

**CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT
MINUTES OF THE JULY 17, 2018 MEETING**

MEMBERS PRESENT:

Mr. John Fessler
Mr. Joseph Williams
Mr. Michael Williams
Mr. Roger Mason, Vice Chair
Mr. Scott Bachmann, Chair

STAFF PRESENT:

Ms. Cynthia Minter, Director
Mr. Kirk Hunter, Principal Planner
Ms. Molly McEvoy-Boh, Legal Counsel
Ms. Stephanie Turner, Recording Secretary

MEMBERS ABSENT:

Ms. Susan Meyers
Mr. Justin Verst

STAFF ABSENT:

Mr. Bachmann called the meeting to order at 7:01 PM with the Pledge of Allegiance. Following roll call, a quorum was found to be present. Mr. Bachmann asked if everyone had read the November 21, 2017 meeting minutes and if there were any questions or corrections. There being no comments or corrections, Mr. Bachmann called for a motion. Mr. Mason made a motion to approve the minutes as submitted. Mr. J. Williams seconded the motion. Mr. Bachmann called for a roll call vote. A roll call vote found Mr. Fessler, Mr. J. Williams, Mr. Mason and Mr. Bachmann in favor. Mr. M. Williams abstained. Motion passed.

Ms. Minter introduced our legal counsel for the evening as Ms. Molly McEvoy-Boh. The Board welcomed Ms. McEvoy-Boh to the meeting.

There being no old business to discuss, Mr. Bachmann introduced the first case on the agenda for a public hearing as Case #BA-18-003 by applicant Ms. Mary Lippert-Moyer requesting a conditional use permit for an event facility in the A-1 Zone. Mr. Bachmann called for the staff report to be given. Ms. Minter advised the Board that she and Ms. Lippert-Moyer share nieces and nephews and are distant "in-laws", but they do not share any form of financial relationship.

Mr. Hunter presented the staff report as follows:

CASE NUMBER: BA-18-003

APPLICANT: Mary Lippert

LOCATION: A four (4) acre section in the front of an approximately forty (40) acre parcel located on California Crossroad in Unincorporated Campbell County.

REQUEST: A conditional use permit for an event facility in the A-1 zone



Figure 1: 2777 California Crossroad

Overview:

This site is owned by Edward (Butch) Moyer and Mary Lippert-Moyer. Ms. Lippert is a professional event planner. The existing facility has served as a gathering space for the extended family. In 2018, the facility was updated to include a porch and an ADA accessible bathroom.

The applicant desires to complete additional renovations to the site and obtain a Conditional Use Permit for event facilities.

Considerations:

1. The zoning for the site and surrounding areas is Agricultural-One (A-1). The land uses surrounding the property consist of both residential and agricultural land.
2. Article X, Section 10.1 Agricultural-One (A-1) Zone of the Unincorporated Campbell County Zoning Ordinance also regulates setbacks as follows:

Description:	A-1 Zone Regulations Require:
Minimum Lot Area:	One (1) acre
Minimum Lot Width:	One hundred (100) feet
Minimum Front Yard Depth:	Fifty (50) feet
Minimum Side Yard Depth:	Twenty-five (25) feet - (Minimum ten (10) feet on one side)
Minimum Rear Yard Depth:	Thirty-five (35) feet
Maximum Building Height:	Thirty-five (35) feet

3. Article X, Section 10.1., C. Conditional Uses, 17, States:

- C. CONDITIONAL USES: No building or occupancy permit shall be issued for any of the following-nor shall any of the following uses or any customary accessory buildings and uses be permitted until and unless the location of said use shall have been applied for and approved of by the Board of Adjustment as set forth in Article IX, Section 9.14:

...

17. Event facilities.

4. Article IX, Section 9.14 Conditional Uses of the Campbell County Zoning Ordinance continues to specify the following points of interest to the Board:

- A. The Board of Adjustments 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.....The Board shall have power to revoke conditional use permits, or variance for noncompliance with the condition thereof. Furthermore, the Board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in persona for such cost.

- B. 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.
- C. In any case where a conditional use permit has not been exercised within the time limit set by the board or within twelve (12) consecutive calendar months from date of issuance, such conditional use permit shall not revert to its original designation unless there has been a public hearing.
- D. If the landowner is not complying with all of the conditions listed on the conditional use permit, the Zoning Administrator shall report the fact in writing to the Chairman of the Board of Adjustments. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time it is furnished to the chairman of the Board of Adjustments. The Board shall hold a hearing on the report within thirty (30) days, and notice of the time and place of the hearing shall be furnished to the landowner at least one week prior to the hearing. If the Board of Adjustments finds that the facts alleged in the report of the Zoning Administrator are true and that the landowner has taken no steps to comply within the time between the date of the report and the date of the hearing, the Board of Adjustments may authorize the Zoning Administrator, to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

