

**CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT  
MINUTES OF THE JULY 19, 2011 MEETING**

**MEMBERS PRESENT:**

Mr. Scott Bachmann  
Mr. Paul Johnson  
Ms. Fran Reitman, arrived 7:19 PM  
Mr. Roger Mason, TPO  
Mr. Dave Schaber, Vice Chair  
Mr. Justin Verst, Chair

**MEMBERS ABSENT:**

Ms. Connie Schweitzer

**STAFF PRESENT:**

Mr. Peter Klear, AICP, Director  
Mr. Ryan Hutchinson, Planner  
Ms. Molly McEvoy-Boh, Legal Counsel  
Ms. Stephanie Turner, Recording Secretary

Mr. Verst called the meeting to order at 7:06 PM. Mr. Verst asked for a roll call. Following roll call, a quorum was found to be present. Mr. Verst asked if everyone had read the June 21, 2011 meeting minutes and if there were any questions or corrections. There being none, Mr. Verst called for a motion. Mr. Johnson made a motion to approve the minutes as submitted. Mr. Mason seconded the motion. A roll call vote found Mr. Bachmann, Mr. Johnson, and Mr. Mason in favor. Mr. Schaber and Mr. Verst abstained. Motion passed.

At 7:08 PM, Mr. Verst stated for the record that in the first case on the agenda tonight that someone on staff at Viox & Viox worked on a site plan for the applicant. Mr. Verst is an associate of Viox & Viox as well; however, Mr. Verst has no prior knowledge of the case and had no involvement in preparing the site plan. Mr. Verst will remain the active Chair for the hearing of this case tonight.

Mr. Verst introduced case #BA-06-11, Newport Fraternal Order of Police, who is asking for a conditional use allowing for a community recreational facility. Mr. Hutchinson presented the staff report as follows:

**CASE:** BA-06-11  
**APPLICANT:** Newport Fraternal Order of Police  
**LOCATION:** 1110 Waterworks Rd, Woodlawn KY.  
**REQUEST:** A conditional use allowing for a community recreational facility

Staff has reviewed the request and finds as follows:

**Description of Request:**

The applicant is asking for the Fraternal Order of Police to be considered a community recreational facility. This conditional use would be added to the existing use by the City of Woodlawn for their City meetings.

**Considerations:**

1. The site is currently occupied by an old fire house, which is used by the City of Woodlawn for City meetings.

2. The Recommended Land Use Map of the 2008 Campbell County Comprehensive Plan identifies the site and surrounding areas for higher density single family residential.
3. The zoning classification for the site is Residential-One F (R-1F). Within the R-1F Zone, community recreational facility are permitted as a conditional use with a minimum lot area of three acres, provided they are located adjacent to an arterial or collector or local street.
4. The R-1F Zone for permitted use requires a minimum lot size of:

<u>Zone Requirements</u>	<u>R-1F</u>
Minimum lot for single family detached	- 6,000 sq. ft.
Minimum lot width at building setback line	- Fifty (50) feet
Minimum front yard depth	- Twenty Five (25)
Minimum side yard width on each side of lot	- Eight Feet (8)
Minimum rear yard depth	- Twenty Five (25)
Maximum building height	- Thirty Five (35) feet

The R-1F Zone for conditional use requires a minimum lot size of:

<u>Zone Requirements</u>	<u>R-1F</u>
Minimum lot for single family detached	- 22,500 sq. ft.
Minimum lot width at building setback line	- One Hundred Fifty (150) feet
Minimum front yard depth	- Fifty (50)
Minimum side yard width on each side of lot	- Fifty (50)
Minimum rear yard depth	- Fifty (50)
Maximum building height	- Thirty Five (35) feet

5. The submitted development plan indicates the following:
  - a. The plan shows the existing building at 3,300 sq. ft.
  - b. The plan shows two decks on the back of the property.
  - c. The plan shows 5 paved parking spots. Per the City of Woodlawn Zoning Ordinance the facilities need a minimum of 23 parking spaces.
  - d. The plan shows one door on the front of the building, it does not show the two garage doors for the building.
  - e. The plan shows lighting on the building.
  - f. The plan notes the existing sign is 6' x 4.5' feet, in compliance with the City of Woodlawn Sign Ordinance.
  - g. The notation on the plan shows 6 parking spaces; however staff counts 5. The drive aisles for the garage doors cannot be counted as parking spaces if they are in use.
6. The applicant has provided a letter from Target in Newport stating that over flow parking from the FOP can be used in Target parking lot.

**All Requests:**

1. The applicant shall submit and/or present factual evidence demonstrating:
  - 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 proposed use is as a FOP Lodge. This use will benefit the general well being of the neighborhood by maintaining an active police presence, both in the immediate vicinity of the proposed use and in the major traffic corridors leading to and away from the proposed use. The presence of a number of officers around the proposed use or traveling to or from will result in a decrease in neighborhood crime, which commonly follows an increase in the visibility of law enforcement officials. Additionally it is the intent of the FOP to permit use of the premises from time to time to the City for various uses. The creation and continued existence of a venue for public gatherings will have a beneficial effect on the neighborhood and 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 proposed use as an FOP lodge will benefit the health, safety and general welfare of persons residing or working in the vicinity of the site. The former use as a fire station, although necessary and proper, was punctuated from time to time by emergency vehicles with blaring sirens. The proposed use will not involve any such emergency runs. Likewise, the former use involved on street parking. The current use has developed significant in site parking which is a definite improvement over the prior use. It is believed that the visible presence of police at the proposed site, rather than being injurious to property in the vicinity of the building, will actually be beneficial. The immediate neighborhood should experience a decrease in the crime rate.”*

- c. That such use will comply with any regulations and conditions in this ordinance for such use.

*“Certainly the intent of the applicant is to abide by all applicable codes and ordinances regulation the use. The proposed use is better suited to the residential neighborhood and the immediate vicinity of the premises than the prior use as a fire station. The resent use eliminates the periodic emergency runs and associated noise and disturbance associated with a firehouse.”*

- 2. Per Section 18.6, A., 2., Notice: Notice of public hearing was given in accordance with Section 18.2 of the City of Woodlawn Zoning Ordinance.

**Staff Recommendation:**

To approve the expansion of the conditional use by allowing the FOP to be considered a (community recreational facility) to occupy this building subject to the following conditions:

- 1. That the applicant complies with the City of Woodlawn Zoning Ordinance and building codes.
- 2. That the applicant must allow the community to use the facility for meetings and other community events.
- 3. That the applicant be responsible to provide an additional 18 parking spaces to comply with the minimum requirements of the Zoning Ordinance.
- 4. That the two garage doors be shown on a revised site plan.

**Supporting Information/Bases for Staff Recommendation:**

- 1. 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.

2. 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.
3. That such use will comply with any regulations and conditions in this Ordinance for such use.
4. CITY OF WOODLAWN ZONING ORDINANCE SECTION 11.1V Private clubs, boarding houses and lodge halls states: "One parking space per each four fixed seats in the assembly area."
5. CITY OF WOODLAWN ZONING ORDINANCE SECTION 11.0 C.3 States: "Off street parking as required for "conditional uses" permitted in the residential zones, may be permitted to locate on another lot or zoning lot than the building or use being served is located, when approved by the BOA, provided that said parking is located within reasonable walking distance of the use or building being served and available at all times without restrictions for said purposes."
6. CITY OF WOODLAWN ZONING ORDINANCE SECTION 14.0 Scope of regulations states: "The regulations set forth herein shall apply and govern signs in all zones except as otherwise specifically provided within the ordinance."

