



CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT MINUTES OF MAY 19, 2020 MEETING

MEMBERS PRESENT:

Mr. Justin Verst, Chair
Mr. John Fessler, TPO
Mr. Michael Williams
Mr. Joe Williams

STAFF PRESENT:

Mr. Kirk Hunter, Principal Planner
Mr. Michael Duncan, Legal Counsel
Ms. Emily Woodward, Secretary

MEMBERS ABSENT:

Ms. Susan Meyers
Mr. Scott Bachmann

STAFF ABSENT: N/A

Mr. Verst called the meeting to order at 5:30 PM with the Pledge of Allegiance. Following roll call, a quorum was found to be present, with Mr. Fessler, Mr. Mike Williams and Mr. Verst, and Mr. Joe Williams in attendance, and Ms. Susan Meyers and Mr. Bachmann absent.

Attention was then turned to the approval of the previous meetings minutes. Mr. Mike Williams made a motion to approve the minutes as submitted. Mr. Fessler seconded and a roll call vote found all in favor. The motion carried and the minutes were approved.

Mr. Verst then turned the floor to Mr. Hunter to present the first case. He did so as follows

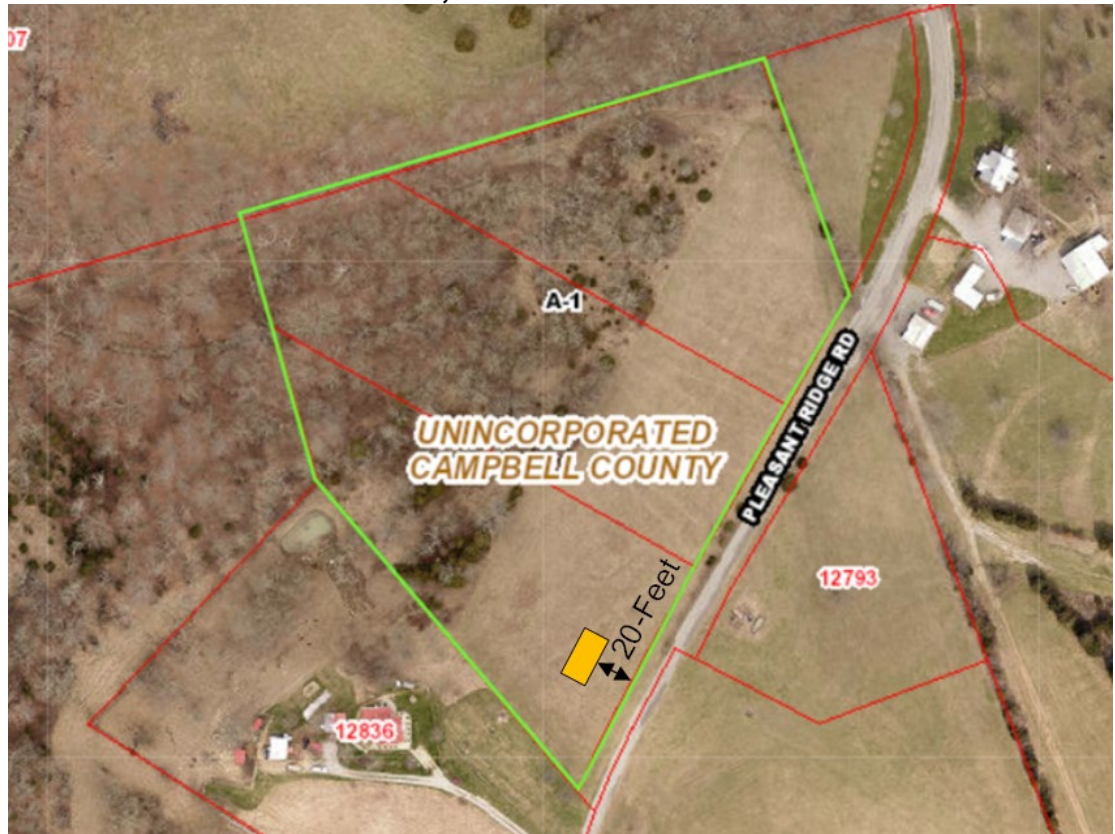
File Number: BA-20-003

Applicant: Taneica & Jeff Oliveira

Location: Pleasant Ridge Road, Unincorporated Campbell County, KY.

