

ON MONDAY, JANUARY 8, 2018, 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

MEMBERS PRESENT: Al Schooler, David Prewitt, Frank Stark, Tim Turney, Fred Powers

OATH OF OFFICE – Not required since Mr. Stark was reappointed.

ELECTION OF OFFICERS: Mr. Prewitt made a motion, as seconded by Mr. Powers to keep the officers as they were for 2017: Tim Turney, Chairman; David Prewitt, Vice-Chairman; Frank Stark, Secretary. The motion carried with four (4) aye votes with Mr. Stark abstaining.

MINUTES: A motion was made by Mr. Stark, as seconded by Mr. Prewitt, to approve the December 4, 2017 minutes, as submitted. The motion carried with five (5) aye votes.

Application #01-002-2018 – Conditional Use Permit – James J. O’Brien – 4598 West Leestown Rd – A-1 District – Owner/Applicant is seeking a Conditional Use Permit to operate a four room Bed & Breakfast/Inn for overnight guests.

Chairman Turney declared the hearing open and called upon Isaac Hughes, Building & Zoning Inspector for comments. Mr. Hughes noted that the applicant was requesting Conditional Use Permit (CUP) to allow the operation of a 4 bedroom Bed & Breakfast/Inn for overnight guests; this is to be located in the second floor of the barn. The property consists of approximately 38 acres in Woodford County with the majority of the remaining farm located in Franklin County consisting of approximately 145 acres. In 1998, this property was rezoned by a previous owner from A-1 to A-2 and just recently rezoned back to A-1. Once the O’Briens were made aware of this they immediately stopped working on the residential units in the barn and it was decided they needed to apply for a Conditional Use Permit for a bed and breakfast via the AARC.

Bed & Breakfast/Inns are allowed in the A-1 zone as a conditional use (Article VII Section 701.4(J) which refers to Article V, Section 507). Mr. Hughes read the definition of a Bed and Breakfast/Inn Establishment.

All the public notices were met and letters were mailed to adjacent property owners.

The AARC reviewed and recommended approval to the BOA. The applicant’s property appears to be of sufficient size to accommodate the proposed use. There is adequate space for parking. The request for the CUP appears to meet all of the necessary criteria listed above and within the associated Ordinances.

Mr. Hughes 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 Applicants 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 Applicant as a result of the approval of the CUP.**

3. **The Applicants shall obtain all necessary permits from the Versailles-Midway-Woodford County Building Inspector and the Woodford County Health Department prior to operation of the B&B/Inn.**
4. **The Conditional Use Permit shall become null and void upon the sale or transfer of the property.**
5. **The Applicants shall return to the Board prior to ANY changes to the approved conditions.**
6. **The Applicants will operate no more than four (4) bedrooms located within the barn.**
7. **There shall be a maximum of ten (10) guests residing in the 4 rooms at any one time**
8. **B&B/Inn Conditions A-R –Section 507 will all be met.**

Chairman Turney asked if there were any questions for Mr. Hughes. Hearing none, Chairman Turney called upon the applicant for comment.

James O'Brien was present for discussion and noted that the riders will stay above the horses in the barn and they have an event training center. Chairman Turney asked how long the average tenant would be on the property. Mr. O'Brien noted that they have had someone stay two months but typically for about one to two weeks. Chairman Turney asked how many horses riders typically bring. Mr. O'Brien noted they would bring 1-2 per rider. Chairman Turney asked if the farm boarded horses where the rider would not be staying overnight. Mr. O'Brien responded yes.

Mr. Prewitt asked Mr. Hughes if there had been any comments from any neighbors. Mr. Hughes responded no.

Chairman Turney closed the hearing and asked for a motion to approve or deny the Conditional Use Permit application.

A motion was made by Mr. Stark, as seconded by Mr. Prewitt, to approve Application #01-002-2018 – Conditional Use Permit – James J. O'Brien – 4598 West Leestown Rd – A-1 District – Owner/Applicant is seeking a Conditional Use Permit to operate a four room Bed & Breakfast/Inn for overnight guests with conditions as listed. The motion carried with five (5) aye votes.

Application #01-001-2018 – Dimensional Variance – John and Melinda Eberth – 824 Flint Ridge Rd – R-1B District – Article VII, Section 706.6 & Article V, Section 504.3(A) - Owners are seeking a seven foot variance for a covered porch to encroach an additional seven feet into the rear yard.

