

**MINUTES OF THE DANVILLE-BOYLE COUNTY BOARD OF ADJUSTMENTS MEETING
JANUARY 21, 2016**

The Danville-Boyle County Board of Adjustments met for a regular meeting in the Danville City Hall public meeting room on Thursday, January 21, 2016 at 10:00 a.m.

MEMBERS PRESENT WERE:

Virgie Johnson, Chairman
Tom Ross
Don Whitaker
Donna Fairchild
Jesse Purdy
Linda Green

OTHERS PRESENT WERE:

Bruce Smith, Attorney
Paula Bary, Director
Jennie Hollon, Administrative Assistant
Others

Chairman Johnson called the meeting to order and announced there was a quorum present.

APPROVAL OF MINUTES

1. MINUTES

Commissioner Whitaker made a motion to approve the minutes of the December 17, 2015 meeting as presented. Commissioner Green seconded the motion and it unanimously carried.

OLD BUSINESS

No old business.

NEW BUSINESS

2. HOLLAND-FARM, INC. CONDITIONAL USE PERMIT

Holland-Farm, Inc., requested a conditional use permit to operate a non-profit and parent based adult day training program. This program will be for adults with intellectual and developmental disabilities. The property is located at 20 Spears Lane, Danville, and is zoned AR-1. The owner of the property is American Legion Post 46 and the applicant is Holland-Farm, Inc. Helen Overstreet shared that this would be a parent based day training program and would focus on daily living activities, vocational skills and job training, education and learning, gardening skills and participation in the community. There will be 10-12 participants and 2-3 employees, as well as 3-4 volunteers.

Chairman Johnson reviewed that the granting of this permit would not adversely affect public interest in the following ways:

1. The existing entrance on Spears Lane will remain the same.
2. The parking area is adequate, as well as adequate space for the community transit bus to transport participants.
3. There is a dumpster on the property and the refuse will be the responsibility of the owner, American Legion Post 46.
4. There is a septic tank that services the building, and it was evaluated was evaluated by a plumber and was clear.
5. Additional signage is proposed and shall meet all zoning regulations.
6. There are existing trees and plantings on the property and none are proposed.
7. The building is existing and there is no construction proposed.
8. The building is handicap accessible and was pre-existing and was used for a similar purpose several years ago by the Child Development Center. The building has been recently renovated, after sitting vacant for many years.

Ms. Overstreet shared that hours of operation will be Monday-Thursday 9:00-3:00 and occasionally additional hours for special activities.

Commissioner Fairchild asked if there were other facilities in our community like this. Ms. Overstreet stated that yes there were and the other programs are full. However, the other programs were for profit, and this program is non-profit.

Dr. David Overstreet has been in the area as a private physician since 1992, and spoke in favor of Holland-Farm. He shared that since 2008, Kentucky found that individuals in home and community based training centers did the best and showed the most improvement and this community needs this facility.

Commissioner Green asked about criteria for staff training. Ms. Overstreet shared that their criteria for staff training is approved by the state of Kentucky.

Carroll Boatwright, from American Legion Post 46, was in favor of Holland-Farm and shared that the former occupant, the Child Development Center, was quite successful at this same location.

Irene Hoskins, a parent of a special needs child, said that her family would benefit from these services. She would also benefit from Holland-Farm because after high school, age 21 for special needs children, there is nowhere for her child to go. Her child is autistic and non-verbal and would benefit from a parent based, non-profit facility such as this.

Jody Lassiter, from the Economic Development Partnership, strongly recommended the Conditional Use Permit for Holland Farm. Mr. Lassiter shared that the organization went through the Jump Start program at the EDP, in order to correctly go through all of the steps to open the facility.

Chairman Johnson asked for a motion. Commissioner Ross moved for approval of the Conditional Use Permit based on the findings of fact that all requirements have been met. Commissioner Fairchild seconded the motion made by Commissioner Ross. The motion carried unanimously.

3. SCOTT A. BAILEY CHANGE OF NON-CONFORMING USE

Scott Bailey requested a conditional use permit from one non-conforming use to another. The property is located at 1630 Shakertown Road, Suite 2, Danville and is zoned NCC. The owner of the property is Stop n Shop LLC and the applicant is Scott A. Bailey. The existing property was formerly a dry cleaner and has sat vacant. Mr. Bailey would like to use the property for a pool hall, grill, music, entertainments and amusements area.

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Brian Bailey, attorney, asked to speak first. He wanted to clarify the language used on the application and said that this is not going to be a bar, but a fast casual establishment, with better quality food. This would be a gathering place for the neighborhood kids to play ping pong and to play pool and video games. Then at night, to attract families that can have a beer and a sandwich, listen to music or watch a game.

Mr. Bailey added that they would use the same lighting and the establishment should not add any noise nor add any more traffic. Brookcove Drycleaners had 100 customers per day at their peak, and he is expecting 25-50 people dining. The planned hours of operation are Monday through Thursday 10:00am-10:00pm, and Friday and Saturday 10:00 or 11:00am - 11:30pm and closed on Sunday, except for during football season. There is also a plan to install security cameras in the front and back of the building for safety purposes.

Commissioner Johnson asked about parking availability. Mr. Bailey said that there are 50 parking spots and 20 directly in front of the proposed business area.

Commissioner Green inquired if there was a need for lighting. Mr. Bailey said that they will fix existing lighting. Chairman Johnson stated that she found the existing lighting to be very bright.

