

ON MONDAY, JANUARY 6, 2020, THE BOARD OF ADJUSTMENT HELD A MEETING IN THE 2ND FLOOR COURTROOM OF THE WOODFORD COUNTY COURTHOUSE AT 6:30 P.M.

PLEDGE OF ALLEGIANCE

ELECTION OF OFFICERS: Mr. Schooler made a motion, as seconded by Mr. Prewitt to keep the officers as they were for 2019: Tim Turney, Chairman; David Prewitt, Vice-Chairman; Frank Stark, Secretary. The motion carried with three (3) aye votes.

MEMBERS PRESENT: Al Schooler, David Prewitt, Tim Turney

MINUTES: A motion was made by Mr. Prewitt, as seconded by Mr. Schooler, to approve the November 4, 2019 minutes, as submitted. The motion carried with three (3) aye votes.

Application #01-001-2020 – Dimensional Variance – Tyler J. and Hope H. Shelters – 7069 Arbor Meadow Way – R-1B District – Article VII, Section 706.6 – Owners are seeking a 12 foot variance from the required minimum 35’ rear yard in order to keep a covered deck attached to their home. Covered deck is 23 feet at the nearest point to the rear property line.

Chairman Turney declared the hearing open and called upon Pattie Wilson, Planning Director, for comments. Mrs. Wilson summarized her staff report and noted that the applicants were seeking a twelve foot rear yard variance from the required 35 foot minimum rear yard setback, in order to rectify an over cite when the home was constructed, so a covered deck can remain. The property is located in Cedar Ridge Subdivision and is zoned R-1B, Single Family Residential. The home was originally constructed in 2016. The site plan dated 10/06/2015 did not show a deck at all. The application dated 11/18/2015 specifically noted “no covered back deck” by the builder. The wood deck was approved with the house plans but was restricted from being covered as it would violate the rear yard setback. During construction the builder ended up constructing a roof over the deck as part of the entire project without modifying the plans on file or the existing permit. A Certificate of Occupancy was issued on July 26, 2016. Mrs. Wilson noted that recently the homeowners had questions about the deck and it was discovered at that time that the deck should have never been covered and that a setback violation had occurred. The Applicant wished to rectify the violation by seeking the variance for the structure. There were no records of any prior variances granted to this property. Mrs. Wilson noted that the builder provided today two photographs with the view from the rear which was made part of the record. Mrs. Wilson provided the appropriate Zoning Ordinance and noted that there is a Section in Article V that can allow a rear yard setback encroachment up to eight feet for a covered structure if the structure is no more than three feet above grade. This structure is more than eight feet above the ground. Therefore a variance for the full depth of the twelve feet encroachment is necessary.

Mrs. Wilson noted that all four criteria were met as follows:

- A. This home has one of the shallowest rear yards with a deck on the rear, as compared to other homes in this unit of Cedar Ridge.
- B. If the variance isn’t granted the owners would continue to have a structure in violation of the Versailles-Midway-Woodford County Zoning Ordinance, causing a potential title issue if the home is ever sold. The only way to eliminate the violation would be to remove the roof over the deck. Other homes in the area do have covered decks.

- C. The owner purchased the home from their builder with the covered deck already in place. They were not aware that proper approvals had not been granted. The applicant was aware that the deck could not be covered and it was so noted on the plans.
- D. This variance will not adversely affect the neighborhood's character because it is not visible from the street. It was constructed at the same time as the home so it matches the character of the home. Allowing the roof to stay over the deck will not affect the public health, safety or welfare. It actually improves the ability to use the deck since this has a southern exposure.

All public notices were met and letters were mailed to adjacent property owners. Mrs. Wilson noted that she was in receipt of one letter of support from Leonard Nave of NARO Properties.

