

**CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT  
MINUTES OF THE APRIL 19, 2016 MEETING**

**MEMBERS PRESENT:**

Mr. John Fessler  
Mr. Michael Williams  
Ms. Sharon Haynes, TPO  
Mr. Roger Mason, Vice Chair  
Mr. Scott Bachmann, Chair

**STAFF PRESENT:**

Ms. Cynthia Minter, Director  
Mr. Kirk Hunter, Principal Planner  
Mr. Michael Duncan, Legal Counsel

**MEMBERS ABSENT:**

Mr. Justin Verst  
Mr. Joseph Williams

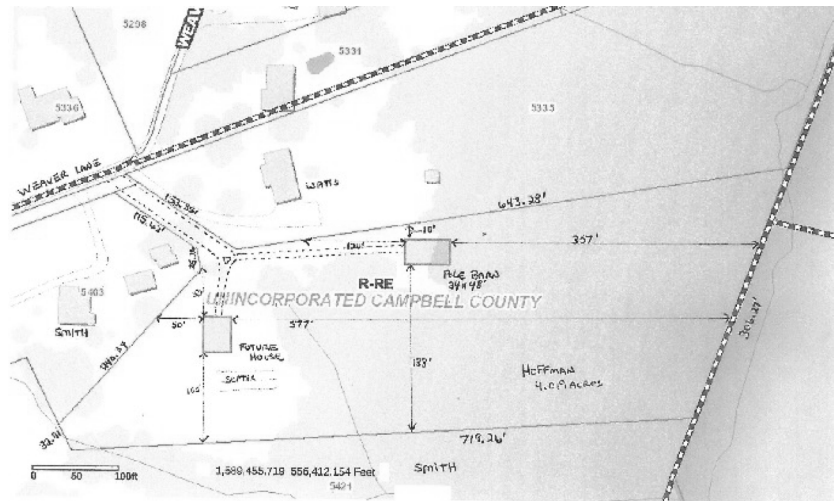
**STAFF ABSENT:**

Ms. Stephanie Turner, Recording Secretary

Mr. Bachmann called the meeting to order at 7:03 PM and asked everyone to stand and face the flag for the Pledge of Allegiance. Following roll call, a quorum was found to be present. Ms. Minter advised the Board that Mr. Verst deliberately did not come to the meeting tonight because he has worked with the applicant previously in a professional capacity. Mr. Bachmann asked if everyone had read the February 16, 2016 meeting minutes and if there were any questions or corrections. Mr. Mason referred everyone to Page 6, Line 44. Mr. Mason believes the word "winder" should be changed to "winter". Ms. Minter thanked Mr. Mason for catching that error. There being no other comments or corrections, Mr. Bachmann called for a motion. Ms. Hayes made a motion to approve the minutes as corrected. Mr. Fessler seconded the motion. Mr. Bachmann called for a roll call vote. A roll call vote found Mr. Fessler, Ms. Haynes, Mr. Mason and Mr. Bachmann in favor. Mr. M. Williams abstained. Motion passed.

There being no old business to discuss, Mr. Bachmann introduced the first case on the agenda for a public hearing as Case #BA-02-16 by applicant Mr. Louis Hoffman requesting a conditional use permit to allow for the placement of a non-commercial accessory structure in the R-RE Zone. Mr. Bachmann called for the staff report to be given. Ms. Minter presented the staff report as follows:

**CASE NUMBER:** BA-02-16  
**APPLICANT:** Louis Hoffman  
**LOCATION:** Approximately 4 acres located on Weaver Lane in Unincorporated Campbell County.  
**REQUEST:** A conditional use permit for placement of a non-commercial accessory structure in the R-RE Zone.