Request: Front yard setback variance for a single-family house

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Considerations:

1098 Monmouth Street • Newport, KY 41071

The applicant is requesting a front yard setback variance for the construction of a new single-family house. The topography of the lot limits the buildable area. To meet the zoning requirements, the house would require prohibitively expensive foundation work. The ideal position requires the house to be positioned closer to the front property line, encroaching on the minimum front yard setback.

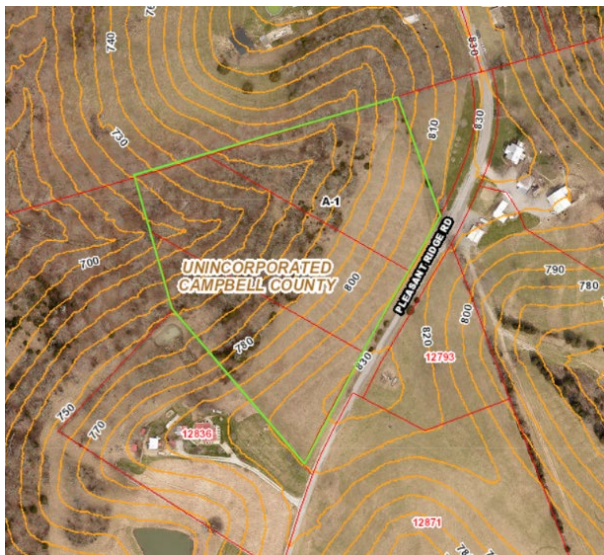
1. The site is comprised of three parcels containing approximately six and a half (6-1/2) acres in total. It is located in Unincorporated Campbell County on Pleasant Ridge road, a County-maintained road.

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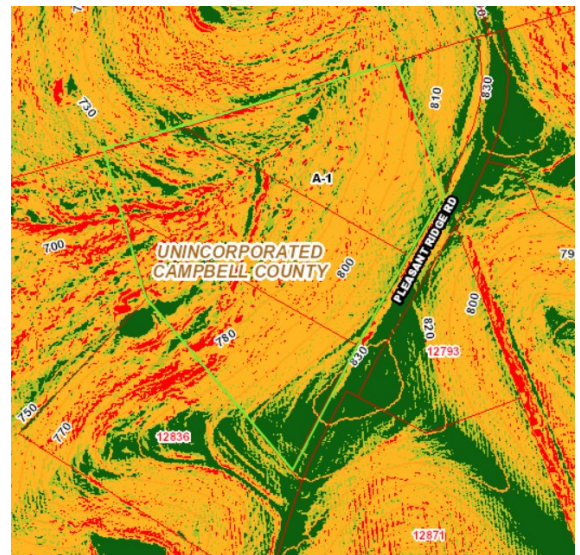
This site is located in the Agricultural-One (A-1) Zone. The Recommended Land Use Map of the 2008 Campbell County Comprehensive Plan identifies the site and surrounding areas as Agricultural.

2. The applicant intends to combine the three parcels.
3. Currently, the surrounding land is zoned Agricultural-One (A-1) and comprised primarily of residential uses, agricultural uses and open, undeveloped land.
4. The Campbell County Zoning Ordinance Article X, Section 10.1 classifies the area within the Agricultural-One (A-1) Zone. Single-family detached residences are a permitted use within this zone.
5. The minimum setbacks for the A-1 zone are:

<u>Description:</u>	<u>A-1 Zone Regulations Require:</u>	<u>Applicant's Request:</u>
Minimum Lot Area:	One (1) acre	
Minimum Lot Width:	One hundred (100) feet	
Minimum Front Yard Depth:	Fifty (50) feet	<i>Twenty (20) Feet</i>
Minimum Side Yard Width:	Total - Twenty-five (25) feet One side – ten (10) feet	
Minimum Rear Yard Depth:	Thirty five (35) feet	
Maximum Building Height:	Thirty five (35) feet	

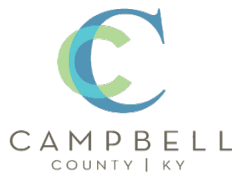


Topography



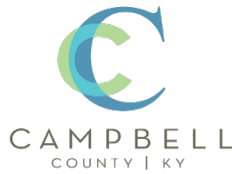
Percent Slope – Yellow and red indicate slopes in excess of 20%

6. A review of public records indicates the following:
 - a. No previous requests for a variance have been submitted for this site.