5. A review of public records indicates no Board of Adjustments cases for this site

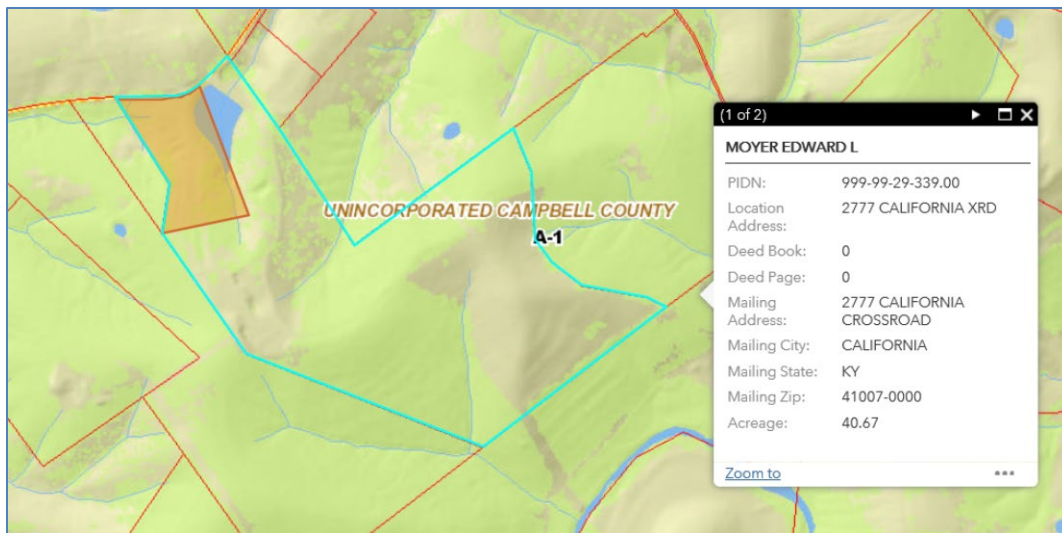


Figure 2: Entire parcel showing proposed 4-acre event facility

6. The site plan submitted by the applicant reflects the following:
- a. The site is located at the front of an approximately forty (40) acre lot of record.
 - b. The site is currently used for agricultural purposes.
 - c. The site plan shows the location of the existing structures as well as the proposed dumpster location



Figure 3: Site Plan

7. Article IX, Section 9.14 Conditional Uses of the Campbell County Zoning Ordinance governs the rights of the Board of Adjustment when granting a Conditional Use Permit; the determination that must be made; as well as actions to be taken if the applicant fails to comply with any conditions to an approval of the use. To grant a Conditional Use Permit, the Board must make the following determination:

- A. 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;

The applicant states: *“An event facility at this 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.”*

Staff comment: St. Peter and Paul picnic grounds is within ½ mile of this site. The proposed use at this particular location is necessary or desirable to provide a service or facility that will contribute to the general well-being of the neighborhood or the community.

- B. That such 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;

The applicant states: *“The event facility 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.”*

Staff comment: Such 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.

- C. That such use will comply with any regulations and conditions in this Ordinance for such use.

The applicant states: *"Our event facility will comply with any regulations and conditions in in the Zoning Ordinance for such use."*

Staff Comment: Building permits have been issued for this site. Such use will comply with any regulations and conditions in the Zoning Ordinance.

8. In addition to these statements, the applicant has provided the following details about the proposed event facility:

Business Overview:

Use property barn as an event facility for corporate meetings, weddings and company picnic.

Months of Operation:

May 1- November 15

Hours of Operation:

Thursday 12pm- 8pm
Friday 12pm -10pm
Saturday 9am-11pm
Sunday 12pm- 6pm

Internal Noise:

All Electronics, music and entertainment will be contained in the interior of the barn space.

External Noise:

Modest PA system will be used for outdoor wedding ceremony.

Operation of Barn Activity:

The property line will begin 10'-25' from California Cross Road and be an area of approximately 4 acres.

Entrance of Property:

Driveway will be the existing (2nd) driveway on property leading to barn. The paved driveway entrance will be, at a minimum, 50' in length with right turn into the parking area.

Parking Area:

Parking area will start 10' from California Cross Road. Parking spaces at 8'x16' with 24' wide exit/enter lanes.

Pavilion:

20'x20' covered pavilion is to be used for gathering space and photographic location.

Cabin:

20'x20' Cabin is to be used for a gathering space for bridal party before ceremony begins.

Capacity of Barn:**Main Level:**

50'x35' (1750 square-feet)

Seating 60" round tables with 10-12 17" wide chairs.

Seating approximately 120 guests leaving 550 square-foot entrance area and enter/exit spacing isles.

Loft Area:

50'x12' (600 square-feet)

Four 8' rectangle tables seating 10 chairs.

Seating 40 guests with 150 square-foot enter/exiting aisles.

Outdoor Patio:

50'x65' (3,250 square-feet)

This area is generally used for standing room or with partial seating for guests during a cocktail party. Not used for additional seating.

Staging Room:

15'x15' area containing 600 lb ice machine, commercial refrigeration and 3 bay sink.

This area is for food staging only. No cooking will be allowed on premises.

Bathrooms:

- A) 12'x12' area dedicated to women's restroom with 36" entrance containing 1 sink, 2 stalls, 2 toilets.
- B) 12'x12' area dedicated to men's restroom with 36" entrance containing, 1 sink, 1 stall with toilet, 1 urinal.
- C) 7'x8' restroom dedicated to handicap with 1 sink, 1 toilet. Located on main entry level.

Outdoor Lighting:

Existing light pole will be used as a parking lot lighting and exterior lighting. The light pole is pre-existing and illuminates areas in the parking lot, entrance/exit driveway an entrance/exit of main barn door.

100-300 watt standard exterior lights have been placed on exterior of barn:

Eastside (2 lights) front entrance and sidewalk
Southside (2 lights) large patio light
Westside (1 light) back door patio light.
Pavilion has standard exterior light of 300 watts.

Business Signage:

Wood sign 3'x5' ivory, sage, yellow in color will be mounted on barn's East side right side of front porch entrance. The sign will not be illuminated.

Dumpster:

Dumpster will be located 100 feet from Barn on concrete pad with 8ft wood exterior fence.

