

ON MONDAY, FEBRUARY 7, 2022, THE BOARD OF ADJUSTMENT HELD THEIR REGULAR MEETING IN THE 2nd FLOOR COURTROOM OF THE WOODFORD COUNTY COURTHOUSE AT 6:30 P.M.

PLEDGE OF ALLEGIANCE

ELECTION OF OFFICERS: Mr. Winkfield made a motion, as seconded by Mr. Shockley to maintain the same slate as 2021 as follows: Tim Turney, Chairman; David Prewitt, Vice-Chairman; Ken Winkfield, Secretary. The motion carried with five (5) aye votes.

MEMBERS PRESENT: David Prewitt, Tim Turney, Ken Winkfield, Lonnie Estes, Bart Shockley.

MINUTES: A motion was made by Mr. Winkfield, as seconded by Mr. Estes, to approve the January 3, 2022 minutes, as submitted. The motion carried with five (5) aye votes.

PUBLIC HEARING - Application #02-001-2022 – Conditional Use Permit – Carter Farms Inc. (Owner) Carlyle Carter (applicant) – 110 Morgan St - R-2 District - Article VII, Section 708.4, Section 705.4(H) and Article V, Section 507– The owner is requesting a Conditional Use Permit (CUP) to allow the operation of a two bedroom Bed & Breakfast/Inn vacation rental.

Chairman Turney declared the hearing open and called upon Joshua Stevens, Building and Zoning Inspector, for comments. Mr. Stevens noted that staff was in receipt of a letter of support from a neighbor. Mr. Stevens noted that the owner was requesting a Conditional Use Permit (CUP) to allow the operation of a two bedroom Bed & Breakfast/Inn Vacation Rental located on the property known as 110 Morgan Street. The structure is listed as a two story, four bedroom, two bathroom home, with a total of 3904 square feet of living space. The house was constructed in 1792. There have been no previous approvals for BOA. The principle use of the property is single family residential. The property appeared to be of sufficient size to accommodate the proposed use and the Site Plan shows that there is adequate space to accommodate the proposed B&B.

Mr. Stevens provided in the staff report the appropriate Ordinances for the request as well as all associated definitions. All public notifications were met.

Mr. Stevens provided twelve suggested conditions to be included if the Board approves the request and highlighted eight of those:

1. This property is subject to all requirements of the Versailles-Midway-Woodford County Zoning Ordinance.
2. The applicant shall obtain all necessary permits, if any, from the Versailles-Midway-Woodford County Building Inspector and the Woodford County Health Department prior to operation of the B&B.
3. **The Owner, Lessee, or Owners agent must reside on the same property as the B&B.**
4. **The Conditional Use Permit shall be personal with Carlyle Carter and shall become null and void upon the sale, rent or lease of the property to any other party.**
5. The applicant shall return to the Board prior to ANY changes to the approved conditions.
6. This Conditional Use Permit will be reviewed annually for compliance with all conditions, and

then when necessary by the Board, to ensure compliance with these conditions.

7. **Guest suites shall be limited to 2.**
8. **No amplified music outside, and all music to cease at 10pm.**
9. **Limit overnight guests to 4.**
10. **Limit overnight Parking to 2 vehicles.**
11. **Guests may have a max of 2 non overnight visitors with 1 vehicle to be gone by 10pm.**
12. **Remodel permit number 5008/11599 shall be renewed and completed prior to operation of the B&B.**

Chairman Turney asked if any members had questions regarding the staff report. Hearing none, Chairman Turney called upon the applicant for comment.

Ace Heinle was present for the applicant and noted that Carter Farms was a family held corporation and his mother was not available to attend. The B&B will be a vacation rental in the downtown area and as stated and he lives upstairs. He wants it to be quiet and calm.

Chairman Turney asked if there were any questions or if anyone from the public wished to speak, hearing none, he closed the hearing and asked for a motion to approve or deny.

A motion was made by Mr. Estes, as seconded by Mr. Prewitt, to approve, based on the staff report record and with the twelve (12) conditions listed, Application #02-001-2022 – Conditional Use Permit – Carter Farms Inc. (Owner) Carlyle Carter (applicant) – 110 Morgan St - R-2 District - Article VII, Section 708.4, Section 705.4(H) and Article V, Section 507– The owner is requesting a Conditional Use Permit (CUP) to allow the operation of a two bedroom Bed & Breakfast/Inn vacation rental. The motion carried with five (5) aye votes.

PUBLIC HEARING - Application #02-002-2022 – Conditional Use Permit – Park Equine Properties, LP (Owner) and PetVet Doghouse (Providence) LLC (applicant) – 3550 Lexington Road - A-1 District - Article VII, Section 701.4 (F)– The Owner/Applicant is requesting a Conditional Use Permit (CUP) to operate a veterinary clinic and hospital for equine and small animals.

