn't anyone in Campbell County who builds trusses. We've tried to keep it in the county if we can. Mr. Schaber asked if he had any other items to add to their discussion.

Mr. Schaber reminded the Board that they could refer to page 3 of the minutes to see what staff's original recommendation was in comparison to the options available to them tonight. (Staff's original recommendations are listed below for convenience.)

Staff Recommendation:

To approve the expansion of the conditional use by allowing the church to construct a 27' x 60' foot picnic shelter and 24' x 24' storage building on a lot adjacent to the church, subject to the following conditions:

1. That the applicant fulfills all prior conditions associated with previously approved BOA cases and receive final inspections prior to constructing the picnic shelter. The previous plans include paving the parking lot across the street and the addition to the church.
2. If the applicant chooses not to use the parking lot across the street, they must remove all gravel and restore the site to pre-construction condition. This must be done prior to applying for a building permit for the shelter.
3. That the applicant not construct any other projects or expand its conditional use without receiving the necessary permits / approvals *or the conditional use permit to operate a church in a residential zone will be revoked.*
4. That the applicant combines all lots via land additions prior to constructing the picnic shelter. The land additions must be submitted to staff for review and approval.
5. That the applicant submits plans to the building department for the picnic shelter and receive a final letter of approval after all other work on previously approved plans have been completed.
6. That the applicant complies with the Campbell County Zoning Ordinance and building codes.

Mr. Bachmann stated as he recalled the applicant agreed with staff's recommendations 3 through 6, but not 1 or 2. Mr. Kramer stated he thought it was 2 and 3. Mr. Schaber stated 2 is a wash because the applicant is going to pave the parking lot and keep it and so it appears to him that 1 is the issue. Mr. Kramer stated that was correct and they followed the Board's request for a timeline and felt that would incorporate any other changes. Mr. Bachmann stated he was uncomfortable with the applicant's lack of foresight in obtaining permits. With the processes they had already completed, they should have been aware that approval was needed to complete the pavilion and playground and it just sticks out in his mind that they didn't. Mr. Schaber agreed that it did cause him concern as well; however, in the applicant's defense, the Board has allowed phasing of projects previously. With the parking lot being in play and then out of play in terms of being counted as necessary spaces for filled seats, it can be confusing as to if it was an oversight. Since we have allowed phasing, we can attach reasonable conditions to the approval so that would prohibit any additional expansions until all these and previous conditions are completed. Mr. Bachmann stated that more realistically in 120 days the pavilion will be completed and then the addition and the previous conditions will go on potentially unanswered and can take its own course. Mr. Schaber answered that the staff's recommendation was that there could be no pavilion until all previous construction was completed, but the church is asking that the pavilion be allowed to be completed within the next 120 days and the addition and remaining construction work to follow based upon the timeline they submitted. Mr. Schaber stated that he would have said that you could have taken the completion of the previous condition on a standing of good faith, but with their permit issues he thinks they may be at risk. Mr. Bachmann stated especially their performance over the past six months. Mr. Mason agreed with Mr. Schaber and Mr. Bachmann.

Mr. Schaber asked if there was any other discussion. There being none, Mr. Schaber called for a motion. Mr. Bachmann asked if the parking lot across the street from Stonehouse Road was to be used for a parking lot. Mr. Schaber stated per the discussion from the last meeting he believed all parties agreed it was to be used as a staging area for construction only until such time as it was paved, but that it should be clarified as a condition of the approval to be certain. Mr. Schaber asked if there was any other discussion. Mr. Mason asked what other way does the Board have to guarantee that the work will be done and that in two months or two years from now the applicant is not before the Board again with another stop work order issued to them? Mr. Schaber stated the only repercussion the Board can issue is to revoke the conditional use permit of the applicant if they fail to comply with the conditions issued by the Board and that it should be added as a condition so that it is clear and concise to the applicant of the Board's intentions. Mr. Mason stated he doesn't feel the Board has any other option due to the applicant's prior history.

