

CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT MINUTES OF THE JUNE 21, 2016 MEETING

MEMBERS PRESENT:

Mr. John Fessler
 Mr. Justin Verst
 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
 Mr. Michael Duncan, Legal Counsel
 Ms. Stephanie Turner, Recording Secretary

MEMBERS ABSENT:

Ms. Sharon Haynes, TPO

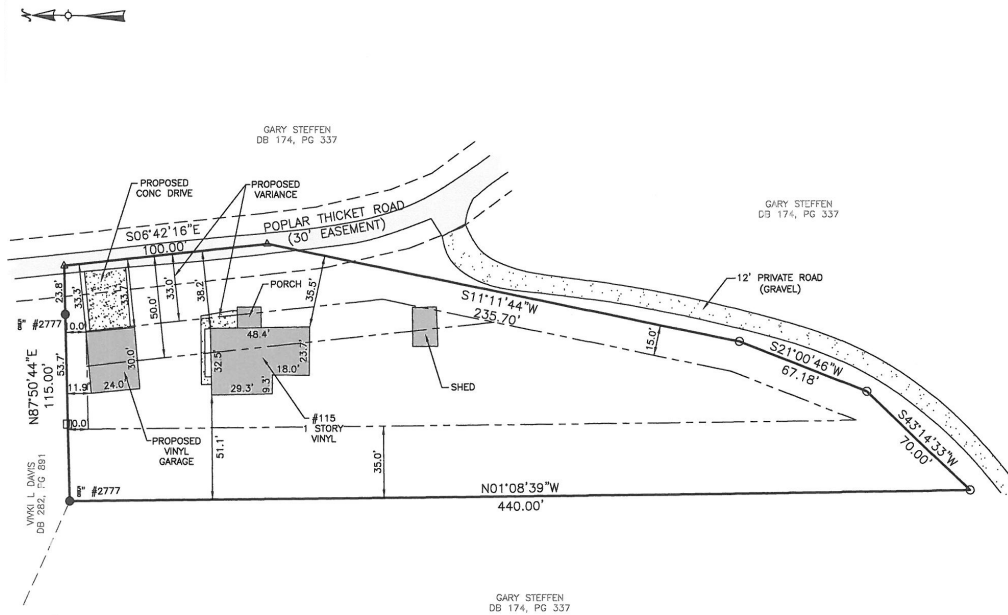
STAFF ABSENT:

None.

Mr. Bachmann called the meeting to order at 7:00 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. Mr. Bachmann asked if everyone had read the April 19, 2016 meeting minutes and if there were any questions or corrections. There being no comments or corrections, Mr. Bachmann called for a motion. Mr. Fessler 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. M. Williams, Mr. Mason and Mr. Bachmann in favor. Mr. Verst and Mr. J. 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-04-16 by applicant Mr. William Glenn requesting a front yard setback variance of approximately 17 feet. Mr. Bachmann called for the staff report to be given. Mr. Hunter presented the staff report as follows:

CASE NUMBER: BA-04-16
APPLICANT: Mr. William Glenn
LOCATION: 1 acre located on Poplar Thicket Road, Unincorporated Campbell County.
REQUEST: A front yard setback variance of approximately 17 feet.



Considerations:

1. The applicant is requesting a dimensional variance. His intention is to construct a two-car garage. Because of the topography of the lot, a garage built to the legal front yard setback would require extensive fill dirt. The additional expense of bringing in extra fill dirt would make the project prohibitively expensive.



2. The site, containing 1 acre, is located in Unincorporated Campbell County on the west side of Poplar Thicket Road approximately 225 feet from the end of the road. Poplar Thicket Road is a County-maintained road. This site is located in the A-1 Agricultural 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 Agricultural and is comprised primarily of single family residential and agricultural land uses.
3. The Campbell County Zoning Ordinance Article X, Section 10.1 classifies the area within the A-1 Agriculture 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 the 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 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. Bed and breakfast establishments.
 8. Taxidermy and other related wildlife resources and service, with sales portion not to exceed 10% of the gross floor area of the operations
 9. Animal Hospitals and Veterinary Clinics
 10. Agritourism uses.
4. The minimum setbacks for the A-1 zone are:

	A-1 Zone	
Description:	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	Thirty-three (33) 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	

5. A review of public records indicates the following:
 - a. No previous requests for a variance have been submitted for this site.
 - b. The applicant owns 115 Poplar Thicket Road.