Chairman Turney declared the hearing open and called upon Mr. Stevens for comments. Mr. Stevens noted that the applicant was requesting a Conditional Use Permit (CUP) for an equine veterinary clinic and hospital as allowed under Article VII, Section 701.4 (F) Conditional Uses– “Animal Hospital & Clinics”. Since Conditional Use Permits do not run with the land the new buyer of the property is applying for their own CUP. All previous conditions shall remain the same, there is no planned change in use from the previously approved CUP. The request appeared to meet all of the necessary criteria and the associated Ordinances. All public notifications were met.

Mr. Stevens provided seven suggested conditions to be included if the Board approves the request and highlighted one of those:

1. This property is subject to all requirements of the Versailles-Midway-Woodford County Zoning Ordinance.
2. The owner shall comply with all other federal, state and local regulatory entities and shall provide copies to the Planning Commission office of any and all permits issued on behalf of the Owner as a result of the approval of the CUP.
3. The owner shall obtain all necessary permits, if any, from the Versailles-Midway-Woodford County Building Inspector and the Woodford County Health Department prior to operation of the equine veterinary clinic and hospital.
4. **The Conditional Use Permit shall be personal with PetVet Doghouse (Providence) LLC and shall become null and void upon the sale, rent or lease of the property to any other party.**
5. The owner shall return to the Board prior to ANY changes to the approved conditions.
6. The Owner agrees to follow the 1st Amended Final Development Plan as approved by the Versailles-Midway-Woodford County Planning Commission on November 9, 2006.
7. This conditional use permit shall be reviewed annually for compliance with all conditions, and then when necessary by the Board, to ensure compliance with these conditions.

Chairman Turney asked if any members had questions regarding the staff report. Hearing none, Chairman Turney called upon the applicant for comment.

Sam Carneal, representing the applicant, was present. Mr. Carneal noted that this would be the third Conditional Use Permit for the property and the intent for the requested permit will be operated by Hagyard Equine Hospital which is a subsidiary of PetVet. Mr. Carneal noted that there was not an intent for small animal services but they included it just in case there was a distinction under the Zoning Ordinance. Chairman Turney noted that if there were any changes such as boarding then the applicant would need to come back to the Board to amend the permit.

Chairman Turney asked if there were any questions or if anyone from the public wished to speak, hearing none, he closed the hearing and asked for a motion to approve or deny the request.

A motion was made by Mr. Prewitt, as seconded by Mr. Winkfield, to approve, based on the record and with the seven (7) conditions as listed, Application #02-002-2022 – Conditional Use Permit – Park Equine Properties, LP (Owner) and PetVet Doghouse (Providence) LLC (applicant) – 3550 Lexington Road - A-1 District - Article VII, Section 701.4 (F)– The Owner/Applicant is requesting a Conditional Use Permit (CUP) to operate a veterinary clinic and hospital for equine and small animals. The motion carried with five (5) aye votes.

PUBLIC HEARING - Application #11-020-2021- Administrative Review – Stonehaven Steading LLC & Jeffrey Reddoch vs. Merry Meadows Farm, et al, Petition and Complaint filed December 23, 2020; Planning Director denial of relief dated January 4, 2021 regarding Zoning Permit #11918 being improperly issued

and concerning the construction of commercial buildings at 925 Paynes Depot Road without the required zoning permits in an A-1 Zoning District.

Chairman Turney declared the hearing open and called upon Pattie Wilson, Planning Director for comments. Mrs. Wilson deferred to Hank Graddy, representative for the appellant, to address the Board first. Chairman Turney noted that each representative and/or witness would have a total of thirty minutes to address the Board. Whitney Dunlap, representative for Merry Meadows Farm, offered a procedural objection before reaching the substantive issues of the case. Chairman Turney noted that he had read and reviewed what was submitted and denied the request and would like to hear the two sides. Ethan Davis with Merry Meadows Farm was present via Zoom teleconferencing.