Mr. Schaber recognized Mr. Klear. Mr. Klear stated that the applicant originally came in with an application that reflected an expansion only, so there was no need for a schedule of development because there was only one improvement and the parking was an accessory use. Now, the applicant is modifying that original plan to include multiple elements and because they have multiple elements, they are now specifying a timeline by which those elements will be completed. You didn't have a timeline before, but now you do which the applicant has proposed. If you were inclined to recommend for approval, you would probably want to recommend for approval of that timeline as part of your approval.

Mr. Johnson stated that he sees as the most pertinent issue arising from the discussion of the Board as being the question of verification if the timeline has been met. Mr. Johnson wanted to see if the applicant could address the issue better than the Board. Mr. Schaber asked Mr. Kramer to answer the question. Mr. Kramer stated he wasn't certain what the question was. Mr. Kramer stated he would be happy to address the concerns of the Board in any way he could. Mr. Kramer stated he would be willing to submit photos on a regular basis or meet the building inspector on site at certain intervals or whatever the Board needed to feel comfortable. Mr. Kramer stated he just doesn't know what the Board is looking for as a guarantee.

Mr. Johnson stated he was a newer board member so he was looking to not only the applicant for suggestions, but to the more experienced board members. Mr. Johnson stated he was unaware of what has been done in the past to keep the Board in the loop for projects such as this and what has worked and what has not worked. Ms. Reitman stated she doesn't think she can recall a case where there was a need to monitor the applicant this closely, but maybe the applicant can come back every six months and give a presentation on the status of their development plan and show the Board how far they have progressed since the last update. Mr. Kramer supported this idea and thought this would be the easiest way to keep the Board informed. Mr. Klear clarified for the Board that the onus is not a responsibility of the applicant. Mr. Klear stated he would suggest, on behalf of the applicant, that a six month update might be a little burdensome for a small congregation. Mr. Klear added there are two existing provisions: First, building permits are only good for six months, but they can be extended. Second, if they don't reach certain milestones, the conditional use permit could be revoked. Again, the burden to ensure the applicant has complied with the conditions is not the responsibility of the applicant. It is the responsibility of the staff on behalf of the Board.

Mr. Bachmann clarified that the conditional use permit to be revoked in Mr. Klear's statement would be the conditional use permit to operate a church or to operate a playground and pavilion. Mr. Klear stated that decision would belong to the Board. The Board could determine to allow the church to continue but to disallow any operation of the playground and pavilion activities or to disallow the church operation altogether. Mr. Klear stated he could only speculate on which conditional use permit. Mr. Bachmann stated that the applicant's past history leaves him very uncomfortable and if there was something punitive in the conditions that allowed for the recuperation of damages as a result of the applicant failing to meet the conditions imposed by the Board, he would feel more comfortable. Mr. Mason asked Mr. Bachmann if he was comfortable with the timeline. Mr. Bachmann replied the timeline was something he could live with, but he felt he needed something firm to insure the applicant's completion of the items. Mr. Duncan stated he wanted to share with the Board a statute in regards to conditional uses. [KRS 100.237 (4)] "...If the landowner is not complying with all of the conditions listed on the conditional use permit, the administrative official shall report the fact in writing to the chairman of the board of adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the chairman of the board of adjustment. The board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one week prior to the hearing. If the board of adjustment finds that the facts alleged in the report of the administrative official are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustment may authorize the administrative official to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes." Mr. Duncan stated that this statute protects the Board to allow them to go back up to a year after an approval to review a case and even revoke the conditional use permit in situations where it is deemed necessary. Mr. Bachmann stated this was a 2007 approval so it is too late to go back and review and revoke the permit for the church. Mr. Duncan said that it is too late to do so under a one year review, but you can since you had an expansion and now a second expansion request. Each expansion is also subject to a one year review and makes the church open to the same review period. Mr. Duncan wanted this information to be part of the public record that this remedy is available to you if they do not proceed as promised or as the conditions call upon.