**Considerations:**

1. The 4 acre site is currently used for agricultural purposes. The zoning for the site and surrounding areas is Residential - Rural Estates (R-RE). The land uses surrounding the property consist of both residential and vacant land. The land use to the east, west and northwest is wooded and vacant land. The land use to the north and south is wooded and residential land.
2. Article X, Section 10.2 Residential - Rural Estates (R-RE) Zone of the Unincorporated Campbell County Zoning Ordinance also regulates setbacks for the R-RE Zone as follows:

<b>R-RE Zone</b>	
<b><u>Description:</u></b>	<b><u>Regulations Require:</u></b>
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:	Twenty-five (25) feet
Maximum Building Height:	Thirty-five (35) feet

3. Article X, Section 10.2., C., 11. R-RE / Conditional Uses 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:
    11. Noncommercial structure without a detached single-family dwelling provided that the location for a detached single-family has been sited meeting all applicable area and height regulations for all structures.
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 the following:

A. 153-15-ZMA-01: A request to change zoning on PIDN 999-99-18-734.00 from R-1C to R-RE.

6. The site plan submitted by the applicant reflects the following:

- 1) The site is a 4 acre lot of record.
- 2) The site is currently used for agricultural purposes.
- 3) The site plan shows the location of a proposed pole barn.
- 4) The site plan shows a future house and septic leech field.

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: "The estate division of the Anna Hoffman property at 5403 Weaver lane is complete. I received 4 acres of land. Because of their location, the existing garages on the property that house all the farm equipment and tools were included on the parcel with the farmhouse and sold to my nephew, Mike Smith. This was completed on January 4<sup>th</sup>, 2016.***

***In March/April 2015, we had the zone changed to RRE that would allow a building on the 4 acres as long as there is a place to site a future house meeting all regulations.***

***Mike is allowing me to keep the equipment in the garages until I can get a building completed to relocate it but he would like to use the garages for his purposes as soon as possible. He has also stated that when I get the equipment moved out, he would like to take down a lean-to on the side of one of the garages which is in need of repair instead of rebuilding it. This would further clean up the view of the 5403 property.***

***The pole barn would allow me to keep the farm equipment on site so that the family can continue to put in our small home use vegetable and flower gardens as we always have and I can continue to mow and bush hog the property to keep it clean.***

**Staff comment:** 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;

***The applicant states: "The pole barn will be located back off of Weaver Lane in the pasture area at the wood line. It will be a storage only building with no utilities. It will be locked at all times and have some type of solar security lighting. It will be built by a reputable company to all County specifications for the RRE zone.***

**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: "The surveyors were asked to ensure that the plot plan would meet all zoning regulations for a future house to be sited and a pole barn erected meeting size and setback specifications for the RRE zone – which was done.***

**Staff Comment:** Such use will comply with any regulations and conditions in this Ordinance for such use.

8. 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 March 31, 2016 edition of the Campbell County Recorder advertising applicant's request and the hearing to be held on April 19, 2016.***

**Summary of Applicants Request:**

The applicant is requesting a conditional use permit for a non-commercial accessory structure within the Residential Rural Estate (R-RE) Zone.

**Staff Recommendation:**

To approve the conditional use permit for a non-commercial accessory structure.

**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.

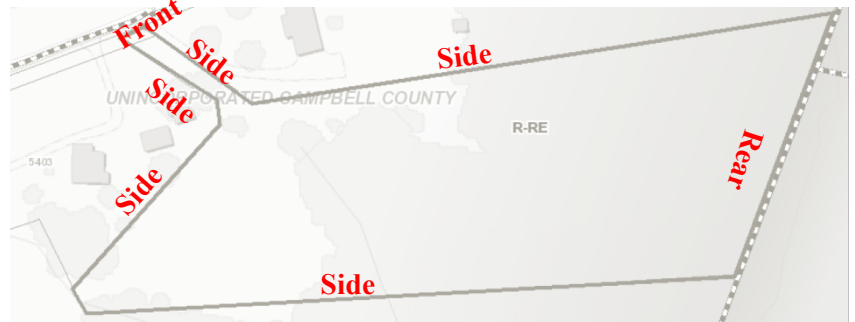
**Additional Notes to the Applicant:**

1. The applicant will need to submit a Miscellaneous Building Permit Application for building permit review and approval.
2. 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.