Mr. Graddy noted that he was representing the petitioners, Stonehaven Steadings, LLC and Jeffrey Reddoch. Mr. Reddoch could not be in attendance due to Covid and noted that he may ask to file additional documents into the record after the close of the public hearing since Mr. Reddoch could not be there. Members of the farm were present: Aidan and Leah O'Meara. Mr. Graddy distributed a letter with exhibits to the Board members and reviewed it. Mr. Graddy noted that he filed an appeal on December 23, 2020 on an affidavit that was filed in November that was missing from the application that was filed two years earlier for a manufactured home. Their complaint was that the permit was issued illegally. Another lawyer discovered the omission of the affidavit and they believed that the affidavit contained misinformation and does not qualify the home as a tenant house under Woodford County clause. They filed the appeal to Mrs. Wilson and she denied the appeal on January 4, 2021. On February 2, 2021 they filed another appeal to the Board of Adjustment. Their complaint stated that four buildings were built with funds from Three Chimneys and Merry Meadows Farms. They were built directly across from the entrance of Stonehaven Steadings entrance and they believed that the buildings were built for an illegal commercial activity at 925 Paynes Depot Road to accommodate the need of Three Chimneys Farm and the rest of the farm into a horse farm. Merry Meadows Farm and Three Chimneys Farm agreed to move Danny Parks' landscaping business from the center of the farm to 925 Paynes Depot Road, to allow Three Chimneys to take over most of the farm. Mr. Graddy noted that they believe this was the agreement that the farms would pay for the move and the improvements would be built to accommodate the business and were not described to the zoning office as commercial buildings, they were portrayed as agricultural buildings. It was their belief that D&M Mowing and Landscaping is running their business from that location and in response to their protest has left the farm and is running their business in the hemp factory in the City of Versailles, lawfully. But, their intent was to place the operation on Paynes Depot Road and they believe the buildings need to be taken down. Mr. Graddy reviewed exhibits that he provided. Mr. Graddy noted that because of a new lease with Danny Parks there was not enough land left to farm on and therefore there was no use for the buildings and they were built under a false pretense. Mr. Graddy noted that Mr. Reddoch made an offer to Mr. Davis to assist in relocating the manufactured home to a place where they would be legal and not to build anymore buildings to the entrance of his farm and that offer was ignored; they built three other buildings after that. Mr. Graddy contacted Mr. Dunlap to express concern that the buildings were built for the wrong purpose and wrong location. Mr. Reddoch met with Mr. Davis again and Mr. Reddoch again stated that the buildings should not be located there and they were built for the wrong purpose, they were not attractive buildings and they were an

impediment to the entrance of his farm, in particular where they serve no legitimate agricultural purpose. Mr. Reddoch offered to share the cost to move them but never received a reply back from Mr. Davis. Mr. Graddy noted that they were aware that the Parks' do custom hay and store some of that hay outside or inside some of the buildings, but believed that was not a legitimate use and being done on a temporary basis. Mr. Graddy noted that Attorney Bruce Simpson had sent an open records request to Mrs. Wilson requesting the affidavit. Mrs. Wilson acknowledged that the affidavit did not exist when the permit was issued and that she had contacted Mr. Davis concerning the omission. Mr. Davis did sign the affidavit and notarized by Mr. Dunlap on November 23, 2020 to try and demonstrate compliance for the tenant house requirement. Mr. Graddy noted that they were disputing the contents in Paragraph 1 of the affidavit and believed that the occupant was Matt Parks of D&M Landscaping and may be engaged in commercial hay cutting, but was not employed by Merry Meadows Farm. Mrs. Wilson responded to the petition filed stating that she did not see any zoning violations. Mr. Graddy shared photos showing a truck parked at the location displaying D&M Tree Service and noted that they discovered Articles of Organization filed indicating that Matthew Parks is the organizer of Parks Land Clearing, LLC located at 925 Paynes Depot Road. Mr. Graddy asked the Board to determine if Matt Parks is an employee of Merry Meadows Farm in order to qualify the house that he is living in as a tenant house of Merry Meadows Farm. Mr. Graddy asked the Board to request that Mr. Dunlap un-redact the subletting lease with Three Chimneys Farm to see what it says that the parties have agreed to be the location of D&M Mowing and Landscaping. Mr. Graddy submitted the legal argument found on page 5 in his document. Mr. Graddy asked the Board to find that the placement of the structures violates the guidelines of the Equine Preserve and Zoning Ordinance as to the purpose of the buildings and purpose of the manufactured home and require that the buildings be removed from this location.