6. A site plan submitted by the applicant and field visit by staff reflects the following:
 - a. Poplar Thicket Road is a local road 2 ¼ miles long with no through traffic.
 - b. The site is the second last house on Poplar Thicket Road and approximately 225 feet from the dead end of the road.
 - c. The plan shows an existing lot with a single family home and shed situated approximately 38 feet from the front property line.
 - d. The plan also shows the placement of the proposed 24-foot by 30-foot garage and concrete driveway.



7. 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 June 9th, 2016 edition of the Campbell County Recorder advertising applicant's request and the hearing to be held on June 21st, 2016.***

8. 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 Comments:

"I have of this date, submitted a variance for the purpose of adding a garage to my property, along with a survey with sufficient evidence to warrant a change in setback to match the setback of existing house. The County serviced road is a one-lane and my house is the second one from the end.

If the code was followed-- there would not be enough room to allow on the back side, also due to the ridge-- it would demand to much fill dirt to make it buildable.

The house was put here before the zoning to build 50 foot from the front line, so with placing this garage-- it will conform with the regulations of the time that the house was placed.

The placement of proposed garage will not interfere with any of the abutting properties."

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 seventeen (17) foot front yard variance for the construction of a non-commercial building and reducing the fifty (50) foot setback to approximately thirty-three (33) feet.

Staff Recommendation:

To approve the applicant's request for a front yard variance of seventeen (17) feet for a non-commercial building.

Basis for Recommendation

1. In accordance with Section 18.2 of the Campbell county Zoning Ordinance, notice of public hearing was given in the June 9, 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 concluded the staff report by asking if the Board had any questions that he could address. Mr. Bachmann asked if anyone had any questions of staff. Mr. Fessler asked for the size of the proposed garage. Mr. Hunter confirmed with the applicant that it was approximately 24 X 30 feet.

Mr. Bachmann asked if there were any other questions for staff. There being none, Mr. Bachmann asked the applicants to come forward and state their name and address for the record. Mr. William Glenn and his wife, Shirley, are the owners of the property located at 115 Poplar Thicket Rd. Mr. Glenn stated that they moved into the property on June 1st, 2015 and they just love it. They have a wonderful view of the County and truly enjoy their new home. The only problem he has is that he needs cover for his vehicles because of the winds and storms. Mr. Glenn investigated getting a carport instead of a garage, but doesn't think the carport will adequately protect his vehicles or be the best option since they sit on top of the ridge. Mr. Glenn asked what questions he could answer for the Board.

There being no questions for the applicant, Mr. Bachmann asked if anyone else in the audience wanted to speak on this request. There being no one who wished to speak, Mr. Bachmann asked if there were any other comments received by the planning and zoning office regarding this application. Ms. Minter confirmed that there were no public comments regarding this site received. Mr. Bachmann opened the floor for discussion among the Board. Mr. Fessler stated that is appeared to be a straight forward request.

Mr. Bachmann asked if there were any other questions or comments. There being none, Mr. Bachmann called for a motion. Mr. Verst made a motion on Case #BA-04-16 by applicant Mr. William Glenn requesting a front yard setback variance of approximately 17 feet to allow for the placement of a detached garage. Mr. Verst stated there were no conditions to his recommendation of approval. 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. Verst stated he also felt that the request was in accordance with the Comprehensive Plan and Zoning Ordinance and that the topographical issues on the site warranted the granting of the variance. Mr. Bachmann called for a second to the motion. Mr. M. Williams 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, Mr. Verst, Mr. J. Williams, 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 want to advise the Board that the Planning Commission has recently passed an update to the Fee Schedule in order to make it more user friendly and streamlined to match our applications. There has also been a text update to our Cellular / Wireless Communications text and new copies should be distributed to place in their Zoning Ordinances at our next meeting. The Planning Commission is also in the midst of updating our sign regulations to comply with a recent decision from the US Supreme Court.

Ms. Minter stated that no new applications have been received and there will likely not be a meeting in July. Staff will keep the Board advised if that were to change.

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. Verst made a motion to adjourn. Mr. M. Williams seconded the motion. An oral vote found everyone in favor, none opposed. Motion passed. Meeting adjourned at 7:16 PM.

Prepared by:

Approved:

Cynthia Minter
Director

Scott Bachmann
Chair