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- b. Setback requests have been approved at:
 - i. 12937 Pleasant Ridge Road (BA-02-11) - 700 feet south of site
 - ii. 12945 Pleasant Ridge Road (BA-04-94) – 1200 feet south of site
 - iii. Additional setback variance requests have been approved north of the site in the 10000 and 11000 blocks of Pleasant Ridge (BA-05-01, BA-06-90 and BA-04-02)
 - c. The dedicated public right-of-way on this parcel is twenty-five (25) feet from the center of the road.
 - d. Pleasant Ridge Road is a County-maintained road
7. The applicant has provided a site plan showing the proposed placement of the house.
8. Additional submittals include site work estimates. Cost for site preparation are as follows:
- a. At the fifty-foot setback: \$109,000
 - b. At the twenty-foot setback; \$35,000
9. As per Section 9.13 Exceptions and Modifications, Paragraph C, item 2.: *In any residential zone, no front yard shall be required to exceed the average depth of existing front yards on the same side of the street within the same block, when fifty-one percent (51%) or more of lots within that block are improved with residential buildings, whichever is greater.*
- a. There are structures nearby along Pleasant Ridge Road that encroach in the minimum front yard setback, however most are on the opposite side of the road. An exception to the minimum setback cannot be approved at the zoning administrator level.
10. The proposed setback variance will not interfere with the line-of-sight for motorists on this section of Pleasant Ridge. In addition to being a mostly straight stretch of road, the proposed building site is at a high point in the road.
11. Per Section 18.6, A., 2., Notice: Notice of public hearing was given in accordance with Section 18.2 of the Campbell County Zoning Ordinance. ***A legal notice appears in the May 4, 2020 edition of the Campbell County Recorder advertising applicant's request and the hearing to be held on May 19, 2020.***
12. According to Section 18.6, A., 4., the Board of Adjustment must find that the granting of the variance will be in harmony with the general purpose and intent of the Ordinance as well as the adopted Comprehensive Plan, and will not be injurious to the neighborhood, or otherwise, detrimental to the public welfare. **The use of the property is consistent with the adopted 2008 Comprehensive Plan.**



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Supporting Information

VARIANCES: Before any variance is granted, the Board of Adjustment must find that the granting of the variance will not adversely affect the public health, safety, or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public. Such variance shall not be granted by the Board of Adjustment unless and until:

- a. That the requested variance arises from special existing circumstances which do not generally apply to land in the general vicinity.
- b. That the manner in which the strict application of the provisions of the Zoning Ordinance would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant
- c. That the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- d. Reasons that the variance will not allow unreasonable circumstance of the requirements of the zoning regulations and will not alter the essential character of the neighborhood.
- e. That granting the variance requested will not confer on the applicant any special privilege that is not conferred by this ordinance to other lands, structures or buildings in the same zone.

Applicants Comments:

"To whom it may concern,

My husband and I are under contract for a piece of land that is ideal for our dream home for ourselves and our 6-year-old daughter. The 6-acre property is in quiet farm country, has a wonderful school district for our little one, and lots of space for her to run around, play, and garden. She loves to grow tomatoes.

However, we are requesting a variance/waiver so that we may situate the house on the only part of the property that does not have a quick declining slope. To move the house further back on the lot, would require modifications to the foundation that make the home nearly impossible to afford.

We would like a variance waiver of 30 ft, so that we're able to afford to build our home. Thank you for your attention to this matter.

~Submitted February 26, 2020

Staff Comments:

The requested variance does arise from special circumstances, related to topography, which exist and do not generally apply to land in the general vicinity or in the same zone.



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The application of the provisions of this Ordinance would create unnecessary hardship on the applicant.

The applicant is requesting this variance subsequent to the approval of these regulations.

The essential character of the neighborhood is agricultural and large-lot residential and this action is compatible with those uses.

This variance would not be granting the applicant a special privilege.

Summary of Applicants Request:

The applicant is requesting a thirty (30) foot front yard variance due to soil and topographical conditions for the construction of a single-family house and reducing the fifty (50) foot setback to twenty (20) feet.

Staff Recommendation:

To approve the applicant's request for a front yard variance of thirty (30) feet for a new single-family house.