Ms. Reitman arrived late at 7:19 PM towards the end of Mr. Hutchinson's presentation of the staff report. Mr. Hutchinson asked the Board if they had any questions he could answer for them. Mr. Verst asked if the applicant has to provide documentation to staff that they can meet the off-street parking requirement or just accept testimony. Mr. Hutchinson stated that staff works with the applicant to determine what parking solutions are available to the applicant and the applicant is required to supply documentation for the record to show how they have met the required number of parking spaces. Mr. Bachman asked if the "Target" parking is the way the applicant is intending to satisfy their required additional parking spaces. Mr. Hutchinson stated that was correct. The applicant submitted a letter from Target stating they could use the parking lot at Target for any overflow parking needs they may encounter. Mr. Bachman asked if the Target was within a reasonable distance from the firehouse. Mr. Mason asked what qualifies as reasonable – 300 feet or half a mile. Mr. Klear intervened at this point. Staff can not answer these questions as it is not in our authority to do so. Staff can only provide data that is contained within the Woodlawn Zoning Ordinance. It is in within the scope of the Board's authority to determine that an action is reasonable or unreasonable and that an action meets the parameters of that Zoning Ordinance. Staff cannot make that determination on the Board's behalf. Staff is only to supply the Board with the information needed to make that determination.

Mr. Johnson asked if other off street parking exists in the general neighborhood and that the streets are large enough to meet some of that parking. Mr. Hutchinson replied that it did, but the requirement states that there must be "off-street" parking. Mr. Bachman asked what the size of the lot was. Mr. Hutchinson replied that from memory he believed it was between 16,000-18,000 sq. ft. Mr. Bachman stated the applicant would need the equivalent of 3 acres. Mr. Hutchinson stated the applicant needs 22,500 sq. ft. for a conditional use. Mr. Bachman was thrown off by the "single family detached" comment to the side of the requirement. Mr. Klear had the Woodlawn Zoning Ordinance in front of him and looked up the information to confirm the calculation. Mr. Klear reviewed the Woodlawn Zoning Ordinance and clarified that there was a typo in the staff report. On page 1, item #4 of the staff report, under the R-1F Zone conditional use "requires a minimum lot size of:", it should be corrected as "Minimum lot ~~area for~~ ~~single family detached~~ ", but the requirement remains at 22,500 sq. ft.

Mr. Mason asked if the maximum occupancy was correct at 92. Mr. Hutchinson replied it was. Mr. Mason pointed out that potentially if all 92 people arrived in separate cars, you could have 92 cars trying to park in this area.

Ms. McEvoy-Boh asked Mr. Klear if the applicant was also applying for a variance since they do not meet the sq. ft. requirement for the size of a lot. Mr. Klear replied this was not needed. The applicant is only applying for a conditional use permit to consider the FOP as a recreational facility. The structure already exists. The lot already exists as a nonconforming lot of record. There is no need for a variance as

the building and lot pre-date the zoning ordinance. Ms. McEvoy-Boh clarified for the Board that the only item remaining before the Board was to determine whether or not to consider the FOP a community recreational center. Mr. Klear agreed. Mr. Verst asked then the Board needs to review the services the FOP will be providing to the community and determine if they fit the parameters of what would be a community recreational facility. Mr. Klear and Ms. McEvoy-Boh agreed. Mr. Mason stated he is still highly concerned with the parking of 92 potential cars. Mr. Verst suggested that, as cops, they might see the potential issue with parking difficulties and car-pool to this location.

Mr. Schaber asked Mr. Hutchinson if he had in fact received the documentation from Target agreeing to allow the firehouse to use Target's parking lot if needed. Mr. Hutchinson agreed he had received the necessary documentation for the record. Ms. McEvoy-Boh asked Mr. Klear if it fell within staff's duties to work with the applicant to resolve the parking issue and that Target was a viable solution. Mr. Klear stated that it was definitely staff's responsibility to work with the applicant to identify potential parking solutions. With that being said, while Target is a potential solution, it does not have to be "the" solution. If the Board determines that Target is not a "reasonable" distance or that there is another mitigating factor that makes it an unsatisfactory solution to the parking requirement, staff will work with the applicant to attempt to locate alternate solutions. Staff's preference would be for the parking requirement to be open so that should the applicant find alternative parking solutions or even perhaps buy their own parking lot they are not tied to a Target store requirement to keep their conditional use permit. Mr. Klear clarified that per the Zoning Ordinance the applicant must provide off-street parking. With smaller gatherings, it will likely occur that they will park on the street and the street will accommodate the gathering. In situations where there is a larger event, they will need and use off-street parking and they will walk to the firehouse for the event. In either case, you want the applicant to be a good neighbor.

Mr. Johnson stated he assumed the area surrounding the firehouse was a residential neighborhood and asked if any portion of the area was multi-family. Mr. Hutchinson replied there was not multi-family in the area immediately adjacent to the firehouse. It is all single family dwellings. Mr. Johnson explained he was curious if there were any areas or other lots that might become subject to potentially put up signs such as "no parking" or "for residents only". Mr. Hutchinson stated there was a lot on the corner that looks like at one time there used to be a store and it may be an opportunity for the applicant to use for parking.

Mr. Verst asked if the Board had any other questions for Mr. Hutchinson. There being none, Mr. Verst asked the applicant to come forward, state his name and address for the record. Mr. George Ripberger, Representative for Newport FOP, 11000 Harrison Way, Walton, KY and Mr. Chris Fangman, Newport FOP President, 2137 Starlight Lane, Independence, KY. Mr. Ripberger began with the history of the firehouse. The building has sat vacant for the past 2 years. It was a firehouse before that, which was a conditional use. It was built in the 1940's prior to the existence of any zoning regulations. Now, there is an active zoning regulation and it is currently zoned for residential. It does not meet the requirements to put a multi-family or business in there. The FOP bought the building for community events such as Shop With A Cop, Boy Scout and Girl Scout events, to put together Christmas donation baskets for families in need and to just have a place to stop in and have lunch. The FOP is in perfect agreement with the City of Woodlawn using the building for their City events.

The FOP wants to be a good neighbor and believe an increased police presence will assist in decreasing crime in the area. The site is zoned residential but who is going to buy this site, tear down the firehouse and build 2 homes here. The cost would be greatly prohibitive. The FOP saw this as an opportunity to use this building to hold meetings and events that would be productive to everyone.

Mr. Ripberger stated as far as the parking issue the FOP is as concerned as the Board. The Ordinance states the parking must be off-street. The Board is looking for the FOP to state that they have a solution

to provide those off-street parking spaces, but Mr. Ripberger stated he could not do that. There are 5 spaces in front of the building. The back of the building is hilly and wooded and would not support the location of a drive or additional parking. The firehouse, when fully functioning, did not meet this off-street parking requirement, and the FOP cannot meet it either. The FOP has approached Target to get permission to park in their lot during events and has submitted a letter to staff for the file to support this.

Mr. Ripberger stated the FOP has obtained a letter from Super Bowl in Bellevue which will be forwarded to staff to support that they have an alternative parking solution in place in addition to Target. Super Bowl has agreed to allow the FOP to use their parking lot for overflow parking as long as the FOP calls them before their events and warns them of the potential use of their parking facilities. Mr. Ripberger states he does not foresee this being an issue. Ms. McEvoy-Boh asked Mr. Ripberger to make certain staff was given a copy of the letter from Super Bowl.

