CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT

OCTOBER 20, 2015
7:00 PM

AGENDA

1. Meeting called to order.

2. Roll call and determination of quorum.

3. Approval of the September 15, 2015 minutes.

Public Hearing

4. **Number:** BA-05-15
   Applicant: John Crowley
   Location: 588 Marie Drive, Unincorporated Campbell County.
   Request: To grant a front yard variance for placement of a concrete retaining wall and detached garage.

5. **Number:** BA-06-15
   Applicant: Campbell County Planning & Zoning Department on behalf of 12 Mile LLC
   Location: 11079 Flagg Springs Pike, Unincorporated Campbell County
   Request: To terminate the vacated nonconforming use of a tavern.

6. **Number:** BA-07-15
   Applicant: Brandon A. & Melissa S. Edwards
   Location: 9220 Licking Pike, Unincorporated Campbell County
   Request: To grant a conditional use permit to build a gun range for personal use.

Close Public Hearing

7. Director's Report

8. Adjournment

IF YOU CANNOT ATTEND THE MEETING,
PLEASE CALL THE P&Z OFFICE AT 859-292-3880.

The Commission will make every reasonable accommodation
to assist qualified persons attending the meeting,
if there is a need for the Commission to be aware of,
contact the office seven (7) days prior to the meeting.

CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT
MINUTES OF THE OCTOBER 20, 2015 MEETING

MEMBERS PRESENT:
Mr. Justin Verst
Mr. Joseph Williams
Mr. Michael Williams
Ms. Sharon Haynes, TPO *arrived at 7:05 PM*
Mr. Roger Mason, Vice Chair
Mr. Scott Bachmann, Chair

MEMBERS ABSENT:
None

STAFF PRESENT:
Ms. Cynthia Minter, Director
Mr. Ryan Hutchinson, Planner
Mr. Paul Wischer, Legal Counsel
Ms. Stephanie Turner, Recording Secretary

STAFF ABSENT:
None

Mr. Bachmann asked everyone to stand and face the flag for the Pledge of Allegiance.

Mr. Bachmann called the meeting to order at 7:00 PM and asked for a roll call. Following roll call, a quorum was found to be present. Mr. Bachmann asked if everyone had read the September 15, 2015 meeting minutes and if there were any questions or corrections. There being none, Mr. Bachmann called for a motion. Mr. Verst made a motion to approve the minutes as submitted. Mr. Mason seconded the motion. Mr. Bachmann called for a roll call vote. A roll call vote found Mr. Verst, Mr. M. Williams, Mr. Mason and Mr. Bachmann in favor. Mr. J. Williams abstained. Motion passed.

Mr. Bachmann introduced the first case on the agenda tonight for a public hearing as Case #BA-05-15 by applicant John Crowley requesting a front yard variance for a home he owns at 588 Marie Drive in the Unincorporated Campbell County for the placement of a concrete retaining wall and detached garage. Mr. Bachmann called for the staff report to be given. Ms. Haynes arrived at 7:05 PM as Ms. Minter presented the staff report as follows:

CASE NUMBER:	BA-05-15
APPLICANT:	John Crowley
LOCATION:	588 Marie Drive, Unincorporated Campbell County.
REQUEST:	To grant a front yard variance for placement of a concrete retaining wall and detached garage.

Background:

The applicant constructed a retaining wall and garage prior to obtaining necessary zoning approval and construction permits. Had the permit process been followed in the correct order, we would have recommended that the applicant adjust the site plan to avoid the need for the variances. The applicant was advised that he must address this condition with options including demolition, relocation, and/or a variance with remediation of the site. The applicant has requested a variance.

Staff offers you these considerations for the site.

Considerations:

1. The applicant is requesting two dimensional variances. The first is to keep a retaining wall installed 5 feet off the front property line (45 foot front yard variance). The second is to keep a detached steel building installed 34 feet off the front property line (16 foot front yard variance).

