

**CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT
MINUTES OF THE MARCH 15, 2011 MEETING**

MEMBERS PRESENT:

Mr. Scott Bachmann
Mr. Paul Johnson
Ms. Connie Schweitzer
Mr. Roger Mason, TPO
Mr. Dave Schaber, Vice Chairman
Mr. Justin Verst, Chairman

MEMBERS ABSENT:

Ms. Fran Reitman

STAFF PRESENT:

Mr. Peter Klear, AICP, Director
Mr. Ryan Hutchinson, Planner
Ms. Stephanie Turner, Recording Secretary

Mr. Verst called the meeting to order at 7:00 PM. Mr. Verst asked for a roll call. Following roll call, a quorum was found to be present. Mr. Verst asked if everyone had read the January 18, 2010 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 corrected. Ms. Schweitzer seconded the motion. A roll call vote found Ms. Schweitzer, Mr. Bachmann, Mr. Johnson, Mr. Mason, and Mr. Schaber in favor. Mr. Verst abstained. Motion passed.

Mr. Verst introduced case #BA-02-11, William & Juanita Ridings, who are asking for a 15' foot variance to the front yard setback to build a pole barn reducing the minimum 50' foot front yard setback to 35' feet. Mr. Hutchinson presented the Staff Report as follows.

CASE:	BA-02-11
APPLICANT:	William & Juanita Ridings
LOCATION:	The property is located at 12937 Pleasant Ridge Road, a mile south of Kenton Station Road, Unincorporated Campbell County.
REQUEST:	The applicant is asking for a 15' foot variance to the front yard setback to build a pole barn reducing the minimum 50' foot front yard setback to 35' feet.

Staff has reviewed the request and finds as follows:

DESCRIPTION OF REQUEST:

The applicant is asking to reduce the 50' foot front yard setback by 15' feet to place a pole barn 32' x 24' feet on their property.

CONSIDERATIONS:

1. The site in question is currently occupied by a single family house. Surrounding land uses are single-family residential.
2. The Recommended Land Use Map of the 2008 Campbell County Comprehensive Plan identifies the site and surrounding areas for Agricultural.

3. The submitted development plan indicates the following:
 - a. The plan shows an existing house (constructed on 9-24-2008) and driveway that meets the minimum front yard setback.
 - b. The plan shows an existing gas tank, septic tank and leach field directly north and parallel to the house.
 - c. The plan shows the proposed barn 24' x 32' feet north west of the house.
 - d. The applicant has stated because of the steep slopes and leach field they are unable to build the barn further back.
 - e. The plan shows the barn encroaching 15' feet into the existing 50' foot front yard setback.
 - f. The plan shows the barn is 6' feet from where the hill starts to slope. The applicant has stated the extra 6' feet were requested by the contractors to construct the barn.
 - g. The plan is missing bearings and distance.
 - h. The plan is missing width of street.
 - i. The plan is missing building height for the proposed barn.
 - j. The applicant has stated that the barn is for storage of lawn equipment, snow blower, tools and garden equipment.

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 particular location is necessary for storage, lawn and garden equipment."
 - 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 equipment would be kept in the barn so as not to be a health hazard or safety issue. The barn would be an asset to the property as well as to the neighborhood."
 - c. That such use will comply with any regulations and conditions in this ordinance for such use.

"Yes the barn would be used in compliance with the rules and regulations in the Ordinance."
2. Per Section 18.6 Variances: Change from one nonconforming use to another, conditions governing applications: procedures.

DIMENSIONAL VARIANCES: Before any dimensional variance is granted, the Board of Adjustment must find all of the following, which shall be recorded along with any imposed conditions or restrictions in its minutes and records and issued in written form to the applicant to constitute proof of the dimensional variance. Such dimensional variance shall not be granted by the Board of Adjustment unless and until:

- a. That the requested variance arises from special circumstances exist which do not generally apply to land in the general vicinity, or in the same zone.

The applicant stated "Special circumstances are the shape and slope of the land. And the previous owners placed the leaching field in a way that we cannot place the barn back any further from the road."

- b. That the manner in which the strict application of the provisions of this Ordinance would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant.

