

ON MONDAY, JUNE 4, 2018, THE BOARD OF ADJUSTMENT HELD A MEETING IN THE 2<sup>ND</sup> FLOOR COURTROOM OF THE WOODFORD COUNTY COURTHOUSE AT 6:30 P.M.

Chairman Turney called the meeting to order.

**Members Present:** David Prewitt, Al Schooler, Tim Turney, Fred Powers

**Pledge of Allegiance**

**Minutes: May 7, 2018 – A motion was made by Mr. Schooler, as seconded by Mr. Prewitt to approve the minutes as submitted. Motion passed with four (4) aye votes.**

Application #06-013-2018 – Conditional Use Permit – Kathy Burgess – 12641 Troy Pike – A-1 District – Article VII, Section 701.4 (H) – Applicant is seeking to amend their existing Conditional Use Permit for a dog kennel for a business that breeds dogs and also offers research/education opportunities, etc. by adding an additional 100'x100' commercial building to support existing business needs.

Chairman Turney declared the hearing open and called upon Mrs. Patricia Wilson, Planning Director for comments. Mrs. Wilson noted that Ms. Burgess was before the Board in the near recent past in regards to the same property. She was seeking to amend her prior Conditional Use Permit which is still in effect, for the addition of a 100'x100' building, for the expansion of her existing business. The description of her business is to Operate as a breeding and research/educational center with minimal retail sales. They also have puppy and adult dog training and enrichment classes. They will primarily be servicing Comfort Retrievers and Comfort Goldendoodles, the breeds produced at their facility. The farm is zoned A-1 and consists of approximately 31.58 acres. This property was reviewed by the Board of Adjustment on four previous occasions for CUP's for kenneling. The dates of the meetings were August 2, 1993, December 4, 2006, February 5, 2007, and December 15, 2015. The last review was December of 2015 when the current owner purchased the property and jointly applied with the seller, Linda Mosley for the current Conditional Use Permit; a copy of these minutes was attached to the staff report. Mrs. Wilson reviewed the sections of the ordinance that gave the opportunity to apply for the Conditional Use for a kennel. All public notice requirements were met. The applicant's property appears to be of sufficient size to accommodate the proposed amendment to add a 100' x 100' building as shown on a site plan attached to the application. Mrs. Wilson noted that the following conditions must be adhered to:

- 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, remodeling of existing buildings or construction of new buildings.**
- 4. The Conditional Use Permit shall be personal with Kathy Burgess 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. The applicant will live on the premises.**
- 7. All fecal matter from the kennel shall be disposed of in one of the following ways:**
  - a. Disposed of in the septic system that has been designed or approved by the local health department, or in a manner approved by the health department for use in a kennel situation.**
  - b. Disposed of by removing from the property via waste management company such as Rumpke.**
- 8. The buildings 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.**
- 9. No dog kenneling, dog training, related dog activity or business parking shall be conducted forward of a line running from the residence located on the front of the property, which is now called the manager's house, to the boundaries of the property as per the attached Site Plan.**
- 10. Visitor hours are M-F 9-6 and Saturday 10-12. Extended hours will occasionally be offered to accommodate visitors.**
- 11. The conditional use permit shall not allow the applicant to engage in any activity which shall be detrimental to the rural character of the area nor will be a nuisance nor interfere with the quiet use and enjoyment of adjoining property owners.**
- 12. 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.**
- 13. The Site Plan shall be adhered to including the additional 100' x 100' building as amended herewith.**

Chairman Turney asked if any Board members had questions for Mrs. Wilson. Hearing none, Chairman Turney called upon the applicant for comments.

Kathy Burgess noted that since they moved into the property they have had a lot of growth and more staff but the traffic to the property remains low since most dogs are shipped out. Ms. Burgess felt that it would be more costly to renovate the current building than to build a separate building. The existing building would be used for training. They plan to open up a non-profit to help provide service dogs for people in need. Ms. Burgess noted that the planned building will probably be 92'x110'. Equipment and services have been added since opening.

Chairman Turney asked if any board members had any questions.