2. The site, containing approximately 5 acres, is located in the Unincorporated Campbell County approximately 0.75 miles west of Licking Pike at 588 Marie Drive. This site is located within 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 for higher density single family residential.

3. Article X, Section 10.2 R-RE Residential Rural Estate Zone of the Campbell County Zoning Ordinance list single family dwellings, detached as a permitted use with customary accessory buildings and uses subject to the setbacks as follows:

Description:	**R-RE Zone Regulations Require:**
Minimum Lot Area:	One (1) acre
Minimum Lot Width:	One hundred (100) feet
Minimum Front Yard Depth:	Fifty (50) feet
Minimum Side Yard Depth:	
Total:	Twenty-five (25) feet
One Side:	Ten (10) feet
Minimum Rear Yard Depth:	Twenty-five (25) feet
Maximum Building Height:	Thirty-five (35) feet

4. A review of public records indicates the following:

   a. No previous requests for a conditional use permit or variance have been submitted for this site.

   b. The applicant owns both 588 and 614 Marie Drive.

   c. There are no occupational business licenses registered with the county for 588 or 614 Marie Drive.

   d. On July 21, 2015, it was noted that an encroachment and structure were constructed without building permits. On August 10, 2015 the applicant submitted an after-the-fact permit application. Fees were not doubled at that time. On August 17, 2015, a request was made for

additional information regarding the setback. On August 21st, the building permit was denied due to the failure to meet setbacks.

e. Marie Drive is a local road ¾ of a mile long with no through traffic. The first 1,300 feet of Marie Drive is up hill (15% slope fronting the existing property). The last 1,800 feet follows the top of a ridge line.

f. The following is a summary of a variance case from **an adjacent** property.

   Case BA-09-88: FY VAR at 298 W Miller Road. The applicant's home sat 29 feet from the edge of right of way. The applicant did a room addition of 14 feet on the front of the home. The applicant received approval for a 15 foot front yard setback to encroach 35 feet in to the 50 foot front yard setback.

5. The site plan and field visit by staff reflects the following:

   a. The plan shows an existing lot with a single family home. The plan also shows a concrete retaining wall 5 feet off the edge of ROW (45 feet into the front yard setback) and a detached metal garage 34 feet off the edge of ROW (16 feet into the front yard setback).

   b. The drawing indicates the retaining wall is about 70 feet in length. The wall closest to the road is 3 feet 6 inches tall. The wall at its highest point is 7 feet tall. (Walls 4 feet and taller should be engineered. Retaining walls under 48 inches in height are generally considered landscaping.)

   c. The back of wall height is 3 feet 7 inches tall. The wall does not have a fence/guardrail along the top.

   d. The wall is outside of the right-of-way.

   e. The wall does not visibly show any drainage built into or around the back side.

   f. The use of retaining walls are common throughout the neighborhood.

Figure 1: Neighborhood Retaining Walls

   g. There are landscaping features in the areas that are within a similar setback.

Figure 2: Area Landscaping

h. The County maintained road records lists the average width of Marie Drive at 16 feet. The width varies greatly at throughout its length.

Figure 3: Crest at top of hill, looking down to the site

i. The curb cut accessing the garage was installed without an Encroachment Permit.

j. The first 10 feet of the driveway is not paved.

k. There is no culvert under the driveway. Drainage onto the right-of-way is an item of concern in this area.

l. The drawing indicates the metal garage is 45x38 feet (1,710 square feet).

m. The metal garage does meet the minimum side yard setback requirement.

n. A review of maps before the construction indicate a natural drainage swale behind the structure site. The road also begins an incline in the approximate area of the building. *During the submittal process, the applicant stated that the building was sited to avoid the drainage swale and to stay to the bottom of an incline in the road. A building site further up the hill would require additional cuts into the hill and possible redirection of the natural drainage.*

Figure 4: Drainage swale and incline at base of hill

6. Per Article 18, 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. 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 ***"Other buildings around 588 Marie Drive are built and extended into to 50' Right of Way."***