Ms. Minter concluded her staff report by asking if the Board had any questions that she could address. Mr. Bachmann asked if anyone had any questions of staff. Mr. Fessler asked why the applicant needed a conditional use permit for the barn. Ms. Minter explained that the primary use of the R-RE Zone was for single family residential use. This includes a single-family dwelling as the primary (or principal) structure and any necessary accessory structures (like the pole barn). The zone requires that the primary structure be present before an accessory structure can be considered. Our office will allow you to construct the home and the barn concurrently, but the applicant in this case does not desire to construct the home at this time.

Ms. Minter provided a brief history as to the text change that occurred for the R-RE Zone within the last year or so. The R-RE Zone is Residential Rural Estates and is close in many standards to the Agriculture Zone. The primary use of this land is for single family residential communities and we see this coupled with "light" farming and agriculture uses for gardens, etc. In the case before you tonight, Mr. Hoffman already has a home in this area. He desire to construct the accessory structure (the pole barn) without having a primary structure (single-family home) on this site. Ms. Minter explained that the text change was intended to allow non-commercial accessory structures to be constructed on a site without a primary structure. The criteria include that the location for a detached single family home has been sited and meets all regulations for all structures. This means that the underlying use of this zone is still for residential purposes so we don't want a barn to be built so that they can run a business out of it. The requirement for the siting of a detached single-family home was pertinent so that if the property were sold off in the future or even if the current owner wanted to construct a new home on this site, the home would be able to be constructed in a location that would meet all setback requirements and any septic system would be able to be installed without violating setbacks or property lines. This protects the community by insuring that the primary residential use will continue on this site in the future. The Board has been tasked with reviewing those occasions when an applicant would like to have the accessory structure without the primary structure and issuing either an approval, approval with conditions or denial as with any other conditional use permit.

Ms. Haynes asked if there was a time restriction such as a requirement for the home to be constructed within a specified time period after the construction of the accessory structure. Ms. Minter replied that there is no restriction at this time requiring them to construct the home. Mr. Bachmann asked a question regarding how to determine the front, side and rear property line in regards to the shape and design of this lot. Ms. Minter replied that it is usually determined by the location of the road. The side that runs parallel to the road is the "front". The side parallel to the front is the "rear". All other lines are considered "side".



Ms. Minter continued that because of the size of the lot, over 4 acres, we are not requiring the pole barn be tucked back behind the proposed home. If it were a smaller lot, like only 1 acre, we may have required that. Mr. Bachmann confirmed that they are still required to meet the side yard setback. Ms. Minter stated that they do.

Mr. Bachmann asked for input regarding the comment made by Ms. Haynes that there is no time restriction requiring the construction of the home in the future. Ms. Minter stated that it was for this reason that the conditional use was established. We don't want to preclude the property from some point in time in the future from having the capacity to have a single family home constructed on it. The Planning Commission established that it had to be done as a conditional permit because they did not want a situation where the property owner would come in and build a barn in the only location that might have passed perk test for a septic system or where the residential home could be constructed and still meet all the setback regulations. The property owner could build the barn and then need to come before the Board asking for variances because no foresight was considered in determining the location of the pole barn. The Planning Commission accepted that there are instances in which you may want to build a barn and then a home in the future and that there may be a large space of time between these events. By requiring a conditional use permit to do so, it requires additional planning up front to allow for the property to meet its primary use of a single-family home in the future.

Mr. Fessler asked what the approximate size of the barn was. Ms. Minter stated that the approximate size is 34 feet X 48 feet (1,632 square feet). Mr. Bachmann asked if we knew the height of the barn. Ms. Minter stated that she did not know the exact height, but do not think it would exceed the permitted 35 feet. Ms. Minter added that the second item listed under "Additional Notes to the Applicant" indicate that the applicant must meet all other regulations which would include that the height of the structure not exceed the allowed 35 feet.

Mr. M. Williams asked why it was called a "pole" barn. Ms. Minter stated that it was indicative of the type of construction of the barn. If you were to look inside the structure, you would see poles supporting the structure with metal siding attached to the poles. Ms. Minter stated that staff sees a lot of these in construction.