Mr. Ripberger addressed Mr. Mason and Mr. Johnson's previous inquiries as to the distance between the firehouse and the parking facilities. Mr. Fangman drove from the firehouse to each of the facilities. The Super Bowl is approximately 0.2 miles and the Target is approximately 0.3 miles from the firehouse. Mr. Ripberger stated that while this will not be an issue for the average person, it would not be suitable for handicapped persons. Mr. Ripberger stated that he would assume that people would drop handicapped participants off at the door of the firehouse and then seek parking. The FOP would be willing to assist the handicapped in getting into and out of the building and into their vehicles while awaiting their rides.

Mr. Ripberger assured the Board that the FOP has no intention of being injurious to the community. Mr. Ripberger stated that, as legal counsel and Mr. Johnson had alluded to, the Board could revoke their conditional use permit. Mr. Ripberger stated that the FOP is trying to establish a base where they could continue providing service to the community and thanked the Board for allowing him to speak tonight.

Mr. Verst asked if the FOP had contacted the owner of the vacant lot on the corner that was referenced by Mr. Hutchinson. Mr. Fangman stated that the FOP had indeed attempted to locate the owner. The lot is owned by a man who owned or worked the auto repair center in Bellevue. The man has moved to Georgia. They have left their name and number for him to contact them, but have not heard anything yet. Mr. Verst asked if they intended to pursue this possibility. Mr. Fangman stated they were definitely interested and would continue to try to make contact with the owner.

Mr. Bachman asked how frequently the FOP met. Mr. Fangman stated they met one time each month; however, they would not meet at the firehouse. They meet at the City of Newport building so they could centralize for those officers going on and off duty. Mr. Fangman stated the City of Woodlawn has a couple events a year which are covered in the agreement they have with them. Mr. Fangman stated he assured the City they could use the building as often as possible to make it as productive as possible. There may be one event a month at the firehouse.

Ms. Reitman asked how many members participate in their meetings. Mr. Fangman stated it was embarrassing that only 12-15 members out of 40 showed to the meetings. Mr. Fangman continued that there is a misconception that they would hang out at the FOP and drink and party, but they have families and commitments. Frequently, their members have scheduling conflicts and simply can't make the meetings. They stay informed of what's going on and work independently to meet their joint goals. The events are when everyone will usually show up. Mr. Fangman stated it was very nice to have a lodge again. Their first one was in Newport was taken through eminent domain. They tried renting one and it just became too costly. The FOP is excited to have an area that is theirs.

Mr. Verst asked if anyone else had questions for the applicant. Mr. Bachman stated that it doesn't sound like there will be as big an issue with parking as they originally thought if their meetings aren't going to

be held there and you're only talking about a Christmas party or events like that. Mr. Fangman reassured the Board that they don't want parking to an issue any more than the City, the residents or the Board do. The FOP is willing to put up signage to make certain that parking on the street is for the residents. When they do their Shop with a Cop, they can have the parents do a "drive-by" to drop off and pick up their children so that there is no parking issue at all for that event. Mr. Fangman pointed out on the slide where the Target and the Super Bowl were. Mr. Fangman stated he could walk to Target in about 5-10 minutes. Mr. Fangman stated this is a reflection on them and they in no way wanted to tarnish their reputation or identity. Mr. Mason asked if the signs could read that the street parking is for residents only and not for the lodge could be added as a condition. Mr. Fangman stated he would absolutely agree to that condition. He assured the Board that in no way, shape or form was the FOP trying to infringe on the residents parking or cause them harm.

Mr. Verst asked if the Board had any questions for Mr. Ripberger or Mr. Fangman. There being none, Mr. Verst advised the audience he would allow those who wanted to speak an opportunity to be heard. Mr. Verst allowed the representative for the City of Woodlawn to speak first. Ms. Carol Eggemeir, City of Woodlawn, 1116 Waterworks Road, Woodlawn, KY approached the podium first. Mayor Ron Barth is out of town this week and Ms. Eggemeir was selected to speak on his behalf. Previous to leaving, Mayor Barth met with Mr. Fangman and drafted an agreement on the City's use of the lodge to hold City meetings and community events. Ms. Eggemeir handed out a copy of this agreement to staff for their records, to the Board, and to Mr. Bob Bartlett for review. The City will be given access to the firehouse to hold their city meetings on the 2<sup>nd</sup> Thursday of each month. The City will have secure housing of their city files as required by law at this location. The City will have their annual Halloween party for the children of Woodlawn at this location. The City will be allowed to hold up to three special events each year. The City can use the office for the City Clerk at this location. The City will also be working in cooperation with the FOP in charity events such as Thanksgiving and Christmas donation baskets, etc. The City will be waiving the garbage collection fees for this site for their cooperation. Ms. Eggemeir concluded with the City of Woodlawn's full support of the FOP as a community recreational facility.

Mr. Verst asked who wanted to speak next. Mr. Bob Bartlett, brother to Mr. Jim Bartlett, 5 Baum Street, Woodlawn, KY. Mr. Bob Bartlett is here representing his brother who is handicapped and unable to attend tonight. Mr. Bartlett stated that the property on either side of 5 Baum Street is currently in the process of being condemned. His brother currently has a handicap parking space in front of his home, but their concern is that if traffic increases on the street no one will care about the residents that live on the street. His brother is completely handicapped. He can walk on a walker with assistance. Mr. Bartlett's concern is with events occurring that anyone attending the event with a handicap sticker can take that parking spot without regard for this brother who permanently resides on that street.

Mr. Bartlett continued that he would supply the Board with facts while the FOP was supplying only possibilities. Mr. Bartlett stated the property the firehouse sits on was previously owned by Mr. Bartlett's father and was attached to his brother's property. There are condemned homes in the area that are going to be demolished that will provide additional space. The firehouse will not be landlocked as the FOP is leading you to believe. Mr. Bartlett stated there is no off-street parking on Burnett. The Target parking that the FOP is proposing is ridiculous. If you are not familiar with the area, Target is only 0.3 miles away, but you will need to drive to it to cross over to the other side of the freeway safely. Mr. Bartlett reiterated that he grew up in this area and in the home his brother resides in and the family owns land still near the Target.

Mr. Bartlett can tell the Board from experience that the FOP's presence has not been a detriment to crime. Since their presence in the neighborhood, his brother's house has been broken into; his car has been wrecked in a hit-and-run and lawn equipment stolen. This has all occurred since they have been there. Their presence has not deterred crime at all.

Mr. Bartlett stated that the events of the past that the FOP mentioned – bingo, holiday parties, etc. – were for a city of a 100 people who walked to the firehouse from their homes. There was no need for parking facilities for these events. Mr. Bartlett emphasized that if you added Newport FOP from a city of 45,000 using the same building and he doesn't see how you will ever solve a parking problem for that many people. It is an old city for older families and there isn't room for that many cars. Mr. Bartlett stated that the calculation used that said of the 92 occupants of the building arrived four to a car was extremely unlikely. It is more likely they will arrive two to a car.