Mr. Mason stated that the Board should hold the applicant to one year and ask for a condition for them to submit to staff an updated timeline showing what has been completed and the status of the remaining projects. Within one year, they should have the exterior complete, the parking around the church, the pavilion and the playground. This should be ample enough time to confirm if the church has any intention of meeting these goals or not. Ms. Reitman agreed as did Mr. Schaber. Mr. Schaber stated that

there would have to be a few things we would have to see such as the building permit extended and then a new building permit applied for and then it extended. Staff should be able to monitor it to some extent. Mr. Klear stated that the permit for the expansion to the existing church has been issued. No other building permit has been issued. Mr. Schaber clarified that there is no permit for the pavilion. Mr. Klear stated there is no permit for the pavilion. Mr. Schaber asked if there would be a building permit for the parking lot. Mr. Klear stated there would be no building permits for the parking lot because it was approved in the Stage II Development Plan and does not require a separate permit. The way they catch that is that there would be no certificate of occupancy issued for the building until the parking lot was paved. Mr. Klear did not want to overwhelm the Board with too much information, but under this revised site plan, the parking surrounding the church (shown in blue on the timeline) would satisfy the parking requirement for the church at this facility. Mr. Schaber stated so that parking across the street is no longer needed. Mr. Klear stated that was correct. From a zoning permit stand point, the parking (shown in the salmon color) is no longer necessary. Mr. Bachmann asked what that meant to this situation since it was a condition of the 2007 approval. Mr. Klear replied that in 2007 the applicant did not have enough land within the existing church property so they needed the parking lot (shown in salmon color) to meet zoning approval. Since 2007, the church has purchased land surrounding their immediate facility and are now able to meet the parking requirement entirely on the north side of Stonehouse Road.

Mr. Schaber asked how would this be triggered or followed by staff if the applicant were compliant or not. Mr. Klear answered that in order to reply he would have to make assumptions and he is going to make some assumptions up front. Assuming that the Board is going to approve the timeline as submitted, Staff would take the following actions: The building department would be responsible to complete five inspections [footer, foundation, framing rough, framing final, and final c/o]. The applicant is past the footer and foundation stages. They are at the framing rough stage. With the building permit, if we do not hear from the applicant and their expiration date nears, we contact the applicant to ask the status of the project and get the permit extended if needed. As long as they make progress on it, we will extend it. Once they get the project substantially completed, they would call for a final inspection and we would check to see if the parking lot was completed and the final certificate of occupancy would be issued. Mr. Schaber asked if the storage shed would be required to have a building permit. Mr. Klear replied it would. Mr. Schaber asked if the building inspector could confirm at that time if the parking lot was complete. Mr. Klear stated that the completion of the additional facility could bring new users and new users would trigger additional parking requirements, not the completion of the storage shed. There is no parking requirement associated with the storage shed and conceptually it does not bring new users to a site. There would not be an instance of us inspecting a storage shed and checking parking as well, whereas we would with a pavilion. Mr. Klear stated the applicant doesn't really need the parking lot to the south of Stonehouse Road. Staff's position is if you don't want to use it as parking that's fine, but you have to return it to its natural state. However, if you want to use it for parking, you have to pave it. The applicant has already invested a great deal of funds to improve the lot in terms of detention basins, gravel, etc. so they have committed themselves to paving it for future use so they don't lose that investment.

Mr. Bachmann asked if it would be a hardship to the applicant to make them come back in a year to present an updated timeline. Mr. Schaber stated that would be a question for the attorney. Mr. Duncan stated that would be a reasonable condition. Mr. Mason stated the Board has the right to issue subpoenas. Mr. Schaber stated that was only in the case of requiring testimony and this would not be the situation for that requirement to be in effect. Mr. Johnson asked if the construction would be completed in June or July and be required to come before the Board by August if there was adequate time for the applicant to submit data to staff. Mr. Klear stated that he did not feel you needed to see the submission of anything in 2011 for the pavilion. Mr. Mason asked for input on requiring a submission by applicant to staff by September 1, 2012. Ms. Reitman asked if that was Mr. Mason's suggestion for a condition to the approval. Mr. Mason answered yes. Mr. Bachman asked if the land consolidation process would delay the 120 day process for the completion of the pavilion. Mr. Klear stated that, once the funds were