Mrs. Wilson noted that Ms. Burgess was limited to the size of the building because it was advertised as 100'x100'; it can be under that footprint size, but not larger. Chairman Turney asked what the new building would be used for. Ms. Burgess noted that everything they are doing in the existing one will be moved over. They will be housing the dogs, vet tech room, surgery room and looking at optimally spacing the dogs. Chairman Turney noted that on the application submitted by the applicant, it lists some of the conditions that were imposed with the first Conditional Permit but that some had been

omitted. Chairman Turney noted that all previous conditions would still apply plus other conditions that may be imposed with this request. Mr. Schooler questioned if there were any comments from neighbors. Mrs. Wilson noted that the office did receive a few calls but did not receive anything in writing. Ms. Burgess noted that she did have an open house and no one came and that she did personally speak to her neighbor and he gave some good suggestions and she was willing to make it work.

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

**Motion was made by Mr. Schooler, as seconded by Mr. Prewitt to approve the Application #06-013-2018 – Conditional Use Permit – Kathy Burgess – 12641 Troy Pike – A-1 District – Article VII, Section 701.4 (H) – Applicant is seeking to amend their existing Conditional Use Permit for a dog kennel for a business that breeds dogs and also offers research/education opportunities, etc. by adding an additional 100’x100’ commercial building to support existing business needs, as presented with conditions as noted in staff report. Motion carried with four (4) aye votes.**

Application #06-014-2018 – Administrative Review – Amerco Real Estate (U-Haul) – 525 Marsailles Rd – B-4 District – Article VII, Section 716.2 (H) – Owner is requesting a similar use determination to allow the proposed use of U-Haul indoor-self storage in a Highway Business District.

Chairman Turney declared the hearing open and noted that the applicant would have 20-30 minutes for their presentation and then the public would each have five minutes and Chairman Turney asked that comments not be duplicated. Chairman Turney called upon Mrs. Wilson for comment. Mrs. Wilson noted that the applicant was seeking a determination from the Board to allow the proposed use of U-Haul indoor self-storage as a similar use to other permitted uses in the B-4 (Highway Business District). The determination is permitted according to the Versailles-Midway-Woodford County Zoning Ordinance Article VII, Section 716.2 (H). Mrs. Wilson presented background research and noted the area affected by this determination consists of approximately 6.85 net acres. The area is known as Lexington Road Plaza is zoned B-4 (Highway Business District) and was subdivided in December 1992 and consists in total of about 24 acres. Shortly thereafter construction began for a Kroger and Kmart with several smaller retail stores in between. Since the original construction the Kroger (now approximately 78,400 square feet) underwent a large remodel and expansion with the addition of a drive-thru pharmacy. Liner shops facing Lexington Road were also added at that time. Kmart (approximately 94,000 square feet) also remodeled to add a drive-thru pharmacy. Kroger relocated to Versailles Commons in August 2015. In 2017 approximately 10,500 square feet of space was remodeled in the Lexington Road Plaza for a restaurant and micro-brewery. In January 2018 Kmart vacated their location due to corporate decisions. There are also three other out parcels in this shopping center that contain a restaurant and two banks. In December 2017 Amerco Real Estate Company purchased approximately 20 acres consisting of the former Kroger/Kmart lot and one lot on the west side of Marsailles Road where storm water is detained. Since then a U-Haul retail store/showroom has opened inside the former Kroger in approximately 3,000 square feet. U-Haul rental equipment is displayed in the parking lot.

All required public notices were met for the public meeting. Mrs. Wilson noted that an Amended Final Development Plan will have to be submitted for review by the Technical Review Committee and then

forwarded on to the Planning Commission for approval. This plan will designate customer parking, U-Haul Storage/Display areas, temporary sales areas (i.e. flower sales), and landscaping will need to be brought into compliance with Article XI. The landscaping will include adding interior landscape island areas (a minimum 5% of the Vehicular Use Area) with a maximum spacing between islands of 120 feet, with required interior tress and perimeter trees and hedges that will have to be implemented. This request is only for the area identified on the Conceptual Site Plan (SP1) dated 04/05/18, on the north side of the shopping center consisting of approximately 6.85 net acres.

Mrs. Wilson noted that following correspondence received to date:

1. David Arnold – Letter
2. Joe Gay & Linda Moraja-Nash – Letter
3. Mayor Brian Traugott – Letter
4. Thomas Finsand - Letter

Chairman Turney asked if any Board members had questions for Mrs. Wilson. Hearing none, Chairman Turney called upon the applicant for comments.