Mr. Dunlap noted that he represented Merry Meadows Farm and Ethan Davis. Mr. Dunlap raised a procedural issue. Mr. Graddy spent most of his presentation discussing allegations that in 2019 that Mrs. Wilson failed to follow procedure that were required of her, but she did her duty, and Stonehaven Steadings did not. Merry Meadows Farm is a 230 year old agriculture farm and a dirt farm is a dirt farm; it is owned by Sallie Cochran and managed by her son, Ethan Davis. They were approached by a rival of Stonehaven Steadings, Three Chimneys Farm which wanted to lease most of the farm. Merry Meadows Farm had a tenant, a family member (not blood related but because he had been an integral part of the family for a long time) Danny Parks. Mrs. Cochran was concerned that she preserve a portion of the farm, away from Three Chimneys, so that Danny Parks would always have a farm and farm operation for hay and cattle. That farm operation was relocated to 925 Paynes Depot Road and buildings where needed for equipment and storage to operate said farming. Mr. Reddoch did everything he could to prevent this from happening. He blocked the water district from coming onto his property with a lawsuit if they came onto his property to hook up water for Merry Meadows Farm. Mr. Dunlap noted that this is about a jealous neighbor who did everything he could to prevent the farm operation from taking place. Mr. Dunlap noted that Mr. Parks' oldest son started mowing yards when he was a teenager and it grew and it should not have been out on Old Frankfort Pike but it was. Mr. Parks went to Mrs. Wilson when they had to move to Paynes Depot Road and she told him that he could not operate a landscape business from that location but suggested that they contact Mac McCauley about the old hemp factory and that is where they moved the business too. Mr. Davis contacted Mrs. Wilson about putting a tenant house on the farm

and she told him yes it was oaky but make sure you are 100' off the road because that is what is in the Ordinance. Mr. Dunlap noted that Equine Preserve is not a law, the Zoning Ordinance is. Mr. Dunlap noted that Mr. Graddy complained that a permit was not obtained to build the agricultural buildings, there is no such law, agricultural structures are exempt. Mr. Dunlap noted that a lawsuit had been filed which the judge threw out. Mr. Dunlap noted that in the summer of 2019, Mrs. Wilson issued a permit, and by the issuance of the permit it triggered the necessity that if you don't like it then appeal the decision to the Board. Mr. Dunlap noted that 401(B) states that the Board shall not consider an appeal that is not properly appealed within 30 days; three years later we are talking about this. Three days later Mr. Graddy filed a lawsuit and told the judge that Mrs. Wilson could not be trusted to do her job correctly and he did not think bringing it before this Board would result in a fair hearing, instead he thought he would have better luck with the Circuit Judge. The Circuit Judge said that Mr. Graddy had erred as a matter of law and he had to exhaust his administrative remedies and those administrative remedies began with 401; file your appeal to issue a permit which Mr. Graddy never did. Mr. Dunlap reviewed the complaints by Mr. Graddy as noted in his summary report which was all speculation. Mr. Dunlap noted that Mr. Graddy wanted a copy of the lease with Three Chimneys Farm and that was fought in Circuit Court and he was denied that release. Mr. Dunlap noted that there was no evidence that any violations took place. Mr. Dunlap noted that Mr. Graddy complained about the affidavit that Mr. Davis filed in November 2020, which was eighteen months after the permit was issued and he never filed a complaint within thirty days about the permit. Mr. Dunlap noted that it was not a zoning violation to park a truck that has company name on it at your residence. Mr. Dunlap noted that it was wrong for Mr. Graddy to bring before the Board the Parks Land Clearing LLC because it was not part of the complaint or was never brought to Mrs. Wilson to do anything about, so if Mr. Graddy or his client has a complaint then he needs to file a formal complaint with the administrative official and let her do her job. Mr. Dunlap noted that his clients followed the rules and did what the rules asked them to do and when the administrative official tells them how they should proceed forward, they get sued and the judge throws it back for failure to exhaust administrative remedies.

Chairman Turney asked if any members had questions for Mr. Dunlap. Hearing none, Chairman Turney asked the members if they had questions for either attorney. Hearing none, Chairman Turney asked for a motion to close the hearing.

Motion was made by Mr. Winkfield, as seconded by Mr. Estes to close the public hearing.

Chairman Turney closed the hearing and asked for a motion to affirm the decision by Mrs. Wilson or not to affirm. Chairman Turney noted that the only thing to consider is the decision that she made that it was an agricultural endeavor.

Scott Schuette, attorney with McBrayer, PLLC, was sitting in for Preston Worley the Planning Commission's attorney. Mr. Schuette noted that the issue within the time table to actively review is the affidavit that was submitted and if that raises an issue that would compel the Board to take further action.

A motion was made by Mr. Estes, as seconded by Mr. Winkfield, to affirm the Planning Director's decision, based on the record as presented, Application #11-020-2021- Administrative Review – Stonehaven Steading LLC & Jeffrey Reddoch vs. Merry Meadows Farm, et al, Petition and Complaint filed December 23, 2020; Planning Director denial of relief dated January 4, 2021 regarding Zoning Permit #11918 being improperly issued and concerning the construction of commercial buildings at 925 Paynes Depot Road without the required zoning permits in an A-1 Zoning District. The motion carried with five (5) aye votes.

A motion was made by Mr. Winkfield, so moved by Chairman Turney, to adjourn at 7:04 p.m. The motion carried with five (5) aye votes.

Tim Turney, Chairman

TT/ko