received from the applicant, the plat could be processed within approximately 7 to 10 business days, a couple of days for the attorney to prepare the deed and then another couple of days to get it recorded at the County Clerk's office so a total process time of 2-3 weeks. Mr. Bachmann stated that didn't sound too bad or really alter the 120 day plan too much.

Mr. Schaber called for a motion. Mr. Johnson stated he would make a motion. He first asked Mr. Kramer if there were any conditions that specifically caused his concern. Mr. Kramer stated only the conditions they previously discussed (conditions 1 & 2). Mr. Kramer asked the Board if there were any last minute comments they wanted to make. Mr. Schaber stated they would comment and discuss his motion after he made his motion. Mr. Johnson stated he just wanted to make certain he didn't run over any toes while he was driving this truck. Mr. Duncan used Mr. Johnson's analogy and said since Mr. Johnson was making the motion, he was driving the truck and he could drive wherever he wanted. Mr. Duncan stated Mr. Johnson could adopt as much of the staff recommendation as he wanted and then go freestyle from there. Mr. Johnson made a motion on case #BA-07-10, United Methodist Church, to approve the expansion of the conditional use by allowing the church to construct a 27' x 60' foot picnic shelter and 24' x 24' storage building on a lot adjacent to the church, subject to the following conditions listed in the staff report with the following changes: completely delete conditions 1 & 2; adopt the timeline submitted by the applicant; and add a condition to state that the applicant will report back to staff by August 2012 for the Board's September 2012 meeting with a review of their status of development. Thus, Mr. Johnson's motion was to approve the request for an expansion of the conditional use permit with the timeline as submitted by the applicant with the conditions as follows:

1. ~~That the applicant fulfills all prior conditions associated with previously approved BOA cases and receive final inspections prior to constructing the picnic shelter. The previous plans include paving the parking lot across the street and the addition to the church.~~
2. ~~If the applicant chooses not to use the parking lot across the street, they must remove all gravel and restore the site to pre-construction condition. This must be done prior to applying for a building permit for the shelter.~~
3. That the applicant not construct any other projects or expand its conditional use without receiving the necessary permits / approvals *or the conditional use permit to operate a church in a residential zone will be revoked.*
4. That the applicant combines all lots via land additions prior to constructing the picnic shelter. The land additions must be submitted to staff for review and approval.
5. That the applicant submits plans to the building department for the picnic shelter and receive a final letter of approval after all other work on previously approved plans have been completed.
6. That the applicant complies with the Campbell County Zoning Ordinance and building codes.
7. That the applicant submits a report to the Campbell County & Municipal Board of Adjustment detailing the progress of the church's activity on the conditional use permit improvements by September 1, 2012.

Mr. Schaber asked if there was discussion or questions on the motion. Ms. Reitman stated you could delete 1 & 2, but it would be better to combine 1& 2 and change the wording to say you are adopting the timeline submitted by the applicant so that it is incorporated as part of the official record. Ms. Reitman also indicated that the conditions would need to be renumbered. Ms. Reitman restated the motion as follows and asked Mr. Johnson if he would accept the following changes:

1. ~~That the applicant fulfills all prior conditions associated with previously approved BOA cases and receive final inspections prior to constructing the picnic shelter. The previous plans include paving the parking lot across the street and the addition to the church.~~