Whitney Dunlap, Legal representative for the applicant and Chris Nester, Marketing President with Amerco were present. Mr. Dunlap noted that U-Haul was synonymous including traveling and helping people transition from location to another; coming into our community and leaving our community but also equally within the community. Mr. Dunlap noted that U-Haul purchased the Lexington Road Plaza that was abandoned by Kroger and K-Mart and they were at this meeting because they wanted to revitalize, repurpose, and revive that location. Mr. Dunlap stated that Mrs. Wilson had noted the K-Mart location was already under a letter of intent for a national farm supply store. Mr. Dunlap noted that there was a second tenant that is being considered to share the K-Mart location because it is a large space. They are aware about the other retail stores that have moved into to the Plaza especially the Versailles Brewing Company and that U-Haul hosted an open house there to educate the public on the benefit of U-Haul in Versailles. U-Haul has developed a successful business plan and a business strategy of revitalizing empty box stores across the country. Mr. Dunlap presented a Power Point (Exhibit 6) presentation and provided visuals of other U-Haul stores and explained all the services that U-Haul can offer. Mr. Dunlap shared a list of U-Haul's adaptive reuse of closed K-Mart stores. Mr. Dunlap noted that U-Haul has four offerings that it offers in conjunction with everything that it does: truck and trailer rental, retail sales, installation of the truck and trailer equipment, and they offer secure, interior, climate controlled self-service personal storage service. Mr. Dunlap noted that the center has a well-lit parking lot, surround by neighborhoods, clean cut looking, has active police and nothing is being put up on the exterior; all storage is interior and creating state of the art system where there is burglar and alarm system, 24 hour monitoring by security service, motion detectors, hands-free intercom, rooms that are operated by a key pad and card swipe, clean, and dry. Mr. Dunlap noted that the additional storage is needed because it is hard to find availability locally and also climate controlled is needed. Mr. Dunlap emphasized that this would be adapting and revitalizing existing space. The intent of the B-4 is to provide for retail and other uses which are necessary to the economic vitality of the community. U-Haul offers a moving and storage service that is necessary for the economic vitality of the community that

allows people to move here, and allows people to move about freely and allows people to interact with others. Mr. Dunlap reviewed the principal uses of the B-4 District as noted in his Power Point presentation. Accessory Uses are uses and structures which are customary to the principal uses permitted. Mr. Dunlap noted that it is customarily and accessory to have a self-storage unit that is near to the self-moving equipment that is being utilized. The Board of Adjustment can make a determination that the usages offered by U-Haul are the same general character as the permitted principal uses and that they would not be detrimental to the district; they will not be detrimental to the district. Mr. Dunlap noted that the opponents would say that this should be in the I-1 District (Light Industrial); this zone is intended for manufacturing industrial and related uses. There is nothing manufacturing about a personal storage unit, there is nothing industrial about a personal storage unit. Mr. Dunlap reviewed the principal uses in the I-1 District. Fundamentally an I-1 is intended for pre-consumer uses and some professional services. The Kentucky statutes have, since 1988, an act called the Self-Service Storage Act of 1988 (Exhibit 5). Mr. Dunlap noted that a "Self-service storage facility" means any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a "self-service" basis and that is what U-Haul was offering. "Leased space" is the individual storage space at a self-service storage facility or in a self-contained storage unit which is rented to an occupant pursuant to a rental agreement and that is the economic arrangement between renters of a U-Haul space and U-Haul. The "operator" is the owner (U-Haul), operator, lessor, sub-lessor of a self-storage facility or a self-contained storage unit, or an agent or any other person authorized to manage a facility or storage unit, but does not mean warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored. Mr. Dunlap noted that a self-service storage is not, by legal definitions under Kentucky statutes, a warehouse. Mr. Dunlap discussed apparent zoning and noted that the 2018 Comprehensive Plan articulates commercial and industrial uses. The commercial use includes the re-use and re-development of declining commercial areas to encourage and promote green construction in existing areas and when adopted they must have been talking about Kroger and K-Mart. The opponents of this would say that a warehouse needs to be in an Industrial area. The industrial goal of the 2018 Comprehensive Plan is to cooperate with economic development to establish industries as long range community assets. Mr. Dunlap noted that there was nothing about U-Haul that is industrial; it does not manufacture, it does not process food, it is not a micro-brewery, it does not assemble automobile parts or any parts, it is for personal use of self-storage and self-servicing. The Comprehensive Plan would clearly say that any personal storage unit is under commercial. Mr. Dunlap noted that self-service storage, self-service, mini-warehouse was not in the zoning ordinance; the word warehouse was in there three times. First, it was a place where it was forbidden to operate a church or school; it also referred to a place 10,000 square feet or more in an industrial space; and in the I-1 zone in the context of manufacturing processed food or beer for wholesale.