Mr. Bartlett stated he felt the FOP was selling a lot of "hooley" to the Board. He was born in that house and raised in the City. He knows the truth about what's going on. If the Board took the opportunity to drive down to the area, they would know it too. Mr. Bartlett stated he knows the man's name who owns the vacant lot across the street from the firehouse that the FOP is trying to contact for parking. His name is Coomey. He has owned that lot all along for as far back as Mr. Bartlett can remember. Many people have tried to buy that lot from his before, but Mr. Coomey wouldn't sell it even when it was a gas station. Mr. Coomey isn't going to sell it now.

Mr. Bartlett wants the Board to be aware of what the actual residents of the neighborhood think when they make their decision. Mr. Bartlett stated when the Board does make their decisions tonight think about if you would want 92 people driving through your neighborhood where your mother or brother, who is handicapped doesn't have a place to park, and you're supposed to revoke this permit if they do something wrong. That's not going to happen. If it passes, it passes. This is ridiculous for that to be a suggestion. Mr. Bartlett is just here for his brother who couldn't be here to talk for himself.

Mr. Bartlett stated the traffic issues that would be generated by this FOP are just too much to be handled by this street. There is no way an older person could park at Target or Super Bowl and walk to the firehouse. They mentioned dropping someone off at the door of the firehouse and then parking, but how is the other person going to get there? The streets themselves are barely wide enough to really handle that kind of traffic. Mr. Bartlett's father sold the land to the City to build the firehouse and helped to create the City of Woodlawn. His father was the first Mayor of Woodlawn. His brother was the first fire chief at that firehouse.

Mr. Verst stated it sounded like Mr. Bartlett had two overall issues: One being the overall parking issues with the FOP operating out of the firehouse and the second being primarily and utmost the parking for your handicapped brother. Mr. Bartlett agreed those were his issues. Mr. Verst stated that the Board will likely discuss the overall parking issue after the public had spoken. Mr. Verst stated he would ask the FOP if they would consider somehow insuring that handicap parking spaces were available for Mr. Bartlett's brother. Mr. Verst asked Mr. Bartlett if his brother had a handicapped parking decal. Mr. Bartlett replied that he already had a handicapped parking decal, but if anyone else had a handicapped parking decal, they could also use that parking space. Mr. Bartlett stated he wants the Board to place a condition upon the FOP to designate a parking space specifically for Mr. Jim Bartlett only. Mr. Verst replied that decision was not part of the outcome of this case. Mr. Verst advised Mr. Bartlett to contact the City of Woodlawn to request a dedicated parking space for his brother. Mr. Bartlett insisted the outcome of this case would play a part in the City's determination and stated he had no leverage with the City to obtain a request such as this, whereas the Board did. Mr. Verst stated that Mr. Bartlett had to resolve this request with the City and the Board would not play any part in the outcome of that decision. Mr. Bartlett again insisted he would like the Board to place his brother's dedicated parking space as a condition to the approval if there was a recommendation for approval.

Mr. Klear at this point interceded on the Board's behalf and advised Mr. Bartlett that this request was outside the purview of the Board's authority. Mr. Bartlett stated if they don't have the authority to do so

then they could make their decision based on the idea that they could see it done. The Board can deny the request for the conditional use permit which would prevent the generation of traffic concerns. That is leverage that Mr. Bartlett does not have. Mr. Verst appreciated Mr. Bartlett's comments; however, the Board does not have the ability to enforce that request. The Board will encourage the applicant to work with the City of Woodlawn or the City of Newport, whichever is appropriate, to see if they can assist your brother. Mr. Bartlett stated he would like the Board to not pass the permit until the applicant produces an agreement until such time as they produce an agreement with whatever city stating they have dedicated a parking space to his brother.

Mr. Verst asked if anyone else had any questions for Mr. Bartlett. Ms. Reitman asked, if the FOP wasn't at the firehouse, what Mr. Bartlett would like to see at that location. Mr. Bartlett stated that the building was originally set up for Woodlawn and its residents. It is a small city and everyone could walk to it. If you are trying to add citizens from Newport, they are going to have to drive there. It is so small that Mr. Bartlett remembers that Woodlawn had a fire truck, but Mr. Bartlett would have to drive the truck to the fire so that the Bellevue Fire Department could put out the fire and he wasn't even on the fire department. Yes in the past we had bingo and a Halloween party, but it was a small city that everyone walked to the firehouse. Mr. Bartlett stated he has not lived there for a number of years, but his siblings remain in that area and he is concerned for them.

Mr. Verst asked if anyone else had any questions for Mr. Bartlett. There being none, Mr. Verst asked if anyone else in the audience wished to speak. Mr. Joe Eggemeir, 1116 Waterworks Road, Woodlawn, KY introduced himself. Mr. Eggemeir is the spouse of Councilwoman Carol Eggemeir who spoke earlier. Mr. Eggemeir used to be fire chief in Woodlawn prior to the closing of the firehouse. Mr. Eggemeir agreed with Mr. Bartlett in so much as there used to be a lot of support for the events at the firehouse which people did walk to in years gone by; however, as times changed, people moved out of the city and new residents moved in some of who were completely different breeds than were there. Mr. Eggemeir stated they still had support, but not as well as previous. On Wilson Road, there are no houses, so people who drove to bingo parked there and anywhere else on the street they could find a spot including in front of Mr. Eggemeir's house and in front of the firehouse. Down below and to the left of the firehouse, people would park in the street, but most of those residents have their driveways. Mr. Eggemeir stated he is not necessarily for or against the FOP, but he doesn't see any issues that they haven't encountered in the past when people came out to support the firefighters. Mr. Eggemeir stated he personally would like to see a couple more cop cars in the neighborhood. Right now, people are not coming to a full stop at the stop signs. While the FOP is in the neighborhood, people make an attempt to come to a full stop there. Mr. Eggemeir stated that no one approached the City for a parking space for Mr. Jim Bartlett and he is a life-long resident so he can't believe the City won't do something to help him out.

Mr. Verst asked if anyone else had any questions for Mr. Eggemeir. Mr. Johnson stated he did not, but he did ask Mr. Hutchinson to put up the slide of the streets layout of Woodlawn and point out where the site is located. Mr. Hutchinson did so and pointed out the general location of the Target store and the Super Bowl. Mr. Johnson asked Mr. Verst if they were ready for discussion or if he should continue to hold his comments. Mr. Verst stated he had to hold his comments until everyone in the audience had an opportunity to speak.

Mr. Verst asked if anyone else in the audience wished to speak. Ms. Patricia Anderson, 1124 Waterworks Road, Woodlawn, KY introduced herself as the Woodlawn City Clerk. Ms. Anderson stated that the lot the FOP is interested in obtaining for parking is a contaminated lot and is in the jurisdiction of the City of Newport. In the years past, parking was a greater issue and it was necessary to contact the police to have people towed in order for the residents to be able to park. Currently, the parking issues have dwindled down to nothing. Ms. Anderson reiterated Mr. Eggemeir's concerns about traffic coming to a complete stop at the stop signs. The FOP's presence, she feels, has caused the drivers in the area to obey safer

traffic measures. Ms. Anderson stated that the Bartlett family has never approached the City of Woodlawn with any concerns about parking, but she can speak for the City and assure the Board that this is definitely something that they would look into and address for them. When Mayor Barth returns from vacation, Ms. Anderson will speak to him and have this issue addressed at their next meeting.