- ~~2. If the applicant chooses not to use the parking lot across the street, they must remove all gravel and restore the site to pre construction condition. This must be done prior to applying for a building permit for the shelter.~~
1. That applicant adheres to the construction schedule detailed in their amended submission (included as an attachment) as follows:
 - a. 27' x 60' Pavilion to be completed 3 months after the issuance of a building permit.
 - b. Exterior of the expansion of existing church (Phase 1) to be completed by 6/30/2012.
 - c. Parking area around church (north of Stonehouse Road) to be completed by 7/30/2012.
 - d. Interior of the expansion of existing church (Phase 2) to be completed by 5/30/2016.
 - e. 24' x 24' storage building to be completed by 5/30/2016.
 - f. Paving of Parking area (south of Stonehouse Road) to be completed by 5/30/2016.
32. That the applicant not construct any other projects or expand its conditional use without receiving the necessary permits / approvals *or the conditional use permit to operate a church in a residential zone will be revoked.*
43. That the applicant combines all lots via land additions prior to constructing the picnic shelter. The land additions must be submitted to staff for review and approval.
54. That the applicant submits plans to the building department for the picnic shelter and receive a final letter of approval after all other work on previously approved plans have been completed.
65. That the applicant complies with the Campbell County Zoning Ordinance and building codes.
76. That the applicant submits a report to the Campbell County & Municipal Board of Adjustment detailing the progress of the church's activity on the conditional use permit improvements by September 1, 2012.

Mr. Johnson stated that he amended his motion to reflect those changes. Mr. Bachmann asked if the storage building would still be included in this approval. Mr. Johnson stated his intention was to include the storage shed as it was included in this plan. Mr. Schaber added that he request that the motion be amended to include a condition that the parking on the south side of Stonehouse Road can only be used as a construction staging area and not for public parking. Mr. Schaber asked Mr. Johnson if he would agree to such an amendment. Mr. Johnson stated he amended his motion as such. Mr. Bachmann stated condition #5 states " That the applicant submits plans to the building department for the picnic shelter and receive a final letter of approval after all other work on previously approved plans have been completed." Mr. Bachmann stated "*after all other work on previously approved plans have been completed.*" should be deleted. Mr. Schaber agreed with Mr. Bachmann and asked Mr. Johnson if he agreed to amend his motion as such. Mr. Johnson agreed to amend his motion as such. Mr. Klear asked for a clarification in the brand new #6. Mr. Klear stated he believes what the Board is asking for is to be able to review the update at their September 2012 meeting in which case the applicant would need to submit something to staff some time in August 2012. You wouldn't want to mention a specific date at this point, but rather leave it open so that the applicant has approximately 3 weeks to gather data needed for the Board. The Board agreed this was their intention to review the case at their September 2012 meeting and agreed to the change to the motion. Mr. Schaber asked Mr. Johnson if he was agreeable to the change to the motion and Mr. Johnson replied that he was.

Mr. Klear was trying to clarify the thought on the parking. Mr. Schaber stated the Board did not want the applicant using the parking lot on the south side of Stonehouse Road for parking until it was paved, but they could use it for construction staging area. Mr. Klear clarified that right now the applicant is using it for parking and construction staging. Mr. Klear stated that right now they have their required parking covered on the north side of Stonehouse Road on the parking lot surrounding the church. Mr. Klear stated that it is important to note that the Board must adopt the timeline as the applicant has proposed as part of the conditions. Once the timeline has been adopted, it takes care of the condition that the parking lot not be used for parking purposes until such time as it is paved. We all agreed it could only be used for construction staging purposes until that time. Therefore, it makes no sense to place a condition to state

the applicant can't use the parking lot for parking purposes until it is paved when the timeline says the same exact thing. Just adopt the timeline and it covers that item. Mr. Schaber stated he brought up that change to the motion and he is now requesting that change be rescinded. Mr. Johnson stated that was not an issue and he accepted the rescission.