Mrs. Wilson recommended the following conditions if the Board chose to approve the variance:

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 Variance.**
3. **The approved variance is granted only for the existing 21' wide and 12' deep covered area of the deck shown on the "Site Plan" dated 11/03/2019 attached to the application. Any future structures or additions shall conform to the standards of the Zoning Ordinance.**

Chairman Turney asked if there were any questions for Mrs. Wilson. Chairman Turney asked Mrs. Wilson to explain a comment that was in the application. Mrs. Wilson deferred to the builder or his representative. Chairman Turney called upon the applicant for comment.

Allan Chappell, Attorney for Joe Davenport, Builder, distributed copies of the photos and an email from Mr. Nave. Mr. Chappell noted that there was a narrative attached to the application that attempted to explain how the mistake occurred. In the original plans the cover was shown over the deck and the owner decided that they didn't want it so it was removed and in the course of construction the owner wanted it built. Mr. Davenport spoke to Mr. Isaac Hughes, the Building Inspector at the time, and he told the builder that he could inspect that on the Final inspection. Mr. Davenport noted that there was no mal-intent. Mr. Davenport did not turn in any paperwork to that affect and just called Mr. Hughes.

Chairman Turney asked if any Board members had questions for the representatives. Hearing none, Chairman Turney asked if anyone from the audience wished to comment, hearing none, Chairman Turney closed the hearing and asked for a motion to approve or deny the Dimensional Variance application.

A motion was made by Mr. Prewitt, as seconded by Mr. Schooler, to approve Application #01-001-2020 – Dimensional Variance – Tyler J. and Hope H. Shelters – 7069 Arbor Meadow Way – R-1B District – Article VII, Section 706.6 – Owners are seeking a 12 foot variance from the required minimum 35' rear

yard in order to keep a covered deck attached to their home. Covered deck is 23 feet at the nearest point to the rear property line, based on the four criteria and to include the conditions as listed in the staff report. The motion carried with three (3) aye votes.

Application #01-002-2020 – Dimensional Variance – Michael and Mishelle Shaffo – 8005 Sea Hero Run – R-1A District - Article VII, Section 705.6 and Article V, Section 504.3(A) – Owners are seeking a 4 foot variance from the required 42 foot rear yard in order to construct a screened porch on their existing patio.

Chairman Turney called the hearing open and called upon Mrs. Wilson for comments. Mrs. Wilson noted that the owners are seeking a four foot rear yard variance from the required 42 foot minimum rear yard setback, in order to be able to construct a roof for a screened porch over the existing patio.

The property is located in Derby Hill Subdivision and is zoned R-1A, Single Family Residential. The home was originally constructed in 1996. The applicant purchased the home in September of 2018. There was an existing patio with a wood railing on the rear of the home. The Shaffos wish to cover the patio with a roof and screen the space in.

Upon application for a building permit it was discovered that this would encroach the 50 foot rear yard. The R-1A zone requires a minimum rear yard of 50 feet. However, Article V, Section 504.3(A) allows projections in to the rear yard up to 8 feet when open of three sides. The home is located on a corner lot and the direction the home faces it is very shallow and skewed slightly. The closest corner of the existing patio is 40 feet.

Mrs. Wilson noted that there were no records of any prior variances granted to this property. However, the property at 8009 Sea Hero (opposite corner) was granted a similar variance in July of 2014.

Mrs. Wilson provided the two different sections of the Zoning Ordinances that pertain to the request.

Mrs. Wilson noted that all four criteria were met as follows:

- A. This home has one of the shallowest rear yards with a patio, as compared to other homes in this unit of Derby Hills.
- B. If the variance isn't granted the owners would only be able to have a ten foot deep screened porch due to the chimney projecting into the patio. Many homes in this neighborhood have screened porches or patio rooms.
- C. The applicant was not aware of the setback for a covered porch since other homes in the neighborhood had them.
- D. This variance will not adversely affect the neighborhood's character nor affect the safety and welfare of the area. In fact, by allowing the variance the home will fit in with the essential character better.