Mr. Bartlett asked to be recognized by the Chair. Mr. Verst recognized Mr. Bartlett. Mr. Bartlett stated that the reason they had not approached the City is because right now it is not an issue, but it will be once the FOP moves in and starts holding regular events at the firehouse. They are trying to be proactive and obtain a solution before it happens. Mr. Bartlett also took exception to a statement made by Mr. Eggemeir about there were no houses on Wilson Road. Mr. Bartlett argued there was a creek along that road. Mr. Klear interrupted their debate as it played no part in the discussion on the FOP. Mr. Bartlett continued that the slide showing the streets put up by Mr. Hutchinson did not reflect the Super Bowl's location because it was at least a half mile from the location of the firehouse. Mr. Verst thanked Mr. Bartlett for his comments.

Mr. Verst recognized Mr. Ripberger who advised the Board that Mr. Fangman would attend the next City of Woodlawn Council meeting to request a dedicated parking space for Mr. Jim Bartlett. Mr. Ripberger stated also that during any events at the firehouse, the FOP will go all out to insure that there are no parking issues and that Mr. Bartlett's space is available to him.

Mr. Verst asked if anyone else in the audience wished to speak. Ms. Carol Eggemeir, 1116 Waterworks Road, Woodlawn, KY asked to speak on behalf of herself as a resident of Woodlawn rather than as a representative of the City. Ms. Eggemeir stated she lives two doors down from the firehouse. Ms. Eggemeir stated the Super Bowl is only 2.5 to 3 blocks from the firehouse. At this point, Mr. Bartlett began objecting to her statements calling out "BULL!" repeatedly. Ms. Eggemeir continued to state that Target was a little over three blocks away. She believes these lots are within easy walking distance to the firehouse.

Ms. Eggemeir stated she was not certain if the FOP knew it or not, but on the Newport side of Waterworks Road right across from Baum Street, there is an empty lot that belongs to the State. Baum Street used to be steeper, but they lowered the grade of it just a little bit. Before they lowered it, whenever it rained or we had snow, the cars would slide down Baum Street and wreck at the bottom, so the State purchased that lot. It is a possible parking location for the FOP to look into as a parking lot. Mr. Verst thanked her for that information and advised her to pass on the information to the FOP.

Mr. Verst stated he believed the Board had all the testimony and information that was needed to make a determination on the case before them. Mr. Verst closed the discussion from the audience and opened the floor for discussion among the Board. Mr. Johnson asked if the walkways to the Target and the Super Bowl had sidewalks or if the pedestrians were supposed to walk in the road. Mr. Verst directed that question to staff. Mr. Hutchinson stated he was not certain of the status of the sidewalks to both locations. Ms. Anderson stated she could answer that question as the City Clerk if the Board desired. Mr. Verst recognized Ms. Anderson to provide an answer. Ms. Anderson stated on the Newport side going to the Super Bowl, the first two blocks are sidewalk. The remaining 25-30 feet into the bowling alley, there is no sidewalk and there are no sidewalks on the other side at all. Going to Target, there are sidewalks all the way until you get to the end of Chesapeake. On Chesapeake, just before you go under 471, there are no sidewalks on either side of the street to go across to Target.

Mr. Mason stated he believed that if the Board is going to consider this we need to have signage that states "no parking for lodge" or "resident parking only". This needs to be addressed. We need to require signage and we need to come up with some amount of signs to be posted. Mr. Klear stated that the only thing the Board can address is the sign on their building. The applicant is outside their authority to post

signs on the street. Mr. Verst stated we can probably assume there is going to be some parking whether it is signed or not. It needs to be addressed or we'll be seeing them back here in six months trying to keep their conditional use. Mr. Verst stated it is a consensus that parking is an issue, but we don't have a clear resolution. It appears to come down to denying the request until a clearer resolution to the parking is in sight or approving the request and taking a chance that they will be able to control the parking issue themselves.

Mr. Bachman asked Ms. Eggemeir exactly how many people attended the City meetings. Ms. Eggemeir stated there are usually just five people present. Mr. Bachman asked about their holiday party. Ms. Eggemeir stated their Halloween party for the children was the opening of their Trick or Treat and so everyone walked to the firehouse. There are usually about 100 people in attendance. Mr. Verst asked what type of information Mr. Bachman is looking for. Mr. Bachman stated while parking is a great concern technically; he doesn't think it will be because it doesn't exist in reality. Mr. Schaber agreed with Mr. Bachman. Mr. Schaber stated the crowd generated by the City is normal for that area and the FOP has already stated they are going to do "drive-by's" for the Shop with a Cop so that won't generate the traffic you think it will. The rest is just the FOP members. Mr. Verst stated that the application is whether or not the Board considers the FOP a community recreational facility. Mr. Verst asked since they are in fact the FOP could they manage their own traffic and parking issue. Mr. Schaber added that the City has already discussed what they are using the building for and the FOP as well. These are all community related events. They are a community facility. Mr. Mason added that the FOP is investing a lot of money into the improvement of this building and it is to their benefit to insure that there are no complications with the parking issue that would cause the revocation of their conditional use permit if it were approved.

Mr. Verst stated it looks like the Board is at a point that a motion is about to be made. Mr. Verst wanted the Board as a whole to review the conditions recommended on the staff report. Mr. Verst read condition #1, "That the applicant complies with the City of Woodlawn Zoning Ordinance and building codes." Mr. Verst stated this is self explanatory and seems reasonable that it stay as written. Mr. Verst read condition #2, "That the applicant must allow the community to use the facility for meetings and other community events." Since the applicant has an agreement with the City, this is acceptable for the Board as it is written. Mr. Verst read condition #3, " That the applicant be responsible to provide an additional 18 parking spaces to comply with the minimum requirements of the Zoning Ordinance." Mr. Verst stated this is the one that may need to be adjusted as it is the parking issue we have been discussing all evening. Mr. Verst asked for comments. Mr. Schaber stated he was cautious as to how to determine what was reasonable. What was reasonable to him would not be reasonable to a handicapped person. Mr. Schaber was concerned as well about the sidewalk accessibility of the Target and the Super Bowl locations. At the same time, Mr. Schaber thinks the Board may be making the parking issue a larger issue than it is really going to be.

Mr. Bartlett asked to be recognized, but Mr. Verst refused to allow him to speak at this time. Mr. Bartlett stated it wasn't the Board that was going to be affected by this decision, the citizens were. Mr. Verst advised Mr. Bartlett if he or his family were affected by parking issues by an event held by the FOP, he could address his concerns to the FOP or to the City of Woodlawn at that time or he could bring his concern to the Board at the time the parking issue actually arises. If need be, the permit for the FOP can be revoked. Mr. Mason asked if the Board could add language to condition #3 that the FOP needs to maintain parking agreements for the additional parking. Mr. Schaber stated that was a question for legal counsel. Mr. Schaber asked legal counsel if the Target and Super Bowl decided they did not want to allow the FOP overflow parking to use their lot any longer, the FOP would have to find alternative parking elsewhere immediately or the conditional use permit is automatically revoked. Ms. McEvoy-Boh stated that you might want to phrase it simply as "there must be 18 additional parking spaces accounted for and held by the zoning administrator" so that way they can change the location of those space as need

be or the zoning administrator can set into motion the process to revoke the conditional use permit. Ms. McEvoy-Boh asked Mr. Klear if this was possible since it would actually involve the staff working with the applicant to monitor and resolve. Mr. Klear replied that it would be challenging. Mr. Verst stated it would be difficult for staff to monitor continuously. Ms. McEvoy-Boh stated she agreed, but maybe you can have the applicant responsible to put in writing their obligation to supply 18 additional parking spaces and where they will be provided. Ms. McEvoy-Boh discussed the terminology between requiring an agreement versus just a letter of permission. We currently have letters of permission. Mr. Klear read condition #3 to the Board, "That the applicant be responsible to provide an additional 18 parking spaces to comply with the minimum requirements of the Zoning Ordinance." Mr. Klear stated staff did not specify where. If the Board is concerned, you can add a second sentence to this condition, "The applicant shall supply sufficient documentation to verify those 18 parking spaces." Documentation can be an agreement, a letter of permission or a deed where they purchase a parking lot. It can be anything that can substantiate their claim of additional parking for verification purposes. Ms. McEvoy-Boh agreed that was exactly what she was looking for. Mr. Schaber asked if there should be additional language that specifies their permit will be revoked if they do not comply. Mr. Klear stated that was implied. If the applicant does not meet condition #3, their conditional use permit would be revoked. Mr. Bachman stated they are likely satisfying their parking on the street. Mr. Mason stated that was likely true, but the Ordinance clearly states it must be off-street parking.