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 ***"Other areas of the property are sloping severely and would not allow for a garage to be built and be accessible."***

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 ***"N/A."***

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 garage area will give the local neighbors an area to park at the beginning of the hill when heavy snows or ice makes the hill impassable. Previously neighbors use my driveway or the road."***

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 ***"Use of the garage store and house utility lawn equipment, and trailers to maintain lot acreage."***

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 variance does not affect public safety, it will increase public safety with allowing the garage to store the equipment to maintain the lot. Keep the acreage bush free and minimize any fire potential. The acreage burnt 30 years ago from a lightning strike. No hazard or nuisance to public is caused by this garage, it is all metal construction."***

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 ***"The first three building on the right side of Marie Drive are in line and appearance looks clean. I have lived in Campbell County all my life. Served on Alexandria and Southern Campbell fire Departments in the 1970's and 80'. I have lived at 614 Marie Drive for 38 years and seen the area develop, I have always keep the resident at 614 Marie Drive well maintained and plan the same for 588 Marie Drive. This is where I live, and do not want to take way from the area and keeping a neatly trimmed, mowed, and not having equipment set out; being an eye sore."***

7. Per Section 18.6, A., 2., Notice: Notice of public hearing was given in accordance with Section 18.2 of the Campbell County Zoning Ordinance. ***A legal notice appeared in the ~~October 8th, 2015 edition of the Campbell County Recorder~~ October 12th, 2015 edition of the Kentucky Enquirer advertising applicant's request and the hearing to be held on October 20th, 2015.***
   Ms. Minter noted following the issuance of the staff report, a publication error occurred and the notice was alternatively published in the Kentucky Enquirer.

8. According to Section 18.6, A., 4., the Board of Adjustment must find that the granting of the variance will be in harmony with the general purpose and intent of the Ordinance as well as the adopted Comprehensive Plan, and will not be injurious to the neighborhood, or otherwise, detrimental to the public welfare. **The use of the property is consistent with the adopted 2008 Comprehensive Plan.**

Summary of Applicants Request:

The applicant is requesting a variance to accommodate the concrete retaining wall installed 5 feet off the front property line (45 foot front yard variance) and the detached steel building built 34 feet off the front property line (16 foot front yard variance).

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	Wall five (5) feet = Variance of forty-five (45) feet Garage (34) feet = Variance of sixteen (16) feet
Minimum Side Yard Depth:		
Total:	Twenty-five (25) feet	
One Side:	Ten (10) feet	
Minimum Rear Yard Depth:	Twenty-five (25) feet	
Maximum Building Height:	Thirty-five (35) feet	

Staff Recommendation – Campbell County Zoning Ordinance:

To approve the request of a 45 foot front yard variance for the wall and approve the request of a 16 foot front yard variance for the garage subject to the following conditions.

1. That reflectors be added to the edge of the wall.
2. ~~That drainage features be added to the back side of the wall, deflecting water away from the structure and right-of-way.~~

   Ms. Minter noted that subsequent to the publication of the staff report it was noted that the wall has been designed by a licensed engineered and therefore staff would omit recommendations related to wall design such as drainage.
3. That a fence or guard rail be added in areas where the wall exceeds 48 inches in height and the back of wall height is less than 36 inches that a drainage culvert be added under the driveway.
4. That a culvert pipe be added and the first 10-feet of the driveway fronting the right-of-way be paved.
5. That the applicant apply for and receive approval for an electrical permit, building permit and encroachment permit (wall and garage). Application fees are doubled when work is completed in advance of receiving a permit.

Additional points of information to the Applicant:

1. The applicant must comply with all Campbell County ordinances, regulations and building codes.
2. The applicant must apply for and receive approval from the building department for all future structures that are built on the property.

   Ms. Minter reaffirmed that the applicant has submitted for permits after construction and that those permits were deferred until the Board of Adjustment could act.

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 not arise from special circumstances which exist and do generally apply to land in the general vicinity or in the same zone. There are other walls and structures in the area that are located in the front yard setback.