Public notices were sent to adjoining property owners and placed in the Woodford Sun. Mrs. Wilson noted for the record that three letters were received in support of the application from the following:

Joe and Linda Cooley, 3003 Tim Tam Trail
Roger and Ann Davis, 8006 Sea Hero Run
Noah and Alyson Wilson, 8003 Sea Hero Run

Mrs. Wilson noted that if the Board approves this application, it is recommended that the following conditions be attached to the Variance:

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 Variance.**
3. **The approved variance is granted only for the proposed 14' x 20' covered area of the existing patio shown on the "Site Plan" dated December 17, 2019 attached to the application. Any future structures or additions shall conform to the standards of the Zoning Ordinance.**

Chairman Turney asked if there were any questions for Mrs. Wilson, hearing none, Chairman Turney called upon the applicant for comment.

Michael Shaffo was present and noted that this variance would allow them to be competitive with surrounding homes and that the addition would have to be approved by their homeowners association.

Chairman Turney asked if any Board members had questions or if there was any public comments, hearing none he closed the hearing and sought a motion to approve or deny the request.

A motion was made by Mr. Schooler, as seconded by Mr. Prewitt, to approve Application #01-002-2020 – Dimensional Variance – Michael and Mishelle Shaffo – 8005 Sea Hero Run – R-1A District - Article VII, Section 705.6 and Article V, Section 504.3(A) – Owners are seeking a 4 foot variance from the required 42 foot rear yard in order to construct a screened porch on their existing patio, based on the four criteria and to include the conditions as listed in the staff report. The motion carried with three (3) aye votes.

Application #01-003-2020 – Conditional Use Permit – Multi-Specialty Foundation – 372 Shannon Run Rd – A-1 District – Article VII, Section 701.4(F)&(H) – Owner is seeking a Conditional Use Permit to operate a kennel (pet rescue and adoption) and Animal Hospital Clinic.

Chairman Turney called the hearing open and called upon Mrs. Wilson for comments. Mrs. Wilson noted the Foundation was seeking a Conditional Use Permit to operate a kennel, pet rescue and adoption facility, with provisions to do spay/neuter surgery, therefore the request includes animal hospital & clinic for veterinary care. The farm is zoned A-1 and consists of 30 acres. The property is located on the east side of Shannon Run Road approximately three tenths of a mile south of US 60. There is one dwelling and one barn located on the property at the present time. The property was purchased by the applicant in November 2019. There are no prior BOA reviews on this property.

Mrs. Wilson provided the two different sections of the Zoning Ordinances that pertain to the request. One allows clinics and kennels and the definitions associated with those terms.

Public notices were sent to adjoining property owners and placed in the Woodford Sun. The Planning and Zoning office was not contacted by anyone regarding the request. The applicant's property appears to be of sufficient size to accommodate the proposed use. A map of the site is attached to the application. This CUP appears to meet all of the necessary criteria listed above and within the associated Ordinances.

If the Board approves this application, it was recommended that the following conditions be attached to the Conditional Use Permit:

- 1. This property is subject to all requirements of the Versailles-Midway-Woodford County Zoning Ordinance.**
- 2. The applicant 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 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 kennel associated vet clinic.**
- 4. The Conditional Use Permit shall be personal with *Multi-Specialty Foundation, Inc.* 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. Site Plan identifies proposed setbacks of 250 from Shannon Run Road and 50 feet from all other property lines, with the exception of the existing barn along the north property line. Hedges are proposed along the rear property line. Staff would recommend that these must be evergreen trees, a minimum of 5 feet tall when planted, spaced no farther apart than 30 feet on center, and planted prior to opening the business.**
- 7. Items 1-8 as attached to the application will be adhered to as Conditions of this permit.**
 1. Operation – Plan to build structures on the property which will serve in four capacities. First, they will need space for the pets to live until they are adopted. They will also need a separate building for quarantine for any sick intake pet. They expect to have a building for offices. Finally, a fourth area will serve as the spay/neuter and possibly a veterinary clinic/animal hospital. If deemed necessary they may need ancillary structures for heartworm recovery and other needs. No breeding will take place on the property, as their goal is to simply find homes for the pets. All areas to be cleaned daily.
 2. Waste Management – Septic tank to be placed for facility use. Appropriate waste management company to facilitate a dumpster. All waste to be removed by a waste management company such as Rumpke.
 3. Plan – They will place buildings all within the square shown on the diagram, depending upon where the architects suggest. This proposal will allow a buffer of at least 50 feet to every adjacent property. On the back end of the property they will be planting hedges; all outdoor runs to be fenced. They may build a man-made pond/fountain on the farm depending on feasibility to enhance the beauty of the property.