Mr. Verst asked if there were any more discussion on the condition #3. There being none, Mr. Verst read condition #4, "That the two garage doors be shown on a revised site plan." Mr. Verst stated that condition was a technical condition that should remain as stated. There being no more discussion about the conditions, Mr. Verst called for a motion.

Mr. Schaber made a motion to approve case #BA-06-11 recognizing Newport Fraternal Order of Police as a community recreational facility and granting a conditional use permit with the following conditions:

1. That the applicant complies with the City of Woodlawn Zoning Ordinance and building codes.
2. That the applicant must allow the community to use the facility for meetings and other community events.
3. That the applicant be responsible to provide an additional 18 parking spaces to comply with the minimum requirements of the Zoning Ordinance *with sufficient documentation*.
4. That the two garage doors be shown on a revised site plan.

Mr. Schaber stated his findings of facts were as stated in the staff report:

1. 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.
2. 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.
3. That such use will comply with any regulations and conditions in this Ordinance for such use.
4. CITY OF WOODLAWN ZONING ORDINANCE SECTION 11.1V Private clubs, boarding houses and lodge halls states: "One parking space per each four fixed seats in the assembly area."
5. CITY OF WOODLAWN ZONING ORDINANCE SECTION 11.0 C.3 States: "Off street parking as required for "conditional uses" permitted in the residential zones, may be permitted to locate on another lot or zoning lot than the building or use being served is located, when approved by the BOA, provided that said parking is located within reasonable walking distance of the use or building being served and available at all times without restrictions for said purposes."
6. CITY OF WOODLAWN ZONING ORDINANCE SECTION 14.0 Scope of regulations states: "The regulations set forth herein shall apply and govern signs in all zones except as otherwise specifically provided within the ordinance."

Mr. Verst asked if there were any questions or discussion on that motion of if anyone wanted to second the motion. Mr. Bachman seconded the motion. A roll call vote found Ms. Reitman, Mr. Bachmann, Mr. Mason and Mr. Schaber in favor. Mr. Johnson opposed. Mr. Verst abstained. Motion passed.

Mr. Verst introduced case #BA-07-11, Vickie Ripberger, who is asking for a front yard variance to reduce the depth from 100' to 42.7' to replace an existing mobile home. Mr. Hutchinson presented the staff report as follows:

**CASE NUMBER:** BA-07-11  
**APPLICANT:** Vickie Lynn Ripberger  
**LOCATION:** 732 Boone Smith Rd Alexandria KY 41001  
**REQUEST:** To reduce the required minimum front yard depth from 100' feet to 42.7' feet to replace an existing mobile home.

**Considerations:**

1. The site in question, containing approximately 10.25 acres, is located on the north side of Boone Smith Road, Unincorporated Campbell County. The Campbell County Zoning Ordinance classifies the plat within the A-1 Zone, Agriculture Zone, requiring a minimum lot size of one acre, lot widths of 100 feet, minimum setback dimension of 50 feet, side yards of 10 feet (one side) and 25 feet (total both sides), and a minimum rear yard depth of 35 feet, not including flag lots and/or mobile home lots. Mobile home lots shall have a minimum frontage of 150' feet and have 100' foot front yard setback and 50' foot side yard setback. Mobile homes also must be located further than 125' feet from other dwelling units.
2. The Recommended Land Use Map of the 2008 Campbell County Comprehensive Plan identifies the site in question for and surrounding areas for lower density single family residential.
3. The site in question currently is occupied by a several accessory structures. An old mobile home has already been removed. Surrounding land uses are residential and vacant land. There are other structures along this street located within the minimum front yard setback.
4. A review of the public records indicates there are no previous conditional uses or variances granted by the Board of Adjustment for this site.
5. The submitted information indicates the following:
  - a. The proposed mobile home of 30' x 56' will not meet minimum front yard setback.
  - b. The proposed mobile home is shown to be 42.7' feet from the edge of right-of-way.
  - c. The applicant is stating that this is the most economical place for the proposed mobile home due to the topography of the site and other structures already located on the lot.
  - d. The mobile home will reuse the existing septic system.
  - e. The site plan shows the prior location of the old mobile home.
  - f. The site plan shows overhead utility lines.
  - g. The site plan shows the location of the septic tank and sheds.
  - h. The site plan shows the new mobile home is larger than the previous one and closer to the road.
6. Per Section 18.6 Variances: Change from one nonconforming use to another, conditions governing applications: procedures.

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; and will not cause a hazard or nuisance to the public. These findings shall be recorded in the minutes and records and issued in written form to the applicant to constitute proof of the variance. Such variance shall not be granted by the Board of Adjustment unless and until:

- a. That the requested variance arises from special circumstances exist which do not generally apply to land in the general vicinity, or in the same zone.

The applicant stated “the mobile home will be moved as far back as possible given the steep topography of the site.”

- b. That the manner in which the strict application of the provisions of this Ordinance would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant.

The applicant stated “The previous mobile home had sustained water damage that created a mold issue. The owner was incurring health problems from the mold issues. The new residence will improve these health issues.”

- 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.

The applicant states “The site has been graded into a hillside at some time in the past, prior to the Ripberger’s purchasing the property in 1997. To move from the proposed location would require extensive excavation. Utilities and driveways would have to be reconstructed. Costs for this work would be extraordinary for the owner.”

- 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.

The applicant states “The site is limited by a floodplain for Phillips Creek to the west and topographic slopes exceeding 20% to the west and north.”

- 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. No nonconforming use of neighboring lands and structures in the same zone shall be considered grounds for the issuance of a variance.

The applicant states “The proposed location is screened from view from the street by existing vegetation.”

- f. 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.

The applicant states “The structure will be installed in a fashionable manner with landscaping & will definitely add beauty to the community.”

- g. That the variance will be in harmony with the general purpose and intent of the Zoning Ordinance as well as the Adopted Comprehensive Plan for the County.

The applicant states “Other mobile homes exist in the general vicinity, several do not meet the 100’ setback from the right of way line.”

- 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.
- 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.

**Staff Recommendation – Campbell County Zoning Ordinance:**

To approve a 50’ foot front yard Variance for the mobile home not a 42.7’ foot setback.

