

**MINUTES OF THE DANVILLE-BOYLE COUNTY BOARD OF ADJUSTMENTS MEETING  
FEBRUARY 18, 2016**

The Danville-Boyle County Board of Adjustments met for a regular meeting in the Danville City Hall public meeting room on Thursday, February 18, 2016 at 10:00 a.m.

**MEMBERS PRESENT WERE:**

Virgie Johnson, Chairman  
Tom Ross  
Donna Fairchild  
Jesse Purdy  
David Anderson

**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 Ross made a motion to approve the minutes of the January 21, 2016 meeting as presented. Commissioner Fairchild seconded the motion and it unanimously carried.

**OLD BUSINESS**

No old business.

**NEW BUSINESS**

**2. SCOTT A. BAILEY CHANGE OF USE DECISION**

Scott Bailey requested a conditional use permit from one non-conforming use to another. The vote was postponed at the January 21, 2016 hearing, so Attorney Bruce Smith could prepare findings of fact for the board to review. 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. The commission reviewed the findings of fact, prepared by Attorney Bruce Smith, to consider a decision for a change in non-conforming use.

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Attorney Bruce Smith suggested that the commission reopen the hearing to only hear about code enforcement issues.

Chairman Johnson reopened the hearing to get an update from Tom Broach, with Code Enforcement, about the code violations at the 1630 Shakertown Road, Suite 2 property.

Tom Broach stated that he spoke with Cory Johnson, supervisor for owner Pinki Sing of Stop N Shop, LLC. On January 22, 2016, Mr. Broach issued a Notice of Inspection to Stop N Shop, at 1630 Shakertown Road, Danville. The following violations were addressed and Mr. Johnson assured Mr. Broach that all violations will be addressed and necessary repairs and cleanup will be made.

- 1.) A security light will be placed in the back of the property.
- 2.) The bridge will be refilled and the 2 inch gap will be repaired.
- 3.) The parking lot will be striped when weather permits, and metal signs for Handicap Parking will be installed. One Handicap Parking sign for every 25 parking spots is to be installed.
- 4.) Spears Creek will be cleaned up from trash, and weeds will be cut down in the Spring.
- 5.) Bushes will be trimmed and the tree line will be maintained.

Attorney Bruce Smith asked about the timeline for these improvements.

Tom Broach stated that he would help them to get into compliance and will work with Mr. Johnson, and he expects that when the weather clears up in the next few weeks, that violations will begin to be addressed. Mr. Broach usually gives the property owner 30 days to start. Mr. Broach also noted that May 1 is the season that he will check on the weeds and brush issue.

Chairman Johnson asked the commissioners if they had any questions.

Commissioner Fairchild commented that today's decision cannot be based on what Mr. Broach is talking about.

Attorney Smith affirmed that the code violations discussed were separate from the issue to be voted on today. The property will be cleaned up, but the condition of the property is not very relevant to the decision. Mr. Smith stated that he submitted findings for and against the change in non-conforming use.

Chairman Johnson asked Mr. Brian Bailey if he had copies of the findings of fact and Mr. Bailey stated that he did have copies. Chairman Johnson gave Mr. Bailey an opportunity to go over the findings of fact and address any issues.

Attorney Smith added that this body can impose conditions on the granting of a permit; the body can add to the conditions.

Mr. Brian Bailey, attorney for Scott Bailey, came forward and said that he did not have any issues with the findings and asked the BOA Commission to please support the change in non-conforming use, and that he felt that the findings for approval outweighed findings for disapproval.

Chairman Johnson opened discussion with the commissioners. Commissioner Anderson asked if neighbors could now speak. Attorney Smith stated that neighbors spoke extensively at the previous hearing, and that the findings he prepared were based on the January 21 hearing. Attorney Smith reminded commissioners that his findings were for a change in non-conforming use and that conditions can be added to an approval.

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Chairman Johnson asked for a motion. Commissioner Ross moved for denial of the Conditional Use Permit based on the findings of fact and due to what the neighbors had to say. The findings supporting denial of a change in non-conforming use are as follows:

1. Scott A. Bailey, the Applicant, proposes to operate a neighborhood fast casual, food and game room business ("Proposed Use") at 1630 Shakertown Road – Suite 2, Danville, Kentucky ("Property") in space formerly occupied by Brookcove Cleaners and used for a dry cleaning establishment ("Former Use").
2. The Property is zoned NCC (Neighborhood Conservation Classification) and the Former Use conducted there became non-conforming when the permitted uses in the NCC zone were changed in 2011 such that commercial uses were no longer permitted in the NCC zone.
3. The Applicant proposes that his intended business be open from 10:00 a.m. to 10:00 p.m., Monday-Thursday, 10:00 a.m. to 11:30 p.m. on Friday and Saturday and closed Sunday except during football season.
4. The Applicant anticipates serving 25-50 people per day.
5. There will be no changes made to the outside area of the Property.
6. The Former Use closed at 6:00 p.m. during the week; at 1:00 p.m. on Saturdays; and all day on Sundays.
7. The existing parking outside the Property is inadequate for the Proposed Use in light of the fact that it serves a strip commercial center which has two other businesses.
8. The customers of the Former Use occupied the Property for minutes at a time whereas the customers of the Proposed Use will be present on the Property longer and perhaps hours at a time.
9. The properties surrounding the Property are residential and agricultural.
10. The Proposed Use is more intensive than and not as restrictive as the Former Use in that the hours of operation are longer; the occupancy time of customers is longer; the use and occupancy of the parking facilities will be longer; and alcoholic beverages will be served at the Property.

Commissioner Fairchild seconded the motion made by Commissioner Ross. The motion carried unanimously.

Commissioner Ross called the meeting to adjourn. Commissioner Anderson seconded the motion.

This concluded the business scheduled on the agenda. The meeting was adjourned at 10:15 a.m.

Prepared by:

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JENNIE HOLLON  
ADMINISTRATIVE ASSISTANT