4. Fencing – They will be tearing down all of the old fencing and replacing with good looking critter fencing around the perimeter of where they will be conducting the operation. Their goal is to preserve the farm look of the property for all structures, and replace all of the run down fencing. They will be repairing the grounds throughout the premises to give the property the look of a world class farm. All pets will stay within fenced in areas, ensuring no pet will have the ability to escape the premises.
 5. Hours of Operation – Staff will begin to let the pets out of the structures at 6:00 a.m. Variety of potty breaks will be given throughout the day.
 6. Business Sign will be placed in front of the property. Parking areas will be located within the square shown on diagram. Road will be paved back to the parking area.
 7. Lighting – All structures and parking areas will have electricity and downward shielded lighting.
 8. Water – Kentucky American Water will be installing a new waterline, extending from the adjacent properties.
- 8. The buildings and pet areas shall be kept clean so there is no odor and shall be managed so any barking or nuisance dogs are removed from outside runs/exercise pens to inside buildings.**
- 9. 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 there were any questions for Mrs. Wilson. Mr. Schooler asked if the condition of placing hedges was the owner's idea. Mrs. Wilson stated that they were going to screen the rear property line and she just made some modifications.

Chairman Turney called upon the applicant. Matt Waldman with Multi-Specialty Foundation noted that they were fine with making sure the hedges were set before building and had no problem with downward projected lighting as recommended by Mrs. Wilson. Mr. Waldman noted that this project would fulfill a great need for the community as well as for surrounding counties. Their goal was to take the most adoptable animals, not the vicious ones, and give them a place to live until they could be adopted. Chairman Turney asked if they would be limited to dogs. Mr. Waldman stated that they would also like to house cats, but no exotic animals. Chairman Turney suggested adding a condition to limit housing to non- exotic domestic animals only. Chairman Turney asked how many animals they would be keeping. Mr. Waldman stated that they want to build as an organization so they don't want to set a limit at this time but would be open to whatever the Board suggested. Chairman Turney suggested that the Board not cap it at this time but if they get complaints they have the right to address it at a later time. Mrs. Wilson noted that the applicant did contact adjoining neighbors with the exception of one that they could not reach.

Chairman Turney asked the Board members if they had any questions.

Chairman Turney asked if anyone from the public had comments. Hearing none, Chairman Turney closed the hearing and asked for a motion to approve or deny the request.

A motion was made by Mr. Schooler, as seconded by Mr. Prewitt, to approve Application #01-003-2020 – Conditional Use Permit – Multi-Specialty Foundation – 372 Shannon Run Rd – A-1 District – Article VII, Section 701.4(F)&(H) – Owner is seeking a Conditional Use Permit to operate a kennel (pet

rescue and adoption) and Animal Hospital Clinic, based on the findings in the staff report and include the nine (9) conditions as listed in the staff report and also to include downward lighting and limit housing to (non-exotic) domestic animals only. The motion carried with three (3) aye votes.

A motion was made by Mr. Schooler, so moved by Chairman Turney, to adjourn at 6:57 p.m. The motion carried with three (3) aye votes.

Tim Turney, Chairman

TT/ko