* * * * *

9. Per Section 18.2., Procedure for All Appeals to Board, a legal notice of this public hearing was given in accordance with the Campbell County Zoning Ordinance. ***A legal notice appeared in the July 5, 2018 edition of the Campbell County Recorder advertising applicant's request and the hearing to be held on July 17, 2018.***

Summary of Applicants Request:

The applicant is requesting a conditional use permit for an event facility

Staff Recommendation:

To approve the conditional use permit for an event facility.

Bases for Staff Recommendation:

1. In compliance with SECTION 18.7 CONDITIONAL USE PERMITS of the Campbell County Zoning Ordinance, a written application for a conditional use permit and a site plan subject to the applicable requirements of Section 9.19, was submitted to the Board for review and approval;
2. Notice of public hearing was given in accordance with Section 18.2 of the Campbell County Zoning Ordinance;
3. 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.

4. The evidence presented by the applicant and staff is such as to establish beyond any reasonable doubt:
 - a. 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;
 - b. That such 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.
 - c. That such use will comply with any regulations and conditions in the Campbell County Zoning Ordinance for such use.

Additional Notes to the Applicant:

1. The 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.
2. Farm exemption may not be used on facilities related to this conditional use.

Mr. Hunter asked if there were any questions he could answer for the Board. Mr. Bachmann stated that the plan for the facility was very concise, but in a few years, if the facility was to decide to expand or build another building, would they need to come back for review and approval from the Board. Ms. Minter stated it would depend on the type of expansion. Ms. McEvoy-Boh advised that the applicant has spelled out their plan for operation and the Board would be basing their approval on the information reflected from that plan. Any expansion beyond what is stated in the plan tonight would be required to return to the Board for consideration and approval. Ms. Minter agreed. If they want to add a barn or make the existing barn larger, they would need the Board's approval. If they are just repairing or maintaining what is approved in their plan tonight, they would not be required to obtain the Board's approval. Ms. McEvoy-Boh stated she would look at it as if they want to increase the density of the use of the structures. Mr. Bachmann asked if that future request for expansion would be its own separate conditional use permit or would it be this conditional use permit expanded. Ms. Minter stated it would depend what they would be requesting.

Mr. Williams stated he was surprised to see that there would not be any cooking on site. Is there a reason for that comment? Mr. Hunter advised that would be a question for the applicant to address. Mr. Mason asked if they are required to pave and supply parking based on the number of people that could be using this facility. Ms. Minter stated they do need to provide adequate parking on the site. With four (4) acres, there is enough area on it. Whether or not we required it to be paved, this could be a condition to the approval of their conditional use permit, but I would advise the Board that St. Peter and Paul picnic grounds are just one-half (1/2) mile down the road and they still just park in a field. They don't have events every weekend.

Mr. Bachman asked if the hours of operation were something that the applicant is pretty consistent that these are the only times they want to have events and these are not going to change. He explained he was trying to look at the bigger picture rather than the smaller view incorporated in this permit. If it is approved based on these restrictions and then they want to hold an event in January, but it is not reflected on this permit, would that be allowed? Mr. Mason added that is exactly his concern if they want to hold an event on a Tuesday instead of the days listed. Ms.

McEvoy-Boh added also if they wanted to have an event until 10:00 PM on a Thursday. Mr. Bachmann asked if that was something that needs to be addressed now at the beginning of their permit. Ms. Minter stated these are items the applicant would need to determine if they wish to expand their operations. This Board can make conditions upon approval of the permit as they feel are necessary. It is a very logical practice on a conditional use permit for some conditions similar to these to be placed for outdoor dining or event facilities. Because it is a quasi-outdoor event, it is appropriate to put some form of restrictions on hours of operations in regards to outdoor noise or entertainment just for the peace of the neighbors. Mr. Bachmann asked how close the nearest residence was located. Mr. Hunter did not have that information immediately available. He stated this is four (4) acres, but there is a residence on the other side of the barn. These are all pretty big lots with a lot of farms located in this area. Ms. McEvoy-Boh stated this area was all Agriculture (A-1) Zone.

Mr. J. Williams asked if the Board were to put a time or day of the week limit on this permit, but, for example, if they have a wedding that wants to go a little longer or on a different day, what does this mean exactly. Mr. J. Williams stated he didn't want to limit them if they ran past that time. How strict is this? Ms. Minter replied that it is however restrictive as the Board wants to define it. It should also be taken into consideration that we know the current occupants and how they want to define it. This is their business plan that they provided to us. This is their intentions on how they are going to operate it. Keep in mind that they are also running a forty (40) acre farm. Mr. Hunter added that those days and times are part of the proposal, but they are not necessarily part of the permit. Their request is for a conditional use permit. This plan was just to give us an idea of what they plan to do. Mr. Hunter agreed with Ms. Minter and Ms. McEvoy-Boh previous statements that you would usually want to include some conditions for use of the facilities. What the applicant has proposed are more guidelines for their request rather than conditions.

Mr. Mason asked staff if they had received any comments from neighbors. Staff has not received any public comments. Ms. Minter stated she believed the applicant had reach out to her neighbors and this is a good question to ask them. Mr. Bachmann asked if there were any other questions of staff. There being none, Mr. Bachmann asked applicant to step forward and address the Board. Ms. Mary Lippert-Moyer approached the podium.

Mr. Bachmann asked if there were any additional comments or if she could answer questions previously asked by the Board. Ms. Lipper-Moyer stated she would be happy to answer any questions the Board. Ms. Lippert-Moyer explained that she has been doing event facility planning for a long time. She is not just popping up a barn and starting to work as an event planner. Ms. Lippert-Moyer has twenty (20) years of experience. She ran an outdoor event center previously and has determined that is her real comfort zone for her as well as for her neighbors. She added that the hours of operation is enough so that guests feel they have been there long enough; she feels she has entertained them long enough; and the neighbors are happy that everything is quiet by 11:00 pm. Ms. Lippert-Moyer added that someone will occasionally ask if they can go an extra hour. If it is in the summer, she may agree, but she doesn't do that all the time, only once or twice a year.