The Board went through the conditions one more time to make certain there were no other items for discussion. Mr. Schaber asked if there was any other discussion on the motion. There being none, Mr. Schaber asked Mr. Johnson to restate his motion. Mr. Johnson restated his motion on case #BA-07-10, United Methodist Church, to approve the expansion of the conditional use by allowing the church to construct a 27' x 60' foot picnic shelter and 24' x 24' storage building on a lot adjacent to the church, subject to the following conditions:

1. That applicant adheres to the construction schedule detailed in their amended submission (included as an attachment) as follows:
 - a. 27' x 60' Pavilion to be completed 3 months after the issuance of a building permit.
 - b. Exterior of the expansion of existing church (Phase 1) to be completed by 6/30/2012.
 - c. Parking area around church (north of Stonehouse Road) to be completed by 7/30/2012.
 - d. Interior of the expansion of existing church (Phase 2) to be completed by 5/30/2016.
 - e. 24' x 24' storage building to be completed by 5/30/2016.
 - f. Paving of Parking area (south of Stonehouse Road) to be completed by 5/30/2016.
2. That the applicant not construct any other projects or expand its conditional use without receiving the necessary permits / approvals or the conditional use permit to operate a church in a residential zone will be revoked.
3. That the applicant combines all lots via land additions prior to constructing the picnic shelter. The land additions must be submitted to staff for review and approval.
4. That the applicant submits plans to the building department for the picnic shelter and receive a final letter of approval.
5. That the applicant complies with the Campbell County Zoning Ordinance and building codes.
6. That the applicant submits a report to the Campbell County & Municipal Board of Adjustment detailing the progress of the church's activity on the conditional use permit improvements during August 2012 in time to be considered for review and consideration at CC&MBOA September 2012 meeting.

Mr. Johnson stated his finding of facts were:

1. 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.
2. 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.
3. That such use will comply with any regulations and conditions in this Ordinance for such use. At this time the applicant has not been in compliance with Campbell County regulations, if they continue to expand without proper approvals they are subject to losing their conditional use.
4. CAMPBELL COUNTY ZONING ORDINANCE SECTION 10.2 R-RE A.1., states: Permitted use is single family dwelling, detached.
5. CAMPBELL COUNTY ZONING ORDINANCE SECTION 7.0 d.1., states: "A customary accessory building or use is one which: D. Is located on the same lot as the principal building or principal use served..."

6. CAMPBELL COUNTY ZONING ORDINANCE SECTION 9.14 B.1., states: “CONDITIONAL USE PERMITS: In accordance with KRS. 100.237, the Board of Adjustment shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named herein which may be suitable only in specific locations in the zone only if certain conditions are met:

1. The Board of Adjustments may approve, modify, or deny any application for a conditional use permit. If it approves such permit, it may attach necessary conditions such as time limitations; requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the Board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. In addition, said conditional use permit shall be recorded in the office of the County clerk and one copy of said permit attached to the deed for the property for which it is issued. The Board shall have power to revoke conditional use permits, or variance for noncompliance with the condition thereof. Furthermore, the Board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in persona for such cost.”

Mr. Schaber asked if there were any questions or discussion on that motion of if anyone wanted to second the motion. Mr. Klear asked Mr. Schaber to make certain the applicant understood the motion. Mr. Kramer and Mr. Gosney indicated the understood the motion. Ms. Reitman seconded the motion. A roll call vote found Ms. Reitman, Mr. Bachmann, Mr. Johnson, and Mr. Mason in favor. Mr. Schaber abstained. Motion passed. Mr. Klear stated that the applicant needs to come back to the office as soon as possible to meet with the building department to amend their building permit. There are certain aspects of their design that needs to be addressed due to the phasing of the project.

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

DIRECTOR'S REPORT

Mr. Klear thanked the Board and recognized them for the thought and consideration they put into their discussion, deliberations and motion on the case this evening. Mr. Klear concluded his report.

Mr. Schaber asked if the Board had any other matters to discuss. There being none, Mr. Schaber called for a motion to adjourn. Mr. Mason made a motion to adjourn the meeting. Mr. Johnson seconded the motion. An oral vote found all in favor and none opposed. Motion passed. Meeting adjourned at 8:45 PM.

Prepared by:

Approved:

Peter J. Klear, AICP
Director

David Schaber
Vice Chair