Chairman Turney called the hearing open and called upon Mr. Hughes for comments. Mr. Hughes noted that the applicants are seeking a 7 foot variance for a covered porch to encroach an additional seven feet into the rear yard. The minimum rear yard setback for the residence is 35 feet. The existing residence is 40 feet from rear line. A covered porch can encroach into the rear yard up to 8 feet so they could add a 13 foot deep porch to the home. They want to add a 20 foot deep porch therefore they are seeking a seven foot variance. Mr. Hughes noted the following in the Zoning Ordinance:

Minimum Rear Yard Setback is 35 feet minimum, however Article V Section 504.3(A) pertaining to projections: States:

- A. Covered porches, stairways, terraces or other similar features, the floor level of which is not over three (3) feet above the average finished grade and which do not extend above the level of the first floor of the building, when open and unenclosed, may project into a required front, side or rear yard not more than eight (8) feet, provided that such covered porches, stairways, terraces, or other similar features conform to the provisions of Section 504.3 (D) which is also attached to your packet.

Mr. Hughes noted that the Board shall not grant a variance unless all of these general criteria are met:

1. The specific conditions in detail are unique to the applicant's land and do not exist on other land in the same zone.
The footprint of house and placement on lot resulted in less depth in rear yard for a functional covered patio addition which would match the aesthetics of houses. Also, homeowner owns lot adjacent to rear of property in Lancaster subdivision.
2. The manner in which the strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land in the manner equivalent to the use permitted other landowners in the same zone.
Strict application of provisions would inhibit homeowner from utilizing the rear yard of property in a functional manner.
3. That the unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of the Zoning regulations.
This is the result of actions of the applicant. Ordinance has not changed. However the current homeowner did not own said property at time of zoning regulation adoption.
4. Reasons that the variance will preserve, not harm the public safety and welfare, and will not alter the essential character of the neighborhood.
The covered patio will not affect public health, safety, & welfare, will not alter essential character of vicinity or cause a hazard or nuisance to public because it is a residence in rear of property not for a business or public use.

Public notices were sent to adjoining property owners and placed in the Woodford Sun.

Mr. Hughes noted that the request for this variance does appear to meet the necessary criteria listed above.

Mr. Hughes 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 owners 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 owners as a result of the approval of the Variance.**
3. **The approved Variance is granted only for the rear porch as shown on the attached aerial photograph. Any future structures or additions shall conform to the standards of the Zoning Ordinance.**
4. **The owner shall obtain all necessary permits from the Versailles-Midway-Woodford County Building Inspector for the construction of the rear porch.**

Chairman Turney questioned Criteria #3, the current homeowner did not own said property at time of zoning, and he felt it was contradictory.

Chairman Turney called upon the applicant for comment. Melinda Eberth and Mike Gentry, General Contractor, were present. Mrs. Eberth noted that she and her husband are requesting the variance to build a covered patio beyond the thirteen feet to be able to enjoy the home. Chairman Turney noted that when they purchased the property all zoning ordinance was in place. Mrs. Eberth noted that is correct and they bought their house new in 2008 and it had a small wooden deck which has rotted off. Chairman Turney questioned the footprint of the home and noted that they are all the same and why would this one be different than the rest. Mrs. Eberth noted that the houses on either side, the footprints incorporate covered patios in them; all within the boundaries per Chairman Turney. Mr. Gentry noted that the builder put the garage at the building line and could have moved that up.

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. Powers, to approve Application #01-001-2018 – Dimensional Variance – John and Melinda Eberth – 824 Flint Ridge Rd – R-1B District – Article VII, Section 706.6 & Article V, Section 504.3(A) - Owners are seeking a seven foot variance for a covered porch to encroach an additional seven feet into the rear yard with the noted conditions. The motion carried with four (4) aye votes, Mr. Schooler, Mr. Prewitt, Mr. Stark, Mr. Powers and one nay vote, Chairman Turney.

Application 12-025-2017 – Dimensional Variance – Antony C. Bays – 5799 Midway Rd – A-1 District – Owner/Applicant is seeking a 10 foot variance from the 25 foot minimum side yard (each side) requirement and a 25 foot variance from the minimum 50 foot minimum rear yard requirement in order to build a single family residence.