Mr. Bachmann asked if that was something that you would generally want to have "buffer" time. For instance, if the event ends at 10:00 pm, would you want the conditional use permit says it can actually allow until 11:00 pm. Ms. Lippert-Moyer stated that she signs contract with each customer; with the music people; with the caterer and so on. The contract says music ends at 10:30 pm and all guests are usually leaving at this time. The general noise and activities are quiet by 11:00 pm. There would normally be only one (1) or two (2) people remaining behind by that time and that is usually because they are packing up.

Mr. M. Williams asked about the no cooking on the premises. He commented that he has no experience in event planning, but it just surprised him to see it. It seems like with your hours, I can understand the days, because you have to have time to get ready. But on Sunday only until 6:00 pm is a little restrictive. For this time of year, 6:00 pm is mid-afternoon. If you can't cook or have grill-outs, he guessed everything is catered in. Ms. Lippert-Moyer stated that the majority of her business, about ninety-five percent, is weddings and the remainder are corporate events. That is why I have the Thursday events. Corporate events are usually set up for the daytime and are done by 5:00 pm because that is their normal work time. Sunday is another example. If I have a corporate event on Sunday, they want to end it by 6:00 pm. This is just my general experience from having done this for so long that these would be the days and times that would work. Mr. M. Williams asked if she felt like she was restricting yourself too much. Ms. Lippert-Moyer stated she did not feel that these are too restrictive. Ms. Minter added that the site does not have city water or public sanitation. It is a private facility. This limits the cooking for larger groups. Ms. Lippert-Moyer corrected they do have city water. She has a motto for her business of "let me do what I do and let you do what you do". You have to let the deejay be the deejay; let the caterer cater; let the cake lady do the cake. Mr. M. Williams said it had just surprised him to see it. Ms. Lippert-Moyer added that she did not necessarily want families just coming in. When she holds her own family events, we do it outside and on the patio, but for a hired public event no. They would have to be a certified caterer. This makes my life easier.

Mr. Fessler added that then you would run into Health Department regulations they can really get expensive quick. Ms. Lippert-Moyer agreed. She does have her state certification herself. Mr. Fessler asked about the months of operation. You don't see any Christmas celebrations. Ms. Lippert-Moyer explained that her facility is strictly an outdoor facility. There is no heating or air in the barn.

Mr. Bachmann stated that she has obviously put a lot of thought into this based upon the details presented. Do you have any plans for expansion? Is this as big as you can see this becoming? Ms. Lippert-Moyer replied that is as big as she wants it to be. She can have up to one hundred sixty (160) guests based on her calculations for parking spots available. She has done all the math. She has even had the fire department visit and measure out the facility. This it is her comfortable level. For this business, it is a great number for weddings. It is actually above the average of one hundred forty (140) guests for our area. Ms. Lippert-Moyer does not see the business growing any bigger. She may want to add a cabin, but just for more space for the guests to get ready. They love to come and hang out all day long on their day of celebration. They want to be able to get ready and just be together. It is nice to come and do all of that in one location so they don't have to run around. They can do their pictures and everything there. That cabin may be something that I add on later, but I don't see us getting any bigger. We have built it the way we need it. Or rather we are building. We are not done yet.

Mr. M. Williams asked if there is a reason you have not added the month of April. In this area, April is springtime. Ms. Lippert-Moyer advised that the Board are welcome to add that month in there, but she doesn't currently have that option available to her customers. Mr. M. Williams stated he just didn't want her to over restrict herself. Ms. Lippert-Moyer replied that April is a very unpredictable month and not a fair weather month for weddings. If you want to throw it on there to cover me, that would be fine. Mr. Bachmann commented that the Board is expanding your business permit for you. Ms. Lippert-Moyer thanked the board. Mr. Fessler commented it was because the Board understood that if you wanted to add it later you would have to go through this process again. We know that can be expensive to applicants.

Mr. Mason asked about Mondays, Tuesdays and Wednesdays. Would you want to have those days included? Ms. Lippert-Moyer explained those days are her reorganize, resupply, clean up

days. We have a large farm so we have other things we need to get done. It is definitely Thursdays and Fridays as rehearsal times and the events would occur on Saturdays and Sundays. Sunday is a leftover clean-up day. Ms. Lippert-Moyer stated she had to give herself time limits even for the corporate side of stuff. The wedding are really most of my clientele. That has been my business for the last twenty (20) years.

Mr. M. Williams asked how many people were on staff. Ms. Lippert-Moyer replied they have three (3) people that work really hard, but if needed, they can have up to six (6). It is more of a family affair. You would have to add the deejay we bring in and the caterer. We are really just maintaining the people, the property and running your timeline. At the end, we are cleaning up and keeping everything under control. Ms. Lippert-Moyer added that all staff members attend "crowd" management training hosted by the Kentucky Fire Association.

Mr. M. Williams asked where else the applicant has worked? She replied that she managed the Inn at Oneonta on Mary Ingles Highway in Melbourne for fifteen (15) years when it was owned by the Hosea family.

