

**CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT
MINUTES OF THE SEPTEMBER 20, 2016 MEETING**

MEMBERS PRESENT:

Mr. John Fessler
Mr. Justin Verst
Mr. Joseph Williams
Mr. Michael Williams
Ms. Sharon Haynes, TPO
Mr. Scott Bachmann, Chair

STAFF PRESENT:

Mr. Kirk Hunter, Principal Planner
Mr. Michael Duncan, Legal Counsel
Ms. Stephanie Turner, Recording Secretary

MEMBERS ABSENT:

Mr. Roger Mason, Vice Chair

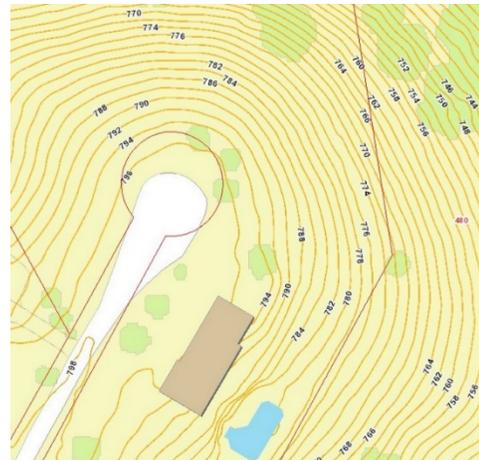
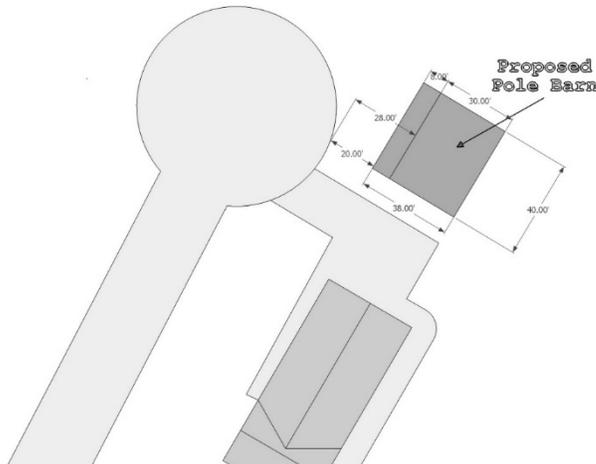
STAFF ABSENT:

Ms. Cynthia Minter, Director

Mr. Bachmann called the meeting to order at 6:59 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 August 16, 2016 meeting minutes and if there were any questions or corrections. There being no comments or corrections, Mr. Bachmann called for a motion. Mr. Verst made a motion to approve the minutes as submitted. Mr. M. Williams seconded the motion. Mr. Bachmann called for a roll call vote. A roll call vote found Mr. Fessler, Mr. M. Williams, Mr. Verst, Ms. Haynes and Mr. Bachmann in favor. 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-06-16 by applicant Mr. Richard Hubbard requesting a front yard setback variance of approximately 30 feet. Mr. Bachmann called for the staff report to be given. Mr. Hunter presented the staff report as follows:

CASE NUMBER: BA-06-16
APPLICANT: Richard Hubbard
LOCATION: Approximately 12.67 acre parcel located at 9603 Henry Court, Unincorporated Campbell County.
REQUEST: A front yard setback variance of approximately 30 feet.



Considerations:

The applicant is requesting a dimensional variance. His intention is to construct an accessory structure. Because of the topography of the lot, a structure 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.



1. The site, containing approximately 13 acres, is located in Unincorporated Campbell County on the cul-de-sac of Henry Court. Henry Court is a County-maintained road. This site is located in the R-RE Residential Rural Estate Zone. The Recommended Land Use Map of the 2008 Campbell County Comprehensive Plan identifies the site and surrounding areas as large lot residential. Currently, the surrounding land is zoned R-RE and is comprised primarily of single family residential land uses.
2. The Campbell County Zoning Ordinance Article X, Section 10.2 classifies the area within the R-RE Residential Rural Estate Zone. Permitted uses within this zone include:
 1. Single family dwellings, detached.
 2. Horse related uses, including riding and boarding stables for personal use with minimum lot area of 4 acres provided that the location for a detached single-family dwelling has been sited meeting all applicable area and height regulations for all structures.
 3. Greenhouse, nurseries or gazebo for personal use with minimum lot area of 4 acres provided that the location for a detached single-family dwelling has been sited meeting all applicable area and height regulations for all structures.
3. The minimum setbacks for the R-RE zone are:

Description:	R-RE 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	Twenty (20) 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:
 - a. No previous requests for a variance have been submitted for this site.
 - b. The applicant owns 9603 Henry Court.
5. A site plan submitted by the applicant and field visit by staff reflects the following:
 - a. Henry Court is a local road 593 feet long with no through traffic.
 - b. The site is the last house on Henry Court.
 - c. The plan shows an existing lot with a single family home situated at the fifty (50) foot setback.
 - d. The plan also shows the placement of the proposed 30-foot by 40-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 September 8th, 2016 edition of the Campbell County Recorder advertising applicant's request and the hearing to be held on September 20th, 2016. 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 Comments:

"The topography is very challenging, everything slopes fairly quickly downhill from the road. The best location for the pole building is next to the house on the other side of the existing driveway. Since the lot falls off quickly beyond the end of the driveway, I want to keep it in a general line with the house. However, that will put the front of the building closer than the 50' required setback. The location is also in the cul-de-sac, so the setback gets wider in this location.