Chairman Turney called the hearing open and called upon Mr. Hughes for comments. Mr. Hughes noted owner is requesting a dimensional variance of 6' from the 25' minimum side yard setback (one side) and a 14 foot variance from the minimum 50 foot rear yard setback to build a single family residence. This property is zoned A-1 (Agriculture) Zone. It lies on the west side of Midway Road less than a quarter mile south of Walnut Street. This property is not in the city limits and public water and sewer are not

available. The Woodford County Health Department was contacted about possible installation of a septic system on this property but due to size of lot, gas main line, drainage area, etc., no evaluation had been made as of the date of this report. There are no records of any prior variances to the subject property, it is a legal nonconforming half acre lot created before the existence of the zoning ordinance. The Agricultural (A-1) ordinance, Article VII, Section 701.6 specifies the minimum each side yard be 25 feet, the minimum rear setback is 50 feet for single family residence. According to Definition 279 the property is a legal non-conforming lot of record and Article VIII, Section 801 applies as well.

Mr. Hughes reviewed the criteria. The request for this variance appears to meet the four necessary criteria listed above.

Public notices were sent to adjoining property owners and placed in the Woodford Sun.

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 owners as a result of the approval of the Variance.**
- 3. The approved Variance is granted only for the Principle residence as shown on Site Plan dated January 3, 2018, any future structures or additions shall conform to the standards of the Zoning Ordinance setback.**
- 4. The owner shall obtain all necessary permits from the Versailles-Midway-Woodford County Building Inspector for the construction of the residence.**
- 5. The owner shall obtain approval from the Woodford County Health Department for installation of an on-site waste disposal system.**

Chairman Turney questioned the variance request. Mr. Hughes noted that the request had changed since the report was mailed to the Board and the applicant may be able to answer. Chairman Turney asked if there were any additional questions for Mr. Hughes.

Chairman Turney called upon the applicant. Cassie Barnes, representing Tony and Natalie Bays, was present for discussion. Mrs. Barnes noted the applicants are under contract for sale with regards to the lot. The contract states that the owners would request a 25' rear yard variance and 10' side yard variance in order to construct a single family residence on the lot. Mr. Smith, whom has the contract to purchase the lot, has worked with Malcolm Endicott on the site plan. Mrs. Barnes noted that Eddie Grubbs, the septic designer, and J. Smith discussed the site plan, it was determined that pursuant to the easements that are located on the front of the tract would need an additional 30' clearance to install a septic system. They are requesting the full 25' rear yard variance which would give them 11' to erect the single family residence and Mr. Smith acknowledged that he would need to account for the other 19' by changing the footprint of the house to accommodate the septic system. There is no variance

needed on the north side of the property but they do need the 10' variance on the south side. Chairman Turney asked if the site plan they had was accurate or not. Mrs. Barnes noted that the footprint shown was not accurate and Mr. Smith told her that it changed because of the septic system location.

Chairman Turney asked the Board member if they had any questions. Mr. Powers questioned where the septic tank would be located. Mrs. Barnes noted that it would be located in the front of the property. Mrs. Barnes noted that the plan was to build a 2,200 to 2,300 s.f. home with two bedrooms. Mr. Stark noted that the documents which were mailed to the Board did not coincide with anything.

Chairman Turney asked if anyone from the public had comments.

Kerry Cauthen from 18 Circle Drive, an adjoining property owner, respectfully objected to the setback requested due to the fact that they board horses on their property. Mr. Cauthen had concerns regarding the amount of underground water in the area and the subject property is a drainage area. Mr. Stark asked if Mr. Cauthen had a septic system. Mr. Cauthen noted that they did not have a house on their property.

Chairman Turney asked if there were any further comments. Mrs. Barnes noted that this was a ½ acre non-conforming lot in the A-1 zone. For any structure to be placed on this lot would have to be placed to the rear and south of the lot to accommodate the septic system. Mrs. Barnes noted that Mr. Endicott can supplement site plan with a new house footprint if the Board would approve contingent upon reviewing that.

The Board agreed that a new site plan would be needed to take action. Mr. Stark asked Mr. Cauthen that if they comply with all of the setbacks, they still would not be very far from the horses and where on the lot could the house sit before it would not be an issue for the Cauthens. Mr. Cauthen noted that the rules were what they were and it was a very poor lot and did not agree with the setback.

Chairman Turney closed the hearing and will review an updated site plan and make a decision at their next meeting.

A motion was made by Mr. Stark, so moved by Chairman Turney, to adjourn at 7:01 p.m. The motion carried with five (5) aye votes.

Tim Turney, Chairman

TT/ko