Commissioner Green asked about the total square footage of the business. Mr. Bailey stated that the dining area was approximately 1000 square feet.

Commissioner Green asked about what age group they were wanting to attract. Mr. Brian Bailey stated that they want a family environment, age birth through 100.

Commissioner Fairchild asked about staffing. Mr. Scott Bailey came forward, and stated that he plans to hire two people and have his 13 year old bus tables.

Commissioner Green asked about the liquor license, because one must get one license for both beer and wine. Scott Bailey stated that it would be a NQ4 Quota License, so sales must consist of 60% food and other product. He does not plan to serve wine.

Scott Bailey shared that he was simply a dad and coach and he sees children with nowhere to go. This is why he wants to open the business. Then, he would like a place for families to come in the evenings, and people have simply asked him to have beer with their dinner.

Commissioner Green asked where the games would be located. The games will be on one side and dining on the other side.

Commissioner Green asked if there would be any live music. Mr. Bailey stated that there would be no live music.

Commissioner Fairchild asked how many pool tables would fit. Mr. Bailey stated that three pool tables would fit, or he may do two pool tables and a ping pong table.

Gail Puckett came forward in support of Scott Bailey's proposal. Ms. Puckett lives in Streamland with 5 children and knows Scott Bailey from the gas station. She stated that there is a need in the community for a place for kids to hang out and families to eat. She felt the business would have a very positive impact on the area and to please consider it.

The following people spoke in opposition to the request:

Margaret Broach said that she was for her community and she has lived in the Brookcove neighborhood for 24 years, and she was opposed to the Change of Use. She stated that there are not 50 parking spots, nor are any marked. The lighting is in one section only, and in the back is a bridge that needs repaired, with a large hole. Traffic is very congested with 2168 being built and there are more accidents. This is not the right location for such a business.

Tom Broach lives in the Brookcove cul-de-sac. He stated that the property needed many improvements, upon his recent investigation. First, there would be much more foot traffic with children. The sidewalk needs maintained and has structural problems, grass and weeds need cut along the Creekside, the bridge needs repaired, there are no lights in the back of the building, and the building can be driven around, making this a dangerous area for foot traffic. Also, the parking lot needs striped and there is no handicapped parking. Additionally, Mr. Broach stated that one has to have an occupancy of 50 to serve beer.

Lori Harris lives directly behind the Brookcove Center. She had taken a video of the lack of lighting in the back, a hole, a bridge needing fixed, lots of trash and vegetation grown up, and three lights that are out. Ms. Harris was concerned about adding alcohol at the location and the impact it would have on the neighborhood. She was fine with a game room, but not with alcohol.

Mary Beth Garrett is a Streamland resident and was concerned about property values of their homes going down. Also, since the gas station market has been transformed into snacks, beer, and soft drinks, she was very concerned that people would bring beer from just a door down, and she was against alcohol being in the new business at all.

Mike Hunt, from Colonial Heights subdivision, stated that the original business at this building had a 5pm closing, and felt that a pool hall was prohibited in highway commercial zoning, according to his research. Mr. Hunt was also concerned about alcohol in a residential area, in a business that is open until 10:00 or 11:00pm, which equals trouble.

Attorney Bruce Smith stated that this was not a zoning issue. It is zoned NCC, but a change in non-conforming uses does not have to comply with present zoning.

Joseph Joyce, lives across the road on Shakertown Road. She asked if we could impose conditions like a time to close and to restrict what happens in a business. She was concerned about mixing children, a pool hall, and alcohol. Chairman Johnson stated that we could impose conditions, such as a time to close. Ms. Joyce was fine with a kids venue, just no alcohol.

Tom Broach came forward to share if bright lighting is a problem out front, filters or a hood to aim lighting up or down, could be installed to lessen light pollution to the neighbors.

Larry Wesley, of Candlewood, stated that his street has a great deal of cut-through traffic already and he was confused as to what crowd Mr. Bailey was really catering to. He felt that this was not a kid-friendly environment, by mixing kids and a place that serves alcohol. This was also not a neighborhood-friendly environment, he stated.

Commissioner Fairchild asked if the facility needed renovated inside. Mr. Scott Bailey said that a three compartment sink would need to be installed, in order to serve food.

Chairman Johnson inquired about if this use is a more nonconforming use than the nonconforming use that was already there.

Bruce Smith stated that the issue is with "intensity of use".

Brian Bailey stated that he could not answer if it's use is more intensive or not.

Commissioner Whitaker addressed concerns about the property being repaired and up to code.

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Chairman Johnson said that safety concerns such as trash, lights, and parking must be resolved for the Board of Adjustments to even consider the Change of Use being proposed.

Bruce Smith will prepare findings of fact for the board to review at the next meeting on February 18, 2016.

Chairman Johnson suggested to table the discussion.

Tom Broach, with a Code Enforcement, will address the concerns of safety to the owner of the property, Stop N Shop LLC, and will send a violation notice.

Commissioner Whitaker asked Mr. Broach why this is only now being addressed. Mr Broach stated that he is over the entire county and he had not investigated the area before this time, so it was not brought to his attention.

Chairman Johnson asked for a motion. Commissioner Whitaker made the motion to postpone the vote until the February 18th meeting and amended to also end the hearing. Commissioner Green seconded the motion and it carried unanimously.

This concluded the business scheduled on the agenda. The meeting was adjourned at 11:35 a.m.

Prepared by:

JENNIE HOLLON
ADMINISTRATIVE ASSISTANT