Mr. Bachmann questioned family "get togethers" or "reunions". Do you consider them to be "events"? Would they be one of these gatherings in the summertime that would only fall on a Monday, Tuesday or Wednesday? Ms. Lippert-Moyer replied she did not consider them "events". This is her home; her family is her family; and their get togethers are not events. Mr. Bachmann asked staff if there were any regulations pertaining to family get togethers. Would they fall under this category of family or events if the family makes use of the event facilities? Mr. M. Williams ask if the Board can we make it so that they would be excluded from the classification of an event. Can it be a conditional requirement? Ms. McEvoy-Boh advised the Board that she prompted Mr. Bachmann to present this question because she didn't want the Board or Staff to be getting calls that the applicant was throwing these awesome family reunions outside the parameters of her business plan. Someone could be blindsided and say that she would operating outside of the approved times listed in her conditional use permit. This would be the easiest time to discuss this issue and make a determination. Ms. Lippert-Moyer thanked Ms. McEvoy-Boh for thinking of this. She is the youngest of eight (8) children and when she and her brothers, sister, nephews and nieces and then add their girlfriends and boyfriends get together someone could mistake them for a party. She has about 54 people at any given family event. She host the family for family events, holidays, and celebrations because this is what I do for a living.

Ms. McEvoy-Boh stated she did not feel family events should or would be considered as an event, but you need to consider it just so we can acknowledge the possibility. Mr. M. Williams asked if they could be excluded from this permit. Ms. McEvoy-Boh replied that you could. This Board has the authority to make this determination, but we have to be very careful on how you would word it. After some general discussion, Ms. Minter proposed that family gatherings are considered excluded as "non-commercial family events". Ms. McEvoy-Boh thinks the hours and days of operation are important for the protection of the neighbors. It takes pressure off of the applicant when someone is trying to pressure her to agreeing to a parameter she does not want to abide. For example, if a customer says they want to hire this band to come, and they are going to pay good money for this band, but they want them to play until 3:00 am or 4:00 am in the morning. Some crazy request. Here is the other problem, if at some point, things change in life. Or if the applicant moves and sells the property, the conditional use permit stays with the land. We would want to make sure the new owner remains within the limits that the Board approves for this applicant. Ms. Minter replied a correction to "non-commercial *resident* family events". That way it is clearly understood that the resident's family can make use of the facilities without impacting the conditional use permit. At the same time, someone cannot state "family" event to be a baby shower or wedding that they can hold anytime because it is a "family" function. Ms. Lippert-Moyer

asked if she would be able to host the family events any day of the week. Ms. McEvoy-Boh replied she could. Ms. Minter acknowledged that family events would go longer than any “stranger” or commercial event, but it is perfectly allowable that they may go longer.

Mr. Bachmann asked if there were any other questions of the applicant. There being none, Mr. Bachmann asked staff if all other elements of the site plan were compliant with our zoning regulations such as building setbacks, parking requirements, or other site issues. Specifically, is the parking allowed within ten (10') feet of the public road? Mr. Hunter stated that the site plan was compliant with zoning regulations. Ms. Minter added that they can park close to the road as long as they maintain a line of sight so traffic on the public road would not be endangered or affected. After some general discussion by the Board, it was determined that the exclusion should state “non-commercial resident family events”.

Mr. Bachmann asked if any of the audience members wanted to speak. No one asked to be recognized. Mr. Bachmann asked if there were any other questions or comments. There being none, Mr. Bachmann called for a motion. Mr. Fessler made motion on Case #BA-18-003 by the applicant Ms. Mary Lippert-Moyer requesting a conditional use permit for an event facility in the A-1 Zone to approve her conditional use permit with the following conditions: that the months of operation be limited to: April 1 to November 15; that the hours of operation be limited to: Thursdays: 12:00 pm to 8:00 pm; Fridays: 12:00 pm to 10:00 pm; Saturdays: 900 am to 1100 pm; and Sundays: 12:00 pm to 6:00 pm; that all electronics, music and entertainment will be contained in the interior of the event space; that a modest public address (PA) system may be used for outdoor events; and that non-commercial, resident family events are excluded from the requirements of this conditional use permit. Mr. Fessler stated the findings of facts for his motion were: 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 such 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; and that such use will comply with any regulations and conditions in the Campbell county zoning ordinance for such use.

Mr. Bachmann asked if there were any questions on the motion made. There being none, Mr. Bachmann called for a second. Mr. M. Williams seconded the motion. Mr. Bachmann asked if there were any additional comments or questions on the motion. There being none, Mr. Bachmann called for a roll call vote. A roll call vote found Mr. Fessler, Mr. J. Williams, Mr. M. Williams, Mr. Mason and Mr. Bachmann in favor. No one opposed the motion. No one abstained. Motion passed.