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.

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.

The essential character of the neighborhood is rural and residential. There are other locations on the site that would allow for the accessory structure to meet minimum setback requirements. However, a building site further up the hill would require additional cuts into the hill and possible redirection of the natural drainage.

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.

In 1988, a 15 foot front yard variance was granted for a house on West Miller Road. The variance was for an addition to the home. This property is 800 feet away from 588 Marie Drive.

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.

This variance would not alter 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 will be in harmony with the general purpose and intent of the Zoning Ordinance. The use of the property is consistent with the adopted Comprehensive Plan for the County.

2. Campbell County Zoning Ordinance Section 9.12., 4 States: Where a dimensional variance from any minimum yard, setback, etc. is necessary to develop on said lot, an application for dimensional variance shall be submitted for review and approval by the Board of Adjustments in accordance with Article XVIII of this ordinance.

Ms. Minter offered to answer any questions the Commission may have. Mr. Bachmann asked if there were any questions of staff. Ms. Haynes asked if the words "and maintained" should be added to condition 1 in regards to the reflectors. Ms. Minter stated that she believed that would be implied.

Mr. Bachmann asked if there were any other questions for staff. There being none, Mr. Bachmann asked the applicant to approach the podium and state his name and address for the record. Mr. John Crowley stepped forward as the resident of 614 Marie Drive and owner of 588 Marie Drive. Mr. Crowley purchased 588 Marie Drive two years ago. Mr. Crowley entered pictures into the record showing what the property looked like before he purchased. It was heavily wooded and there was an issue with deer crossing the road. Since taking ownership of the property, he has cleared the property to prevent deer from coming unseen towards the road. Mr. Crowley has worked hard to beautify the property. Mr. Crowley also had a picture from Google Earth showing where the land was scorched in a brush fire several years ago. The third picture submitted by Mr. Crowley showed a church nearby on West Miller Road showing it is approximately 29 feet from the road. Mr. Crowley did have a picture of the construction stage of the wall. All pictures were submitted to staff to be part of the record. Mr. Crowley added that he has yard lights on both properties to assist those driving in the area.

Mr. Bachmann asked if Mr. Crowley had any issues with the conditions listed in staff's report. Mr. Crowley stated he did not. Mr. Crowley stated he intends to pour concrete for the whole drive. He does not like asphalt or gravel. Mr. Bachmann asked about the reflectors and guardrail. Mr. Crowley stated that was fine. Mr. Bachmann asked if there were any other questions for the applicant.

Mr. Verst asked how it came to be that there was a structure and wall built without a building permit. Mr. Crowley stated that he has never built anything before. He talked to people about the electrical work he wanted to have done and found out he needed an electrical permit. Mr. Crowley visited staff's office and found out he had also needed a building permit. Mr. Crowley apologized for not doing the proper research prior to beginning the construction. Mr. Crowley stated that he filed for the permits as soon as he was aware and even applied for a shed permit [for a different structure] for 588 Marie Drive since being made aware of the permit procedure. Mr. Verst asked if the garage was built by a contractor. Mr. Crowley stated that he did the work himself. The building came in convoluted panels and you just bolt it together.

Mr. Bachmann asked if there were any other questions for Mr. Crowley. There being none, Mr. Bachmann asked if anyone in the audience wanted to speak regarding this request. There being none, Mr. Bachmann opened the floor for discussion among the Board.

Mr. Verst asked staff when the structures were built. Ms. Minter stated they don't know when they were constructed. There were actually two flags that went up simultaneously. The applicant applied for an electrical permit which caused us to be aware there was a new garage. The Road Department was installing a culvert across the street and they noticed some drainage issues going on and alerted staff as to the need for an encroachment permit for the new driveway. We contacted the applicant and advised him of the permits required. Mr. Crowley did apply for the permits and that was when we realized the location was in the front setback. The building permit were denied at that point and we advised him to approach the Board to request a variance.