There being no other questions for staff, Ms. Minter introduced Mr. & Mrs. Hoffman, the applicants. Mr. Hoffman stated that the size of the structure has been down-sized slightly. The size is going to be 28 feet by 40 feet (1,120 square feet) with a 6 foot porch on the southern side of the structure. The front of the building where the garage doors will be will be facing west. Mr. Bachmann asked if they were keeping the same location of the barn or was the location changing with the size. Mr. Hoffman stated that they were keeping the location to 10 feet off the side property line. Mr. Bachmann asked if the surrounding properties were all family members. Mr. Hoffman replied that they were. When his mother passed away, they divided the property among the siblings with land additions to his sisters. He lives up the street so he ended up with the remaining 4 acres of land where he puts his gardens. He had 2 storage structures where he stored his equipment, but due to their location they had to be included with the parcel that was divided off for his nephew. While his nephew was generous enough to allow him to continue storing his equipment there, he would like to have the ability to store his equipment on his own lot. His nephew would like to use the structures for himself.

Mr. Bachmann asked Mr. Hoffman if he had a timeline of when he anticipated constructing a home on this site. Mr. Hoffman stated that he had no immediate plans to build. He lives up the street and is going into retirement mode. Maybe once he retired, he would reconsider and build a home there, but at this time there is no plan to build. Mr. Bachmann confirmed that Mr. Hoffman does live on Weaver Lane. Mr. Hoffman stated he resides at 5469 Weaver Lane.

Mr. Bachmann asked if there were any other comments or questions for the applicant. Ms. Hayes does have a question of staff. Item 4. C. of the staff report states:

"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.”

Ms. Minter explained that if the pole barn were not constructed within 12 months from the date the conditional use permit was approved then the conditional use would terminate after a public hearing requesting the termination. However, staff does not feel this would occur in this instance. Mr. Bachmann asked if that gave the Board to extend the timeline to go beyond the 12 months. Ms. Minter stated that the Board could do that. If the building inspectors see that any construction work is occurring, they extend the permit to allow additional time. This 12 month restriction is for those instances where there is no action occurring on the site and is usually indicative of outside influence on the request such as someone gets ill, they have run out of money, or some other circumstances. Ms. Minter stated that staff has concern if the construction work extends beyond 12 months because they may be entering a different building code requirements. The applicant is ready to begin construction and Ms. Minter does not see this extending past the summer construction season before we would see the barn completed.

Mr. Bachmann asked if there were any other questions or comments for staff or the applicant. There being none, Mr. Bachmann asked that the record show that there are no audience members other than the applicants. Mr. Bachmann opened the floor for discussion among the Board.

Mr. Bachmann asked if there were any other comments or questions regarding this request. There being none, Mr. Bachmann called for a motion. Mr. Fessler made a motion on Case #BA-02-16 by applicant Mr. Louis Hoffman to approve their request for a conditional use permit for the construction of a noncommercial accessory structure. Mr. Fessler stated that the bases for his motion is the information provided in the staff report; testimony by staff and the applicant tonight; and discussion among the Board. Mr. Bachmann called for a second to the motion. Ms. Haynes seconded the motion. Mr. Bachmann asked if there were any discussion or questions regarding the motion. There being no other comments or questions, Mr. Bachmann called for a roll call vote. A roll call vote found Mr. Fessler, Ms. Haynes, Mr. M. Williams and Mr. Mason in favor. Mr. Bachmann abstained. Motion passed.

There being no other cases to present to the Board tonight, Mr. Bachmann called for the Director’s Report.

#### **DIRECTOR’S REPORT**

Ms. Minter did not have a Director’s Report. She stated that the next potential meeting would be on May 17<sup>th</sup>, but staff would contact you within the next week if that meeting is to occur.

Mr. Bachmann asked if there were any other items the Board wished to discuss tonight. There being none, Mr. Bachmann asked for a motion to adjourn. Mr. Mason made a motion to adjourn. Ms. Haynes seconded the motion. An oral vote found everyone in favor, none opposed. Motion passed. Meeting adjourned at 7:33 PM.

Prepared by:

Approved:

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Cynthia Minter  
Director

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Scott Bachmann  
Chair