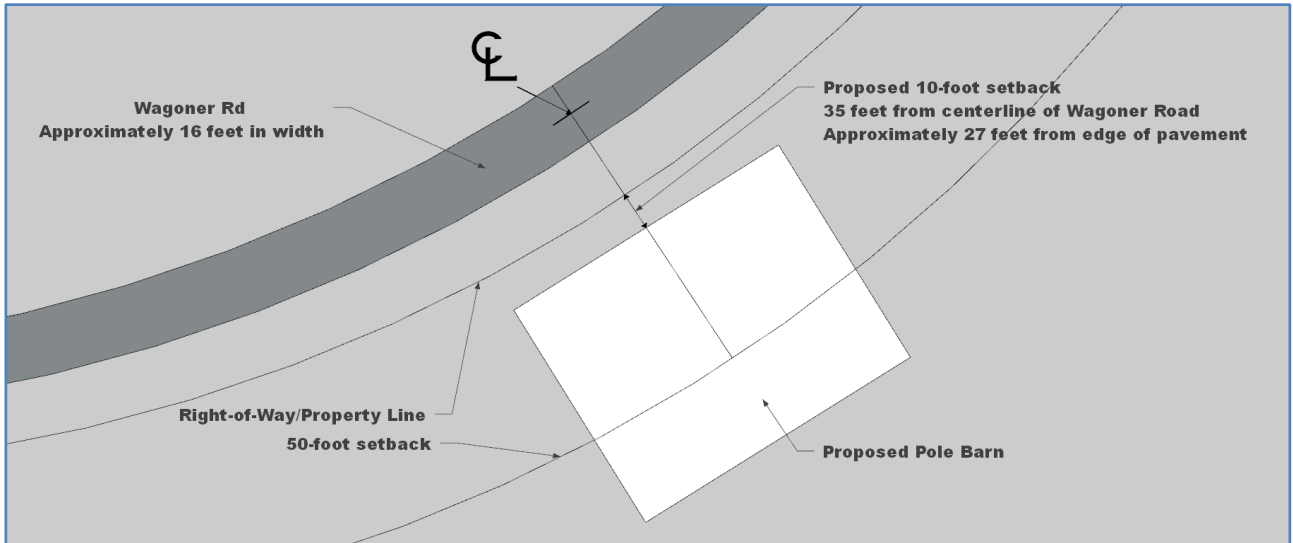
Mr. Bachmann introduced the final case on the agenda for a public hearing as Case #BA-18-005 by applicants Mr. & Mrs. Wayne & Marcia Neltner requesting a front yard variance for the purpose of constructing a pole barn for agricultural purposes in the A-1 Zone. Mr. Bachmann called for the staff report to be given. Mr. Hunter presented the staff report as follows:

CASE NUMBER: BA-18-005

APPLICANT: Wayne & Marcia Neltner

LOCATION: 2349 Wagoner Road, Unincorporated Campbell County

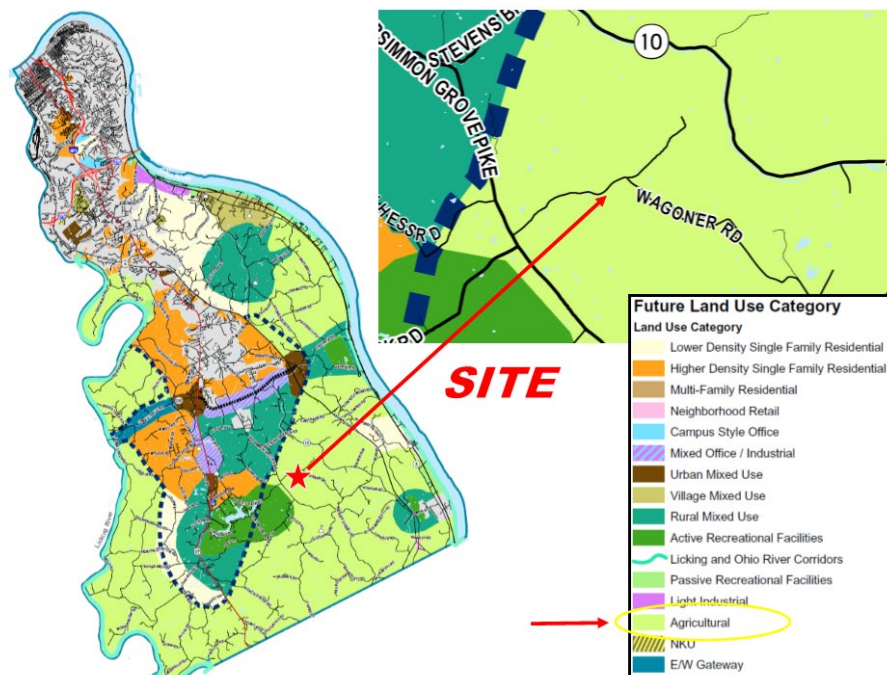
REQUEST: A request for a Front Yard Variance for the purpose of constructing a pole barn for agricultural purposes in the Agriculture (A-1) Zone



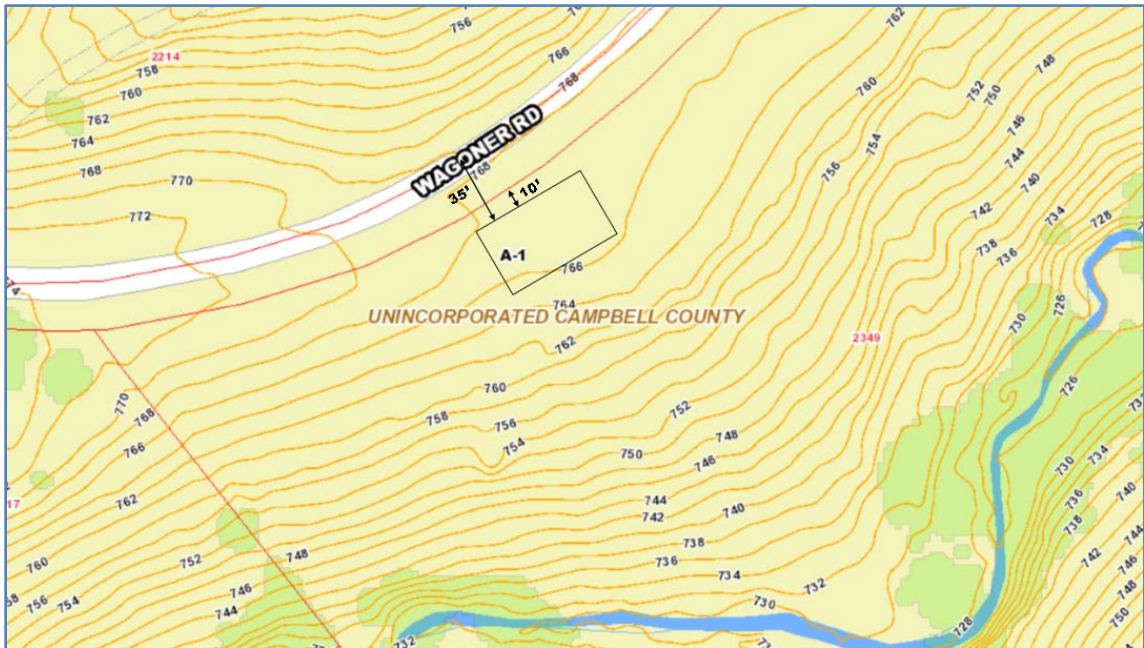
Considerations:

The applicant is requesting a dimensional variance. Their intention is to construct a pole barn to serve their farm. Because of the topography of the lot, a structure built to the legal front yard setback would require a tall retaining wall and extensive fill dirt. These additional expenses would make the project prohibitively expensive. Additionally, the functionality of the pole barn would be limited by siting it at the 50-foot setback line.

1. The site, containing approximately thirty-two (32) acres, is located in Unincorporated Campbell County on Wagoner Road. Wagoner Road is a County-maintained road. Wagoner Road is classified as a local-rural road in the Comprehensive Plan. 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. Currently, the surrounding land is zoned A-1 and is comprised primarily of agricultural land uses.



Wagoner Road follows a natural ridge. The land drops off on either side creating substantial slopes in the area.



The road is approximately sixteen (16) feet wide in this area. The right-of-way is fifty (50) feet wide leaving an approximately seventeen (17) foot shoulder between the edge of the pavement and the property line.

Wagoner road takes a slight bend in this area but because the proposed pole barn is on the outside of the turn, visibility is not affected.

2. The Campbell County Zoning Ordinance Article X, Section 10.1 classifies the area within the A-1 Agricultural Zone. Permitted uses within this zone include:
 1. Agricultural uses.
 2. Single family dwellings (detached).
 3. Mobile homes subject to the requirements of Section 9.28 of this ordinance and KRS 100.203 (4).
 4. Stands for sale of products that are raised, produced, and processed on the premises, provided that no roadside stands of any type for the sale or display of agricultural products shall be permitted within fifty (50) feet from any street.
 5. Greenhouses and nurseries, including both wholesale and retail sales of products grown on the premises.
 6. Stables and riding academies both public and private.
 7. Taxidermy and other related wildlife resources and service, with sales portion not to exceed 10% of the gross floor area of the operations.
 8. Animal Hospitals and Veterinary Clinics.
 9. Agritourism uses.
 10. Butcher/meat processing in connection with other agricultural activities.

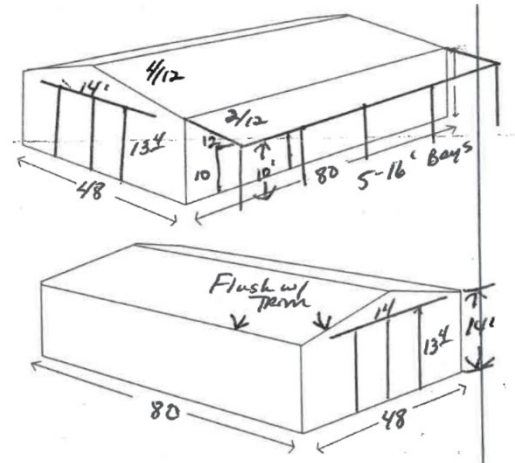
3. The minimum setbacks for the A-1 zone are:

Description:	A-1 Zone Regulations Require:	Applicant's Request:
Minimum Lot Area:	One (1) acre	
Minimum Lot Width:	One hundred (100) feet	
Minimum Front Yard Depth:	Fifty (50) feet	Ten (10) feet
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	

4. A review of public records indicates the following:

- No previous requests for a variance have been submitted for this site.
- The applicant owns the property

5. A site plan submitted by the applicant shows the placement of the proposed 64-foot by 80-foot pole barn.



6. 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 appeared in the July 5th, 2018 edition of the Campbell County Recorder advertising applicant's request and the hearing to be held on July 17th, 2018. Legal notice was also mailed to five (5) adjoining property owners.**
7. 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.**

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.

Applicant's responses:

That the requested variance arises from special existing circumstances which generally do not apply to land in the general vicinity.

"This area is all zoned A1 agriculture. The current use of the area is for crops (hayfield) and we are requesting to construct an agriculture use 80' X 64' pole barn to use for hay storage as well as equipment storage. Due to the topographical layout of the land in the area there are very few flat areas that this size building be constructed without excessive grading and filling to get the site level. Most, if not all, land in this general vicinity on both sides of the roadway is for crops and is like most of the Campbell County rural area, quite hilly and uneven. The requested area is the flattest part of this parcel and would require the least amount of site prep if allowed a variance to build the building closer to the roadway to avoid the taper of the property as it goes further from the roadway."

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.

"If the strict application of the current ordinance is followed it requires the structure to be set back off the roadway so far that it is possible a retaining wall would have to be built or that excessive fill be used to bring the site to level. These requirements would add excessive costs to the building and the use of a retaining wall would make the use of the barn to have access by cattle for feeding impossible as that wall would be in excess of 7' tall. Moving the building closer allows less fill and a gentle taper from the barn to pasture area."

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.

“Prior to the adoption of this zoning regulation there wouldn’t be a strict setback regulation that wouldn’t allow the building to be constructed without a variance. This is evident by the number of agriculture buildings set closer to the roadway on numerous farms in the area and throughout rural Campbell County. The decision to build this structure for agriculture use in this area was made due to location, topography and convenience of its intended use and results in requesting variance to allow it to be built.”