Mr. Verst asked about condition 3 regarding the guardrail on the wall. What exactly is that condition referencing to? Is it in the Zoning Ordinance? Ms. Minter replied that the guardrail was required because the wall is over 7 feet in height in certain areas. This is really a building code issue. We can flag it now or we can approach it with the building permit. Ms. Minter stated she just wanted the applicant to be aware of it.

Mr. Verst asked if the Board were considering granting the variance and the conditions were not met, what happens to the variance. Ms. Minter advised the Board that if the applicant fails to comply with the conditions, the structures may be ordered to be removed.

Campbell County Zoning Ordinance, Article IX, Section 9.14, B. Conditional Use Permits:

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

Mr. J. Williams asked about condition 4. Mr. Crowley stated he was going to pave the whole driveway. Is the Road Department asked him to do this? Ms. Minter replied that traditionally we only ask for the first 10 feet to be paved to prevent washout of gravel onto the roads. Ms. Minter replied that she thinks we caught this applicant in mid-cycle. The applicant is planning to install a culvert in there and then to pave. The Road Department would size that pipe out for him and we would require some pavement on top of that. If the applicant wants to pave more than that, it is really up to their discretion.

Mr. Bachmann asked if there were a requirement for the height of the fence and/or guardrail we are asking to be installed. Ms. Minter stated that the combination of the wall that is not under the dirt and whatever is on top would require 36 inch railing to prevent anyone from falling off the wall and being injured. Mr. Verst stated that if the guardrail is part of the building code, he would prefer that it not be listed as a condition. Allow the building permit to address the building code issues and leave the conditions to address zoning issues.

Mr. Bachmann asked if there were any other questions, comments or items for discussion. There being none, Mr. Bachman called for a motion. Mr. Verst made a motion on Case #BA-05-15 to approve the request of a 45 foot front yard variance for the wall and approve the request of a 16 foot front yard variance for the garage subject to the following conditions:

1. That reflectors be added to the edge of the wall.
2. That a culvert pipe be added and the first 10-feet of the driveway fronting the right-of-way be paved.
3. That the applicant apply for and receive approval for an electrical permit, building permit and encroachment permit (wall and garage). Application fees are doubled when work is completed in advance of receiving a permit.

Additional Points of Information for the Applicant:

1. The applicant must comply with all Campbell County ordinances, regulations and building codes.
2. The applicant must apply for and receive approval from the building department for all future structures that are built on the property.
3. A fence or guard rail must be added in areas where the wall exceeds 48 inches in height and the back of wall height is less than 36 inches

Mr. Verst stated that the bases for his motion is the information reflected in the staff report; testimony by staff and the applicant heard tonight; and discussion among the Board. Mr. Bachmann called for a second to the motion. Ms. Haynes seconded the motion. Mr. Bachmann asked if there were any discussion or questions regarding the motion. There being none, Mr. Bachmann called for a roll call vote. A roll call vote found Ms. Haynes, Mr. Verst, Mr. J. Williams, Mr. M. Williams and Mr. Mason in favor. Mr. Bachmann abstained. Motion passed.

Mr. Bachmann introduced the second case on the agenda tonight for a public hearing as Case #BA-06-15 with the applicant as Campbell County Planning & Zoning Department on behalf of 12 Mile LLC to request the termination of a vacated nonconforming use for a tavern located at 11079 Flagg Springs Pike in the Unincorporated Campbell County. Mr. Bachmann called for the staff report to be given. Ms. Minter presented the staff report as follows:

CASE NUMBER: BA-06-15
APPLICANT: Campbell County Planning & Zoning Department on behalf of 12 Mile LLC
LOCATION: 11079 Flagg Springs Pike, Unincorporated Campbell County.
REQUEST: To terminate the vacated nonconforming use of a tavern.