Basis for Recommendation

1. In accordance with Section 18.2 of the Campbell county Zoning Ordinance, notice of public hearing was given.
2. In accordance with KRS 100.241 Variances, the board shall have the power to hear and decide on applications for variances. The board may impose any reasonable conditions or restrictions on any variance it decides to grant.
3. The evidence presented by the applicant and staff is such as to make a finding that:
 - a. The requirements for a variance have been met by the applicant for a variance and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - b. The variance requested will not adversely affect the public health, safety, or welfare, will not adversely alter the essential character of the general vicinity, and will not cause a hazard or nuisance to the public and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board considered whether:
 - i. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;



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- ii. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
- iii. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- iv. The variance will not allow unreasonable circumstance of the requirements of the zoning regulations and will not alter the essential character of the neighborhood.
- v. The variance requested will not confer on the applicant any special privilege that is not conferred by this ordinance to other lands, structures or buildings in the same zone.

Mr. Verst then opened the floor to the commission for questions of staff. There being none, he offered the applicants an opportunity to speak. Jeff Oliveira just noted the couple's excitement to build a home in the location and noted that they were prepared to answer any questions.

The commission had no questions or comments. There were no public comments.

With the comment period closed, Mr. Fessler made a motion to approve the proposed variance, seconded by Mr. Joe Williams. A roll call vote found all in favor, none abstaining. The motion carried and the variance was approved.

Mr. Verst dismissed any of those on the meeting that we're present for the first case, and presented the second case. Mr. Hunter presented the staff report as follows.

File Number: BA-20-004

Applicant: Richard W. Carr, P.E.

Location: 961 Nagel Road, Unincorporated Campbell County, KY.

Request: Expansion of conditional use for the construction of a new multi-purpose building

Overview:

The area under review consists approximately forty-one (41) acres in the southwest part of unincorporated Campbell County at the corner of US 27 Alexandria Pike and Nagel Road. The site is currently zoned Agricultural One (A-1). The current land use is a conditional use.

The applicant is requesting expansion of their conditional use permit to construct a new accessory building.

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Notice of this hearing was scheduled for publishing in the Campbell County Recorder in accordance with Article 17 of the Zoning Ordinance.

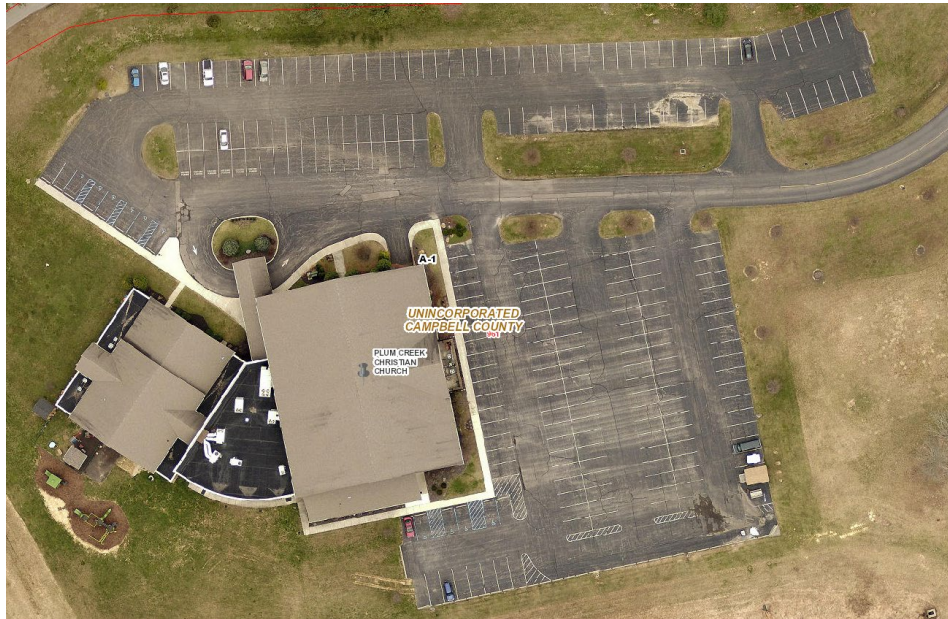


Figure 1: Current Site Layout

Considerations

1. A review of public records indicates the approval of the following requests:
 - A. BA-01-04: Conditional use permit and height variance for the construction of the church.
 - B. PZ-08-04: Site development plan
 - C. BA-06-09: Conditional use permit for a daycare
2. The site is occupied by Plum Creek Church. There is one (1) main structure on site that deals with the primary use of church and related functions.
3. The Recommended Land Use Map of the 2008 Campbell County Comprehensive Plan identifies the site and surrounding areas for lower-density single-family residential.
4. The zoning classification for the site is Agricultural-One (A-1). Within the A-1 Zone, churches and other accessory buildings for the purpose of recognized religious worship are permitted as a conditional use with a minimum lot area of three acres, provided they are located adjacent to an arterial or collector or local street.