Reasons that the variance will not allow unreasonable circumstances of the requirements of the zoning regulations and will not alter the essential character of the neighborhood.

“Allowing a setback of 10 feet instead of the current 50 feet along this area of Wagoner Road is not unreasonable due to the farms in the area. There is one residence with a pole barn within 300 feet, and that home and barn are built within the same distance from the roadway that this variance is being requested. There are also much older barns and buildings within a short distance, built before the regulation, that are also that close, or closer, to the roadway. This building would be within the current norm of this area and placing it nearer to the roadway poses no risk of right of way, safety of the roadway, blocking utilities, or aesthetics of the immediate area.”

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.

“We understand that this structure must conform to the requested variance and that building the structure is limited to granting the variance. Any other structures requested would require additional variances and other buildings in the area don’t influence this, or future variance requests.”

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.

The application of the provisions of this Ordinance would create unnecessary hardship on the applicant by requiring extensive fill.

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

The essential character of the neighborhood is agricultural and this action is compatible with agricultural use.

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

Summary of Applicants Request:

The applicant is requesting a forty (40) foot front yard variance due to topographical conditions for the construction of an accessory structure and reducing the fifty (50) foot setback to approximately ten (10) feet.

Staff Recommendation:

To approve the applicant's request for a front yard variance of forty (40) feet for an accessory structure.

Basis for Recommendation

1. In accordance with Section 18.2 of the Campbell county Zoning Ordinance, notice of public hearing was given in the September 8, 2016 edition of the Campbell County Recorder.
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;
 - 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. Hunter asked if he could answer any questions for the board. Mr. Bachmann asked if the Board had any questions for staff. There being none, Mr. Bachmann called the applicant to step forward. Mr. Wayne Neltner identified himself as the property owner. Mr. Bachmann asked if he had anything to add to Mr. Hunter's report. Mr. Neltner stated Mr. Hunter pretty much covered it. He is just asking for a variance to save cost on the construction of a new agricultural barn. If a retaining wall or fill was required, it would be difficult for him to construct the pole barn. It would get real expensive. Mr. Bachmann asked the Board if they had any questions of the applicant.

There being none, Mr. Bachmann asked if any of the audience members wanted to speak. No one asked to be recognized. Mr. Bachmann opened the floor for discussion among the Board. Mr. M. Williams stated it was a straight forward request and felt the Board needed to be fair and approve their request.

Mr. Bachmann asked if there were any other comments or discussion from the Board. There being none, Mr. Bachmann called for a motion. Mr. Fessler made a motion on Case #BA-18-005 by applicants Mr. & Mrs. Wayne & Marcia Neltner requesting a front yard variance for the purpose of constructing a pole barn for agricultural purposes in the A-1 Zone to approve their request for a front yard variance of forty (40) feet for the construction of an accessory structure for agricultural purposes. Mr. Fessler stated the findings of facts for his motion were that 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; that the application of the provisions of this Ordinance would create unnecessary hardship on the applicant by requiring extensive fill; that the applicant is requesting this variance subsequent to the approval of these regulations; that the essential character of the neighborhood is agricultural and this action is compatible with agricultural use; and that this variance would not be granting the applicant a special privilege. Mr. Fessler continued that the variance would 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. Ms. McEvoy-Boh asked if he would like to add that the motion was also in accordance with Section 18.2 of the Campbell County Zoning Ordinance and KRS 100.241, 100.243, 100.247 and 100.251. Mr. Fessler amended his findings of fact to add the reference as stated by legal counsel. Mr. Bachmann asked if there were any questions or comments on the motion as presented and amended. There being none, Mr. Bachmann called for a second. Mr. M. Williams seconded the motion. Mr. Bachmann asked if there were any discussion on the motion as seconded. There being none, Mr. Bachmann called for a roll call vote. A roll call vote found Mr. Fessler, Mr. J. Williams, Mr. M. Williams, Mr. Mason and Mr. Bachmann in favor. No one opposed the motion. No one abstained. Motion passed.

Director's Report:

Mr. Bachmann asked if there was a Director's Report for this evening. Ms. Minter advised the Board that Ms. Sharon Haynes has accepted a position on the P&Z. Ms. Susan Meyers was appointed to replace Ms. Haynes, but was unable to attend tonight's meeting. There is a vacancy of the TPO officer.

Minter continued to state that, per our bylaws, an election of officers are to be held each year. In past we have dispensed with the nominating committee. Would the Board like to appoint representatives to the nominating committee or dispense with the committee? Mr. M. Williams made a motion to dispense with nominating committee. Mr. Mason seconded the motion. Mr. Bachmann asked if there were any discussion on the motion as seconded. There being none, Mr. Bachmann called for a roll call vote. A roll call vote found Mr. Fessler, Mr. J. Williams, Mr. M. Williams, Mr. Mason and Mr. Bachmann in favor. No one opposed the motion. No one abstained. Motion passed.

There was a brief discussion on who would be interested in officer positions. It was determined that the Board would reflect on appropriate officer nominations and hold their election at the next scheduled meeting. Ms. Minter advised the Board they would be meeting in August to hear a request for a conditional use permit.

Mr. Bachmann asked if there were any other comments, questions or points for discussion among the Board. There being none, Mr. Bachmann called for a motion to adjourn. Mr. Mason made a motion to adjourn. Mr. M. Williams seconded the motion. Mr. Bachmann called for an oral vote. An oral vote found Mr. Fessler, Mr. J. Williams, Mr. M. Williams, Mr. Mason and Mr. Bachmann in favor of the motion. No one abstained. Motion passed.

The meeting adjourned at 8:10 PM.

Prepared by:

Approved:

Cynthia Minter
Director

Scott Bachmann
Chair