**Supporting Information / Basis for Recommendation**

- 1. 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; and will not cause a hazard or nuisance to the public. These findings shall be recorded in the minutes and records and issued in written form to the applicant to constitute proof of the variance. Such variance shall not be granted by the Board of Adjustment unless and until:

- a. That the requested variance arises from special circumstances exist which do not generally apply to land in the general vicinity, or in the same zone.

*The requested variance does arise from special circumstances which exist and do generally apply to land in the general vicinity or in the same zone. The mobile home is being placed as far back on the site a feasibly possible.*

- b. That the manner in which the strict application of the provisions of this Ordinance would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant.

*The application of the provisions of this Ordinance would deprive the applicant of a reasonable use of the land and would create an unnecessary hardship on the applicant. This is as far back on the lot as the applicant can reasonably place the mobile home because of the topography of the site.*

- 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.

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

- 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.

*There is not another location on this site where the applicant could reasonably place the mobile home to be more compliant. The location of the proposed mobile home is consistent with 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. No nonconforming use of neighboring lands and structures in the same zone shall be considered grounds for the issuance of a variance.

*This variance would be granting the applicant a special privilege because no other variances have been granted in this area for front yard setbacks.*

- f. 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.

*That the proposed location being 42.7 feet from the right of way will not adversely affect the essential character of the general vicinity of the neighborhood.*

- g. That the variance will be in harmony with the general purpose and intent of the Zoning Ordinance as well as the Adopted Comprehensive Plan for the County.

*The requested variance is in harmony with the general purpose and intent of the Zoning Ordinance or Adopted Comprehensive Plan for the County because realistically there is not another location on site that would allow the mobile home to be placed further back.*

Mr. Hutchinson asked if there were any questions he could answer for the Board. Mr. Johnson asked if Mr. Hutchinson could point out where the leach field was located on the site. Mr. Hutchinson stated it was not identified on the drawing and he was not 100% certain where it was. Mr. Johnson stated the reason he asked is because there is a possibility that the corner of mobile home would be in the leach field with the way staff is proposing the applicant turn the home. Mr. Hutchinson stated that was a possibility. Mr. Johnson asked if there was an additional site preparation cost to the applicant to select staff's version over their original version. Mr. Klear replied that staff is not saying the applicant must select their site plan. What staff is saying is that there is additional space on the site to push the mobile home back to reduce the amount of a variance that is actually needed. Mr. Hutchinson stated that either way the applicant chose to set the home, the site is going to have additional site work to be done. Mr. Schaber stated staff is proposing to give the applicant an additional 8 feet. Mr. Hutchinson corrected Mr. Schaber that staff is proposing to take away 8 feet. Mr. Schaber asked if the Board could shorten the allowed variance. Mr. Klear clarified that the applicant has identified a location they desire, but staff has reviewed the site plan and realized they only really need a 50' foot variance. The applicant could move the mobile home further back than she currently has it sitting with minor adjustments to the plan.

Mr. Bachman asked Mr. Hutchinson about the report because in order to approve the variance, there are seven conditions that must be met. According to staff's report, two conditions – a & e - are not met, but an approval is still recommended. Mr. Mason and Mr. Verst agreed. In condition #a, you have stated "*The requested variance does arise from special circumstances which exist and do generally apply to land in the general vicinity or in the same zone. The mobile home is being placed as far back on the site a feasibly possible.*" Mr. Verst wanted to review condition #e which reads "*This variance would be granting the applicant a special privilege because no other variances have been granted in this area for front yard setbacks.*" Mr. Hutchinson explained that it doesn't mean that there are no other residences or

accessory structures in that area are not in the front yard setbacks because there are. It means that those residents never came before the Board and obtained the necessary variances. After some discussion, it was determined that Mr. Hutchinson's report pertained to the applicants' original request; whereas, staff's proposed variance of 50 feet would arise from special circumstances which exist and does not generally apply to land in the general vicinity or in the same zone as the mobile home would be placed as far back on the site as possible. Additionally, the Board determined the word "not" was to be stricken from condition #f prior to the words "adversely affect".

Mr. Verst asked if there were any additional questions for staff. There being none, Mr. Verst asked the applicant to come forward. Mr. Greg Schultz, Surveyor, 10130 Labrador Lane, Alexandria, KY came forward as representative for the applicant. Mr. Schultz advised the Board that Ms. Ripberger had a pre-scheduled vacation that took her out of town. Mr. Schultz distributed new drawings for the Board's review. When Mr. Schultz originally went into the field to take measurements, they estimated where the original mobile home had sat as it had already been removed. The mobile home had some skirting around it. The pad originally had a single-wide on it. The single-wide was removed and a double-wide that was approximately 32' X 40' feet (the new one is about 16' feet longer) on this site at this location for as far back as anyone can remember that goes back as far back as the 1970's from the existing ROW line, are approximately 46' feet.

Mr. Ripberger died a number of years ago in a car accident. They bought the property in 1997. Prior to his death, he was aware of a drainage problem on the site and installed a French drain on this side of the driveway on the bottom of this slope to divert water away from the mobile home. He also installed a swale up on this flat area to attempt to catch the water. On the left hand side of the road, there were other mobile homes that were closer to the road than the setback. Due to dogs that lived on the site, Mr. Schultz used GIS to do the measurements. The mobile home sat 75' feet from the ROW. There is another mobile home just at the crest of the hill and it sits approximately 40' feet from the center of the road.

Mr. Schultz addressed Mr. Johnson's concerns about the septic system and staff's recommendation. Mr. Schultz's stated staff's recommendation would not affect the septic system. The leach field is over the hillside. Mr. Schultz stated that the trailer was gone, but he did not see any bleed out. Ms. Ripberger is single and there are no children so there wouldn't be a great deal of water being used. The Health Department has already approved the reuse of that system with some minor repairs which have already been done.

Mr. Schultz stated Ms. Ripberger would like to have the original request be honored and not reduced to staff's recommendation. Mr. Schultz explained to the Board where the face of the mobile home would be located and Ms. Ripberger desired a small deck landing to enter the home. If she rotates the home, the landing will be built into the driveway. Any movement to the driveway will be interfering with the French drain that was installed. Ms. Ripberger does not want to incur those costs. Mr. Schultz thinks they are about 7' feet closer to the road than they were previously, but feels this can be done safely for this area. Mr. Schultz reviewed the two drawing he gave the Board at the beginning of the meeting to demonstrate that should the applicant be forced to meet the 100' feet setback of the issues she would encounter with utilities. Mr. Schultz asked if the Board had any questions he could answer for them.

Ms. Reitman asked if this was Ms. Ripberger's primary residence. Mr. Schultz replied that it was. She is currently staying with a nephew in Butler. She wants to do some foster care, but she could not get approved with the previous mobile home due to the mold. Ms. Reitman asked if the Ripbergers put in the French drain. Mr. Schultz stated that they did and added that it appears to working fairly well. Ms. Reitman asked if the mold is likely to come back. Mr. Schultz replied he couldn't answer that from an engineering perspective. The drainage issue appears to be under control and, with a new mobile home in

place, the hope is it would not come back. Mr. Schaber stated that Mr. Schultz is not in agreement with staff's recommendation because it will impact the leach fields. Mr. Schultz replied no. Mr. Schultz stated he did not support staff's recommendation because of its impact to the French drain and electric pole which will also impact the driveway.