Mr. Dunlap asked the Board to actively consider that there was nothing in the Ordinance that compels the Board of Adjustment to say U-Haul is an I-1. Is the proposed use synergistic with the other uses in the neighborhood and other surrounding businesses and if it is then consider it as a similar use. Mr. Dunlap urged the Board to consider any constraint that U-Haul is an I-1, because it is not a warehouse and it was beneficial to the neighborhood and community and approve it.

Chairman Turney asked if any Board members had questions and if anyone in the audience wished to speak.

Paul Ridgeway, a resident of Castle Court objected to the proposal because of traffic congestion and that they are building more homes at the end of Marsailles on Hunteertown Road. Mr. Ridgeway also noted that the path that Versailles is on now, it is not needed; there is not enough room in that area for growth.

Dee Fife Gay, wife of Joe Gay (storage facility owner) of Versailles noted that he and Linda Moraja had submitted a letter to the Board of Adjustment for consideration. Mrs. Gay voiced concern about the landscape of Woodford County by enabling a similar use determination of storage. Mrs. Gay noted that the question was "intent". Is the zoning regulations applied to B-4 intended to allow storage as a similar use; the Board is empowered to make that decision. Their argument, along with others, is that it is not a similar like kind use and appreciated Mr. Dunlap's presentation. Mrs. Gay noted that in one of Mr. Dunlap's slide he noted several centers that had been repurposed. Some of those that are listed are concerning and requested that they be provided additional information on those and the process that each one went through because every community handles zoning decisions different. The issue is the change of the landscape, it will change the entry way to the community to look like the north or east side of New Circle Road in Lexington. It would be in conflict with the community's vitality. Mrs. Gay reminded that Board that it was about intent and self-service storage is storage.

David Arnold, a resident on Marsailles Road in Versailles. Mr. Arnold listed his credentials. Mr. Arnold noted that things in which he has previously written was portrayed as being in opposition and in favor of the proposal; he does not take either side exclusively. He was very disappointment in the lack of creativity and engagement of the community in the interest that the plan shows. He asked the Board to help the community create a more comprehensive plan for the property and gateway element into the community. Mr. Arnold noted that the opposition would have no leverage other than legitimate concerns over appearance. A significant part of the community concern in this regard could be addressed by the city and county requiring additions to the development plan. The first would be a well-developed landscape plan and second would be a designated and professional parking plan. Mr. Arnold noted that it was the responsibility of the property owner to ensure that activities occupying the property comply with Zoning Ordinances. Mr. Arnold addressed non-compliant businesses. Mr. Arnold noted that the code did address that all storage activities are equal in effect, in terms of where they are located, regardless of what they do. Mr. Arnold did not believe that a single building approach to the site was sufficient because it was a key entry way to the City and should be addressed by the owner of the property in a holistic fashion. The most responsible effective safe approach for all parties would be to table the plan and remand it to the custody of the property owner for certain functions. First, they would need a comprehensive site plan for the entire property; landscaping, allocation of projected allowed uses, specific motivation for any adjustments needed. This would be the best way to embrace the community's interest and best way to protect the property owner from continued turbulence and uncertainty about future problems.

Jon Gay, resident of Versailles and brother of Joe Gay noted that Versailles Brewing Company did not need to be in the shopping center with no other retail around; need more restaurants, more shops, more vitality in the center which there used to be years ago. Mr. Gay noted the “green” doesn’t mean taking away retail space and forcing us to go find other retail space to attract businesses. There is retail space there and should be used as such. Mr. Gay disagreed that that the proposal was for economic vitality. Mr. Gay noted that there was climate controlled storage spaces in Versailles and has room for expansion on it with security surveillance.