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Figure 2: Proposed Site Plan

5. The submitted development plan indicates the following: (See attachments for detailed drawings)
 - A. Construction entrance details.
 - B. Erosion and sedimentation control measures.
 - C. Environmental impact and tree protection measures.
 - D. Existing building, parking and access drive.
 - E. Existing topography and proposed grading in two-foot intervals
 - F. Proposed building.

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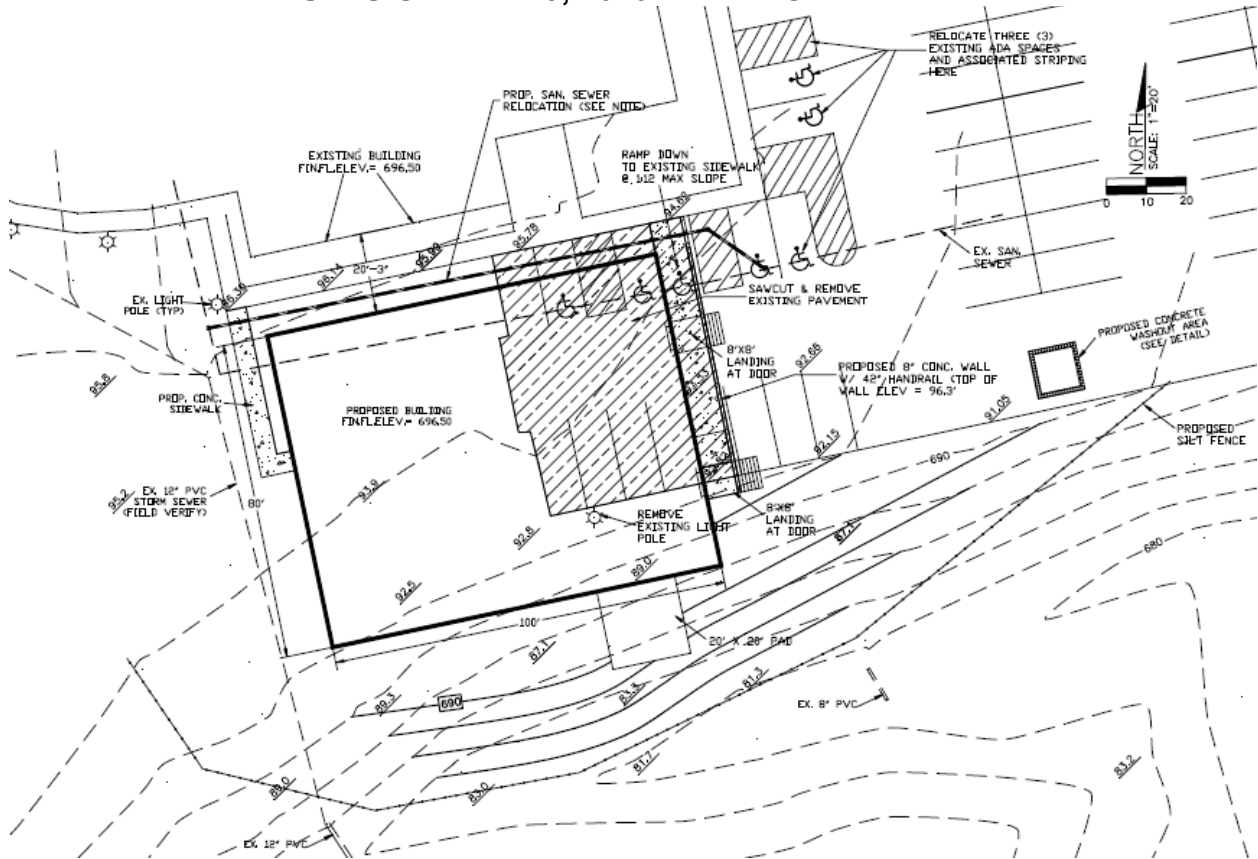
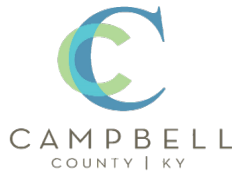


Figure 3: Proposed Building (Detail)

- G. The site plan shows the relocation of three (3) ADA-compliant handicap accessible parking spaces.
 - H. The remaining two hundred and forty-five (245) are adequate to meet the Sunday service attendance.
6. Kentucky Revised Statute (KRS) 100.111 provides for the following definitions:

"Conditional use" means: a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation.

"Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the Board of Adjustment, consisting of two parts:



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- a. A statement of the factual determination by the Board of Adjustment which justifies the issuance of the permit; and
- b. A statement of the specific conditions which must be met in order for the use to be permitted;

In accordance with KRS 100.237 and Zoning Ordinance Section 9.14, the Board of Adjustment shall meet the following criteria for conditional use.

- That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or the community;
- That the use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.
- That such use will comply with any regulations and conditions in in the Zoning Ordinance for such use.

Applicants Comments:

"On behalf of Plum Creek Church, we request approval of the Conditional Use permit for the specific use of 'Churches and other accessory buildings' in order to build a new building directly adjacent to the existing Plum Creek Christian Church, and we offer the following supporting information:

- A. The proposed use of this new building is a multi-purpose building that would primarily be used for youth ministry and the church's sharing/benevolence ministry. Both ministries are necessary (in order to further the church's mission and reach) and desirable (in order to contribute to the general well-being of the neighborhood and community).*
- B. The proposed use will NOT be detrimental to the health, safety or overall welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.*
- C. The proposed use will comply with all regulations in the Zoning Ordinance and Subdivision Regulations."*

~Submitted March 20, 2020



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Staff Comment:

1. The use is desirable and will provide a service and facility that will contribute to the general well-being of the neighborhood or the community.
2. The use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.
3. The use will comply with any regulations and conditions in in the Zoning Ordinance for such use.

Campbell County Zoning Ordinance Section 9.14, B, 1 Conditional Use Permits.

In accordance with KRS 100.237, the Board of Adjustment shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named herein which may be suitable only in specific locations in the zone only if certain conditions are met:

1. The board of adjustment may approve, modify, or deny any application for a conditional use permit. If it approves such permit, it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature.
2. Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of this ordinance, the building code, housing code, and other regulations of the city.

Summary of Applicants Request:

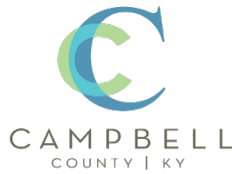
The applicant is requesting an expansion of a conditional use permit in the Agricultural-One (A-1) Zone for the construction of an accessory building.

Staff Recommendation – Campbell County Zoning Ordinance:

To approve the expanded conditional use permit subject to the following conditions:

1. That the applicant complies with the Campbell County Zoning Ordinance and building codes.

Bases for Staff Recommendation:



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1. In accordance with Section 18.2 of the Zoning Ordinance, proper notice of public hearing was given.
2. Under KRS 100.237 and Campbell County Zoning Ordinance Section 18.5, the Board of Adjustment has the power to hear and decide applications for Conditional Use Permits. The board may impose any reasonable conditions or restrictions on any variance it decides to grant. Evidence was presented to and heard by the Board regarding the Conditional Use permit.

Ms. Minter noted that the adjacent parcel to the south was recently acquired by the Campbell County school system and is intended to be the site of a future elementary school.

Rick Carr, representing the applicant noted the need for the additional building, and the lack of negative impact. Pastor Perkins then explained the purpose of the proposed building. He noted that the space would provide room for their food distribution program as well as their student ministry, and adult small groups.

There being no additional questions for the applicant, Mr. Verst opened up the discussion to the public. There were no public comments submitted.

There was some discussion about parking capabilities. Applicants noted that the business conducted in the new building would not be occurring during the busy Sunday morning time period.

With no additional discussion, Mr. Fessler made a motion to approve the expansion of the Conditional Use Permit for the purpose of a multipurpose building. He noted as a point of comment that the applicant should insure that the parking spaces are ADA compliant. He also added that if the need arose for daycare in the building, that the church should be able to use the new building for this purpose as well. Mr. Mike Williams seconded the motion. A roll call vote found all in favor. The motion carried and the conditional use was approved.

It being a special meeting, there was no report from staff and no additional comments from the commission or public. Mr. Mike Williams made a motion to adjourn, seconded by Mr. Fessler. An oral vote found all in favor.
The meeting adjourned at 6:10 PM.

Approved:

Cindy Minter, Director