Considerations:

1. The site identified by PIDN 999-99-29-637.00, has 3 three addresses associated with it: 11059 Flagg Springs Pike, 11079 Flagg Springs Pike and 11093 Flagg Springs Pike. The uses of these address consists of a Home (actually located on a separate parcel at 11041 Flagg Springs), former Creekside Inn, and a Farmhouse. The site encompasses approximately 7.706 acres and is located in the Unincorporated Campbell County on the northern side of Flagg Springs Pike approximately 2.0 miles west of AA Highway. The Recommended Land Use Map of the 2008 Campbell County Comprehensive Plan identifies the site in question and surrounding areas for agricultural and rural. Currently, the surrounding land is agricultural and residential.

2. Article X, Section 10.1 A-1 Agriculture Zone of the Campbell County Zoning Ordinance list permitted uses for this zone as:

    1. Agricultural uses.
    2. Single family dwellings (detached).
    3. Mobile homes subject to the requirements of Section 9.28 of this ordinance and KRS 100.203 (4).
    4. Stands for sale of products that are raised, produced, and processed on the premises, provided that no roadside stands of any type for the sale or display of agricultural products shall be permitted within fifty feet from any street.
    5. Greenhouses and nurseries, including both wholesale and retail sales of products grown on the premises.
    6. Stables and riding academies both public and private.
    7. Bed and breakfast establishments.
    8. Taxidermy and other related wildlife resources and service, with sales portion not to exceed 10% of the gross floor area of the operations.
    9. Animal Hospitals and Veterinary Clinics.
    10. Agritourism uses.

3. Article X, Section 10.1 A-1 Agriculture Zone of the Campbell County Zoning Ordinance list conditional uses for this zone as:
    1. Cemeteries.
    2. Churches and other accessory buildings for the purpose of recognized religious worship providing they are located adjacent to an arterial or collector or local street.
    3. Nursery school.
    4. Police and fire stations provided they are located adjacent to an arterial street.
    5. Public and parochial schools.
    6. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries.
    7. Recreational uses, other than those publicly owned and/or operated as follows:
        a. golf courses
        b. country clubs
        c. semi-public swimming pools
        d. tennis courts/clubs
        e. fishing lakes
        f. gun clubs and ranges
        g. boat harbors and marinas
    8. Hospitals for human care, clinics, sanitariums, homes for the aged, religious and charitable institutions, not including penal or correctional institutions; provided that any building for patients shall be distant at least two (200) hundred feet from every adjoining lot in any Residence Zone, and that the area of the parcel of land so occupied shall be no less than ten (10) acres.
    9. Essential services and public utility stations.

10. Sanitary landfills as regulated by Section 9.25 of this ordinance.
11. Commercial confined animal feed operations provided that any lot or tract of land in such use shall be not less than ten (10) acres and that any building or enclosure in which animals are kept shall be distant at least four hundred (400) feet from any lot in any Residence Zone, or any lot occupied by a dwelling other than a farm dwelling, or by any school, church or any institution for human care.
12. Sawmills.
13. Plants for the processing and storage of agricultural products.
14. Boat harbors, and marinas, for the use and transport of products that are raised, produced, and processed on the premises.
15. Kennels.

4. Campbell County Ordinance O-17-13, A Flood Damage Prevention Ordinance contains regulations regarding structures within the floodway. The former tavern location is located within the floodplain.

5. A review of public records indicates the following:

   a. No previous requests for a conditional use permit or variance have been submitted for this site.

   b. This site has multiple structures located on the same lot. PVA records indicate there is a single family home approximately 756 square feet built in 1890; a detached garage; an outbuilding that appears to be a kennel; and an outbuilding used as a shed.

   c. A building permit was issued for this site:

      1) Building Permit #6327 was submitted on April 25, 2007 by Dale Straus. The permit was for placement of a five hundred twenty eight (528) square foot garage. The permit was approved on April 26, 2007 by David Kean. The project was completed in May 2007.