I would estimate the front of the building would be 25' from the right-of-way. To make the building more attractive, I plan to put an 8' covered porch across the front that would reach even closer to the right-of-way. Please understand however that the encroachment is in the cul-de-sac and beyond the end of the road.

If I am not granted a variance the cost of the foundation costs will increase so much that I will not be able to afford the project. Also, the next best area topographical contains leach lines, so unable to build there.

Many of the homes in the area have similar buildings, so this will be very typical for the area. Deed restrictions require a minimum of 5 acres per lot.

Nothing in this request would convey a special privilege, I am just seeking the variance due to topographical constraints. Perhaps worth noting that the other adjacent lot in the cul-de-sac is

owned by me as well, so the variance does not put the building close to a neighboring house or other improvements. There is ample frontage.”

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 thirty (30) foot front yard variance due to topographical conditions for the construction of an accessory structure and reducing the fifty (50) foot setback to approximately twenty (20) feet.

Staff Recommendation:

To approve the applicant’s request for a front yard variance of thirty (30) 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 concluded the staff report by asking if the Board had any questions that he could address. Mr. Bachmann asked if staff had any conditions to attach to staff's recommendation to approve. Mr. Hunter replied there were no conditions as part of this approval. That was just a typo on the slide. Mr. Bachmann asked if anyone else had questions for staff. Mr. Verst asked if staff knew the radius of the cul-de-sac. It appears like a lot of the setback is because of the cul-de-sac. The drawing shows the road right-of-way is thirty (30) feet and the radius could be sixty (60) or seventy (70) feet. Mr. Hunter replied that he did not know what the radius was but it looks to be at least forty (40) feet. Mr. Verst confirmed that the applicant owned the remaining property at the end of the cul-de-sac. Mr. Hunter stated that was correct. Mr. Verst stated that looking at the plat, the location where he wants to put the barn is close to the setback for the street itself. It is just the cul-de-sac that makes it look like more. Mr. Hunter agreed the barn would be closely in line with other structures on the street.

Mr. Bachmann asked if there were any other questions for staff. There being none, Mr. Bachmann thanked Mr. Hunter for his report and asked if the applicant could approach the podium and identify himself. Mr. Richard Hubbard, 9603 Henry Court, approached the podium. Mr. Bachmann asked Mr. Hubbard if he had any information that he wanted to present for the Board's consideration. Mr. Hubbard stated that he did not have anything to really add to the staff report. His issue is that the front of the house and the proposed building would be in a general line, but the widening of the cul-de-sac is what creates his issue. The location of the barn is dictated by the height of the wall that he would need to put on the deepest corner. The barn he intends to construct will not be a pole barn with submerged post, but rather a concrete foundation with walls and the deepest part is every bit of eight (8) feet and he is trying to avoid going over that because of the cost. Mr. Hubbard has staked it out and the setback is as far from the right of way as he can be without getting into nine (9) and ten (10) feet walls which would create quite a bit of difference in the cost. Mr. Bachmann asked if he owned the property on the other side of the cul-de-sac as well. Mr. Hubbard stated he did. It was two lots and they encompass the entire radius of the cul-de-sac.

Mr. Bachmann asked if there were any other questions for the applicant. There being none, Mr. Bachmann thanked Mr. Hubbard for his comments. Mr. Bachmann asked staff if there had been any calls, emails or comments from the public on this case. Mr. Hunter assured Mr. Bachmann there had been no response by the public. Mr. Bachmann asked the Board if they had any points to discuss regarding this request. There being none, Mr. Bachmann called for a motion. Ms. Haynes made a motion on Case #BA-06-16 by applicant Mr. William Hubbard requesting a front yard setback variance of approximately 30 feet to allow for the placement of a barn. Ms. Haynes stated there were no conditions to her recommendation of approval. The bases for her motion is the information provided in the staff report; testimony by staff and the applicant tonight; and discussion among the Board. Ms. Haynes stated that she finds the topographical issues on the site warrants the granting of the variance requested. Ms. Haynes continued that the application was in compliance with the public hearing notice regulations as stated in Section 18.2 of the Campbell county Zoning Ordinance; that the request was in accordance with KRS 100.241 Variances; and that the evidence presented by the applicant and staff is such as to make a finding that 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; that 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, Ms. Haynes included the staff recommendation. Ms. Haynes 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. J. 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 Ms. Haynes in favor. Mr. Bachmann abstained. Motion passed.

There being no other cases to present to the Board tonight, Mr. Bachmann asked if there was a Director's Report tonight. Staff stated there was no Director's Report tonight. The next potential meeting will be November 15th. Staff will keep you advised if there are any requests submitted.

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. Fessler seconded the motion. An oral vote found everyone in favor, none opposed. Motion passed. Meeting adjourned at 7:19 PM.

Prepared by:

Approved:

Kirk Hunter
Principal Planner

Scott Bachmann
Chair