Larry Wilson of Versailles noted that he has been a U-Haul dealer for 25 years in Versailles. Mr. Wilson noted that there was a storage shortage in Versailles based on rental of trucks and customers have told him that they have to find storage in surrounding cities.

Pattie Carter of Versailles noted that she was part owner of Marketplace on Main and was all about shop local. Ms. Carter noted that retail shops are needed and she was not opposed to U-Haul but that this proposed location was not the right place. The shopping center is for retail services and that is what it should be used for. Ms. Carter discussed the beautification of the entrance into Versailles. Ms. Carter also noted people do not rent trucks on a regular basis and has never had a problem renting storage units in Versailles and that includes climate controlled. This was not a basic service that the community would use.

Margaret Dunlap of Woodford County noted that competition is good for any community and more storage is needed. Mrs. Dunlap noted that U-Haul would not be the first thing seen in Versailles, it is the castle and the next thing is Speedway, other gas station, Doughdaddy’s, Dairy Queen, car dealership, it is not U-Haul. Mrs. Dunlap noted that affordable homes are needed. The landscape will not change; climate control storage is needed in Versailles and she supports competition because it is needed. Mrs. Dunlap asked the Board to not let the building sit vacant.

Thomas Olson of Versailles spoke in favor of U-Haul and noted that competition was a good thing and things need to be provided for the community.

Mr. Arnold noted that one of his major concerns was about an economic development issue. It freezes an enormous amount of space for being useful for entrepreneurial and self-development of businesses of our own creation from our own community. Mr. Arnold noted that too much of our economic strategy relies on stealing businesses from other towns or making way for big corporations. Mr. Arnold noted that it would be a bad precedent to freeze that much space without some kind of comprehensive approach in compensating somehow in the entire site.

Chris Nester with U-Haul noted that he had worked for the company for 34 years and has been in Kentucky for about 25 years. He was pleased to hear that just about everyone in the room had used U-Haul at some point. Mr. Nester noted that he would be happy to speak to anyone that had questions. Mr. Nester addressed the traffic concerns that were expressed and noted that he did not think the

traffic for their facility would be more than the K-Mart traffic. The company likes the location and wants to come into the community to help the people with their moving needs. Mr. Nester noted that the Kentucky statute clarifies who they are. They are a self-storage who serves the community and the retail customer. They will be served in a retail environment, well-lit, secure, climate controlled facility. They believe they are retail and are willing to work on landscaping and want to become a part of the community. Mr. Nester asked for the Board's support.

Chairman Turney asked Mr. Dunlap for closing remarks. Mr. Dunlap noted that the Zoning Ordinance did not literally apply. Mr. Dunlap noted that U-Haul offered a modern convergence of uses that work together to develop the community. U-Haul believes that Versailles has the attributes of a successful community for their successful business. Their vision is retail and traffic would not be an issue. The building should be utilized for the tenant who chose to purchase it.

Chairman Turney noted that the Board had received several correspondences by mail and suggested that the Board not take any action and allow written comments only for a period of time and have time to review the comments and consult with counsel. Mr. Schooler asked if the hearing would stay open. Chairman Turney noted that it would stay open for written comments only until the June 15, 2018. Mr. Prewitt noted that he believes the comments heard were a decent representation of the county and suggested that the hearing be closed. Chairman Turney noted that his suggestion was out of respect for the Mayor because he asked. Mr. Prewitt noted that it should be closed and then the Board can review comments and the minutes and then come back at the next meeting ready to make a decision.

**Motion was made by Mr. Schooler, as seconded by Mr. Powers to leave the hearing open for written comments only until close of business on June 15, 2018 and the Board will make decision at July 2018 meeting for Application #06-014-2018 – Administrative Review – Amerco Real Estate (U-Haul) – 525 Marsailles Rd – B-4 District – Article VII, Section 716.2 (H) – Owner is requesting a similar use determination to allow the proposed use of U-Haul indoor-self storage in a Highway Business District. Motion carried with three (3) aye votes and one (1) nay vote (Prewitt).**

**Mr. Schooler made a motion, so moved by Chairman Turney, to adjourn at 7:58 p.m. Motion carried with four (4) aye votes.**

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Chairman Tim Turney

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