6. Article IX, Section 9.12 Nonconforming Lots, Nonconforming Uses, Nonconforming Structures, Repairs and Maintenance and Nonconforming Signs regulates Nonconforming Uses. The tavern located on this site is a nonconforming use. Under B. Nonconforming Uses, 3. Termination, it states:

   TERMINATION: In all cases, the Board of Adjustments ***shall hold a public hearing*** in accordance with the applicable requirements of Section 18.2 of this ordinance. Following that hearing***, the board may terminate the right to operate a nonconforming use based on any of the following conditions, and if the decision is to do so, the board shall state its bases, in writing, for such determination***.

   a. Changing to a conforming use.

   b. Non-operative, non-used, or abandoned for a period of six (6) consecutive months providing that the Board of Adjustments may allow the continuation of such nonconforming use if it is determined that reasons for such nonuse were beyond the owners/ operators control. ***Representatives of 12 Mile LLC contacted Ms. Cindy Minter to discuss how to terminate the use of The Creekside Inn. Ms. Connie Morgan, representing 12 Mille LLC, contacted our office to discuss the termination of the non-conforming use of the property as a tavern. Ms. Morgan indicated that the tavern has ceased operation and that the contents were being liquidated.***

      On December 29, 2014, Ms. Minter sent information to Ms. Morgan requesting an affidavit to be signed by all the owners regarding the termination of the preexisting non-conforming use. Ms. Morgan indicated that a divorce was ongoing and that she would ask for the affidavit to be signed. Ms. Minter indicated that inspections of the

site would be completed for the next six months regarding the termination of the non-conforming use.

This site was inspected on December 29, 2014 by Mr. Michael Carpenter, Building Inspector. At that time, it was determined that no activity was occurring on site. A follow up inspection was conducted on August 26, 2015 by Mr. Greg Cole, Building Inspector. Again, it was noted that no activity was occurring on site.

7. Per Section 18.6, A., 2., Notice: Notice of public hearing was given in accordance with Section 18.2 of the Campbell County Zoning Ordinance. ***A legal notice appeared in the ~~October 8th, 2015 edition of the Campbell County Recorder~~ October 12th, 2015 edition of the Kentucky Enquirer advertising applicant's request and the hearing to be held on October 20th, 2015.***
   Ms. Minter noted following the issuance of the staff report, a publication error occurred and the notice was alternatively published in the Kentucky Enquirer.

Summary of Applicants Request:

The request is in response to inquiries by representatives of 12 Mile LLC, the legal owners of the property, on how to terminate the use of the tavern at this location. Staff has conducted site inspections and confirmed that no activity is occurring on site. The tavern was established and in existence prior to the adoption of our Zoning Ordinance and was therefore a pre-existing nonconforming use of the property. Due to the cessation of activity for more than six (6) months, the Board has the authority to terminate this nonconforming use.

Staff Recommendation – Campbell County Zoning Ordinance:

To terminate the nonconforming use of a tavern on the property listed as 11079 Flagg Springs Pike.

Supporting Information / Basis for Recommendation

Article IX, Section 9.12 Nonconforming Lots, Nonconforming Uses, Nonconforming Structures, Repairs and Maintenance and Nonconforming Signs regulates Nonconforming Uses.

1. The tavern located on this site is a nonconforming use.

2. Under B. Nonconforming Uses, 3. Termination, it states:

   a. The Board of Adjustments ***shall hold a public hearing*** in accordance with the applicable requirements of Section 18.2 of this ordinance.

   b. Following that hearing***, the board may terminate the right to operate a nonconforming use based on <u>any</u> of the following conditions, and if the decision is to do so, the board shall state its bases, in writing, for such determination***.

      i. Changing to a conforming use.

Non-operative, non-used, or abandoned for a period of six (6) consecutive months providing that the Board of Adjustments may allow the continuation of such nonconforming use if it is determined that reasons for such nonuse were beyond the owners/ operators control. ***Documentation supports that the business has been non-operative for a period greater than six (6) consecutive months.***

Ms. Minter stated she was available to answer any questions the Board may have. Mr. Bachmann asked if there were any questions. There being none, Mr. Bachmann asked if the applicants were present tonight. Ms. Minter advised the Board that the applicants were not present. Mr. Bachmann asked the audience if anyone wanted to speak regarding this issue. There being none, Mr. Bachmann opened the floor for discussion among the Board.