Mr. Johnson asked where the entrance to the double wide would be. Mr. Schultz pointed out the doors on the slide, but also passed out a handout for the Board to see the front of the mobile home. Mr. Mason asked if Mr. Schultz was in fact asking for a 58' foot variance from 100' feet to 42' feet. Mr. Schultz agreed. Mr. Verst asked what types of foundations the accessory structures had. Mr. Schultz replied that the pole barn had a dirt floor, middle shed is a 10' X 12' feet and couldn't remember the exact nature, and the third shed she uses as a dog house has a slab floor with no foundation. The previous owner worked at the animal shelter and was into animal rescue. Ms. Ripberger has agricultural exemption if it helps with your decision any.

Mr. Verst asked if there were any other questions for Mr. Schultz. There being none, Mr. Verst opened the floor for discussion among the Board. Mr. Johnson asked for a clarification on the request. Mr. Johnson believes the request for a variance from the corner of the trailer to the ROW and the suggestion from staff is to move it further back by 7.3' feet. Mr. Verst confirmed that was a portion of the request. Mr. Verst asked if the Board in general feels there is a need for a variance. Mr. Schaber agreed there was a need due to topography. Mr. Johnson stated that although there is no specific evidence of how far back the other neighbors in that general area are, he doesn't know that this would be a special circumstance because there are plenty of other sites in Campbell County just like this one. However, it would be better to see the front of the house rather than the side of a house. It would be logical to make this change. Mr. Johnson stated that 7.3' feet do not seem to him to be worth arguing over. The impact on the neighborhood is not going to be critical. There is no special privilege. Mr. Verst summarized that Mr. Johnson thinks there are special circumstances that exist on this lot that do not exist on other lots that allow the Board to approve the variance because Mr. Johnson does not think we are giving the applicant a special privilege. Mr. Johnson stated no, he thinks the situations with drainage and topography that exist on this lot probably exist on a good number of other lots in Campbell County. Mr. Johnson's point is that if you would allow 50' feet and the applicant is asking for 43' feet then the difference is only 7' feet. Mr. Johnson would prefer to look at the front of the home versus the side of the home and the difference is so minimal, in his opinion, that he does not regard the granting of the additional seven feet the applicant is requesting as a special privilege. Mr. Johnson thinks the Board should just go ahead and approve the applicant's request as submitted. Mr. Johnson stated he does not feel it would negatively impact the neighborhood or area. Mr. Verst stated he understood Mr. Johnson's view. Ms. Reitman stated she also understood and agreed with Mr. Johnson's comments.

Mr. Verst stated that the Board looks like they are coming to a point that a motion is likely to be made and asked that they review the basis together as there might be some adjustments to staff's recommendations to accommodate an approval of the applicant's request as submitted. Mr. Verst stated that basis point "a" would require the modification of adding "due to topography and drainage" at the end of the paragraph. In the first sentence of point "a" you would want to add the word "not" after the words "special circumstances which exist and do". Mr. Verst stated point "e" would also need to reflect that the variance is "not" granting a special privilege "due to the topography and drainage issues upon the lot". Lastly, Mr. Verst stated that point "f" would need to confirm that the variance would "not" adversely affect the character of the neighborhood. With those changes, Mr. Verst stated the basis would support a motion for approval of the applicant's request.

Mr. Klear advised the Board that staff's recommendation was not a means to quibble over 7.3' feet. This new mobile home is proposed to be closer to the ROW than was previous mobile home which triggered this review. One option would be to rotate the mobile home such as you saw tonight. A second option

would be to buy a single wide instead of a double wide which would reduce the size. A third option would be to remove one of the sheds and move the home further back. From staff's point of view, we are not quibbling over 7.3' feet. Rather we are addressing the issue of is this request the minimum request required to conform to the rules. Staff believes the minimum is 50' feet. After hearing from the applicant's representative, Mr. Klear was even more convinced. The current location is further away from the septic system and leach fields. The applicant can move the driveway because it is gravel. It isn't paved. The applicant has to re-gravel every year anyway. Mr. Klear just wanted the Board to have a clearer conception of staff's thought process and review components rather than to think they were unwilling to compromise over 7.3' feet. Mr. Verst supported staff and that they thought there was a way to push the mobile home further back with minimal impact to the applicant. Mr. Johnson agreed, but reiterated that the impact is minimal enough that this was exactly why he supported the applicant's request.

Mr. Verst asked if there was any other discussion or comments regarding this case. Mr. Johnson made a motion to approve case #BA-07-11, Vickie Ripberger, who is asking for a front yard variance to reduce the depth from 100' feet to 42.7' feet to replace an existing mobile home. Mr. Johnson stated the bases supporting his motion are as follows:

- a. That the requested variance arises from special circumstances exist which do not generally apply to land in the general vicinity, or in the same zone.

*The requested variance does arise from special circumstances which exist and do not generally apply to land in the general vicinity or in the same zone. The mobile home is being placed as far back on the site a feasibly possible due to topography and drainage issues.*

- b. That the manner in which the strict application of the provisions of this Ordinance would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant.

*The application of the provisions of this Ordinance would deprive the applicant of a reasonable use of the land and would create an unnecessary hardship on the applicant. This is as far back on the lot as the applicant can reasonably place the mobile home because of the topography of the site.*

- 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.

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

- 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.

*There is not another location on this site where the applicant could reasonably place the mobile home to be more compliant. The location of the proposed mobile home is consistent with 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. No nonconforming use of neighboring lands and structures in the same zone shall be considered grounds for the issuance of a variance.

*This variance would **not** be granting the applicant a special privilege due to the topography and drainage upon this lot.*

- f. 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.

*That the proposed location being 42.7 feet from the right of way will **not** adversely affect the essential character of the general vicinity of the neighborhood.*

- g. That the variance will be in harmony with the general purpose and intent of the Zoning Ordinance as well as the Adopted Comprehensive Plan for the County.

*The requested variance is in harmony with the general purpose and intent of the Zoning Ordinance or Adopted Comprehensive Plan for the County because realistically there is not another location on site that would allow the mobile home to be placed further back.*

Mr. Johnson wanted to change the word “circumstance” to “circumvention” in bulleted points of the basis. Mr. Klear advised the Board this change could not occur because this is the way it is written in the Zoning Ordinance and it must remain as is. Mr. Verst asked Mr. Johnson if he accepted that change. Mr. Johnson agreed he did. Mr. Mason seconded the motion. A roll call vote found Ms. Reitman, Mr. Bachmann, Mr. Johnson and Mr. Mason in favor. Mr. Schaber opposed. Mr. Verst abstained. Motion passed.

#### **DIRECTOR’S REPORT**

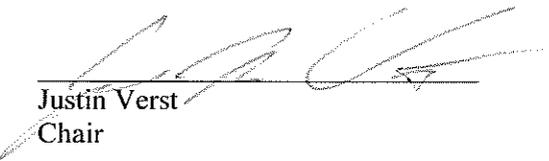
There being no other items of action before the Board, Mr. Verst recognized Mr. Klear to present the Director’s Report. Mr. Klear stated that, due to the late hour, there would be no Director’s Report this evening.

Mr. Verst asked if the Board had any other matters to discuss. There being none, Mr. Verst called for a motion to adjourn. Mr. Mason made a motion to adjourn the meeting. Ms. Reitman seconded the motion. An oral vote found all in favor and none opposed. Motion passed. Meeting adjourned at 9:50 PM.

Prepared by:

Approved:

  
\_\_\_\_\_  
Peter J. Klear, AICP  
Director

  
\_\_\_\_\_  
Justin Verst  
Chair