The applicant stated "it would put an unnecessary hardship because all of my equipment and tools would be out in the elements."

- c. That the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

The applicant states "we were unaware of the zoning laws when we bought the property. If we had known we would have bought property where the barn could have been placed."

- d. Reasons that the variance will not allow unreasonable circumstance of the requirements of the zoning regulations and will not alter the essential character of the neighborhood.

The applicant states "There are several structures in the neighborhood with the same land issues as we have. Our barn would blend in with other barn structures in the neighborhood."

- e. That granting the variance requested will not confer on the applicant any special privilege that is not conferred by this ordinance to other lands, structures or buildings in the same zone. No nonconforming use of neighboring lands and structures in the same zone shall be considered grounds for the issuance of a variance.

The applicant states "We are aware that the requested variance is not an assurance that we would not have any special privileges."

- f. That the variance requested will not adversely affect the public health, safety, or welfare, will not adversely alter the essential character of the general vicinity, and will not cause a hazard or nuisance to the public.

The applicant states "The variance request for the barn will not in any way affect the general health, safety or welfare to the public."

- g. That the variance will be in harmony with the general purpose and intent of the Zoning Ordinance as well as the Adopted Comprehensive Plan for the County.

The applicant states "The plans that we have submitted to the Planning and Zoning Commission will comply and be in harmony with the County."

- 3. Per Section 18.6, A., 2., Notice: Notice of public hearing was given in accordance with Section 18.2 of the Campbell County Zoning Ordinance.
- 4. According to Section 18.6, A., 4., the Board of Adjustment must find that the granting of the variance will be in harmony with the general purpose and intent of the Ordinance as well as the

adopted Comprehensive Plan, and will not be injurious to the neighborhood, or otherwise, detrimental to the public welfare.

Staff Recommendation:

To approve the 35' foot front yard variance request, subject to the following condition:

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

Supporting Information/Bases for Staff Recommendation:

1. DIMENSIONAL VARIANCES: Before any dimensional variance is granted, the Board of Adjustment must find all of the following, which shall be recorded along with any imposed conditions or restrictions in its minutes and records and issued in written form to the applicant to constitute proof of the dimensional variance. Such dimensional variance shall not be granted by the Board of Adjustment unless and until:
 - a. That the requested variance arises from special circumstances exist which do not generally apply to land in the general vicinity, or in the same zone.

The proposed location of the detached garage is a reasonable circumvention of the requirements of the zoning regulations.
 - b. That the manner in which the strict application of the provisions of this Ordinance would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant.

The application of the provisions of this Ordinance would deprive the applicant of a reasonable use of the land or create an unnecessary hardship on the applicant.
 - c. That the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

The applicant is requesting this variance after the adoption of the zoning regulations.
 - d. Reasons that the variance will not allow unreasonable circumstance of the requirements of the zoning regulations and will not alter the essential character of the neighborhood.

There are other structures in the neighborhood that are within the front yard setback.
 - e. That granting the variance requested will not confer on the applicant any special privilege that is not conferred by this ordinance to other lands, structures or buildings in the same zone. No nonconforming use of neighboring lands and structures in the same zone shall be considered grounds for the issuance of a variance.

This variance would not be granting the applicant a special privilege because other structures in the neighborhood encroach in the front yard setbacks.

- f. That the variance requested will not adversely affect the public health, safety, or welfare, will not adversely alter the essential character of the general vicinity, and will not cause a hazard or nuisance to the public.

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

- g. That the variance will be in harmony with the general purpose and intent of the Zoning Ordinance as well as the Adopted Comprehensive Plan for the County.

The barn will be in harmony with the general character of the area, because there are other structures on the street that also encroach in the front setback.

Mr. Hutchinson stated that the applicant had come to staff with a plan for a pole barn that was actually larger. Mr. Hutchinson pointed out issues with the plan and the applicant took the plan and began working to see how they could reduce the size and alter the plan to least impact the front yard setback. The applicant has worked with staff to reach the plan the Board sees before them tonight. Mr. Hutchinson also pointed out pictures which reflected other properties within the neighborhood which clearly showed homes as well as pole barns set within the front yard setback. Mr. Hutchinson stated that the variance requested by Mr. & Mrs. Ridings would not be detrimental to the neighborhood, nor adversely affect or alter the general character of the neighborhood. Mr. Hutchinson asked the Board if they had any questions that he could answer for them.

Mr. Verst asked the Board if they had questions for Mr. Hutchinson. There being none, Mr. Verst asked the applicant to come forward, state his name and address for the record. Mr. Bill Ridings, 12937 Pleasant Ridge Road, Alexandria, KY came forward. Mr. Ridings advised the Board he would abide by whatever the Board would approve and offered to answer any questions the Board may have for him.

Mr. Verst asked the Board if they had any questions for Mr. Ridings. There being none, Mr. Verst asked if anyone else in the audience wished to speak. There being no one wishing to speak, Mr. Verst opened the floor for discussion among the Board. Mr. Schaber stated that the photos showing that there were homes as well as barns already in the front yard setback were a clear indication to him that the variance would not be an issue. Mr. Verst stated that he really appreciated the applicant willing to work with staff to reach a more suitable plan and was satisfied that the variance was necessary as well. Mr. Johnson asked if there was ever an issue with utilities being over top the building sites. Mr. Verst advised that generally the applicant would have to contact the utility company and get approval from them to build beneath the lines. Mr. Hutchinson advised the Board that the applicant had been in contact with the utility company. The pole barn is only 14' feet high, but the utility company offered to move the lines if necessary to accommodate the building height. The top of the building has to be under the lines by 70' feet and the applicant will meet this requirement. Mr. Johnson stated he saw the lines and was curious about if there was any restriction. Mr. Hutchinson replied that the distance varied by the utility. Mr. Schaber added that it also depended by the wattage or voltage; residential versus high tension. Mr. Verst added that was a very good question.

Mr. Verst asked if there were any other questions. There being none, Mr. Verst called for a motion. Mr. Schaber made a motion to approve case #BA-02-11, William & Juanita Ridings, who are asking for a 15' foot variance to the front yard setback to build a pole barn reducing the minimum 50' foot front yard setback to 35' feet with the condition that the applicant complies with the Campbell County Zoning Ordinance and building codes. Mr. Schaber stated that the granting of the request is not unreasonable and would not alter the essential character of the neighborhood; that the variance will not

adversely affect the public health, safety or welfare, nor alter the character of the general vicinity and will not cause a hazard or nuisance to the public; and that the variance will be in harmony with the Zoning Ordinance and Comprehensive Plan. Mr. Mason seconded the motion. A roll call vote found Ms. Schweitzer, Mr. Bachmann, Mr. Johnson, 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 began his discussion with information regarding House Bill 68 (HB 68) which has not yet been issued into law, but is being closely monitored. This bill will prevent "incompatible offices" [citizens from serving on both the Board of Adjustments and the Planning & Zoning Commission]. This bill has passed the House, but was stalled in the Senate. The legislature is in special session right now, but it is unlikely this issue will be heard in special session. We currently only have one member on both boards, but in past have had up to two. Mr. Klear will continue to monitor this situation and keep the Board updated.

Mr. Klear advised the Board that the Planning & Zoning Commission (the Commission) have started to receive their packets electronically. Mr. Klear asked the Board their views on receiving their packets electronically. After some discussion, the Board decided to test April by receiving both electronic and paper packets with potentially going completely electronic the following meeting. Ms. Turner will send a test email to everyone to confirm staff has the correct email addresses for everyone on file within the next few days.

Mr. Klear's final item for discussion was to advise the Board that the Commission made a motion at their last meeting to move the location of their meetings to the new County Administration Building. Staff is looking for other options for a meeting location with more accessible and handicap parking. Mr. Klear asked the Board if they would be interested in moving the location of their meetings. After some discussion, the Board determined that the Commission could move the location of their meetings if they so desired, but the Board would remain at the current location.

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. Bachmann seconded the motion. An oral vote found all in favor and none opposed. Motion passed. Meeting adjourned at 7:42 PM.

Prepared by:

Approved:

Peter J. Klear, AICP
Director

Justin Verst
Chair