Mr. Verst commented that it is difficult to monitor this type of use in a rural area such as this. If the Board has the opportunity to clean this up, it is a good thing. Mr. Bachmann asked staff what would happen to the structure at this point. Ms. Minter advised that there were several different options open to the property owners. The building is within the 100 year floodplain. The applicants are currently going through a divorce and are liquidating some of their assets as they go through this. They have already sold off all liquor that was purchased for this business.

Mr. J. Williams asked if both parties are in agreement with this request to terminate the non-conforming use. Ms. Minter stated that she has not had any recent contact with either party. After their initial request that we review this issue, paperwork was forwarded for their consideration. They did not reply to our inquiry. Ms. Minter stated that staff has conducted the necessary inspections to document that the non-conforming use has been non-operative for a consecutive period of more than 6 months. The Board has the authority to take action with or without their involvement.

Mr. M. Williams asked if their liquor license had expired. Ms. Minter stated she had no knowledge of the state of their liquor license. Ms. Haynes asked Ms. Minter to confirm that neither property owner was present in the audience. Ms. Minter confirmed they were not present. Mr. Verst asked Ms. Minter to confirm that either the property owners or the Board can terminate because the use has ceased to operate for over 6 months. Ms. Minter stated that was correct.

Mr. Bachmann asked if there were any other questions, comments or discussion. There being none, Mr. Bachmann called for a motion. Mr. Verst made a motion on Case #BA-06-15 to terminate the nonconforming use of a tavern on the property listed as 11079 Flagg Springs Pike. The bases for his motion is the information reflected in the staff report; testimony by staff; and discussion among the Board. Mr. Bachmann called for a second to the motion. Mr. Mason seconded the motion. Mr. Bachmann asked if there were any discussion or questions regarding the motion. There being none, Mr. Bachmann called for a roll call vote. A roll call vote found Ms. Haynes, Mr. Verst, Mr. J. Williams, Mr. M. Williams and Mr. Mason in favor. Mr. Bachmann abstained. Motion passed.

Mr. Bachmann introduced the third and final case on the agenda tonight for a public hearing as Case #BA-07-15 by the applicants Brandon & Melissa Edwards to request a conditional use permit to build a gun range for personal use to be located at 9220 Licking Pike in the Unincorporated Campbell County. Mr. Bachmann called for the staff report to be given. Ms. Minter presented the staff report as follows:

CASE NUMBER:	BA-07-15
APPLICANT:	Brandon & Melissa Edwards
LOCATION:	9220 Licking Pike, Unincorporated Campbell County.
REQUEST:	To grant a conditional use permit to build a gun range for personal use.

Considerations:

1. The 10.68 acre site is currently used for agricultural purposes. The zoning for the site and surrounding areas is Rural Residential Estate – Phased (R-RE(P)). The land uses surrounding the property consist of both residential and vacant land. The land use to the north east and south is wooded and single family residential. The land use to the west is wooded and vacant land. The Future Land Use Map of the 2008 Campbell County Comprehensive Plan identifies the site and surrounding areas for Higher Density Single Family Residential. The surrounding area has water but not sanitary sewer so higher density development is not possible at this time.

2. Article X, Section 10.2 Rural Residential Estate – Phased (R-RE(P)) Zone of the Unincorporated Campbell County Zoning Ordinance also regulates setbacks for the R-RE Zone as follows:

   Definition of Phased: The intent of the phased zoning regulations is to encourage development or redevelopment of a specified area for the use and/or density designated on the comprehensive plan when the necessary conditions for such development are realized.

Description:	R-RE Zone Regulations Require:
Minimum Lot Area:	One (1) acre
Minimum Lot Width:	One hundred (100) feet
Minimum Front Yard Depth:	Fifty (50) feet
Minimum Side Yard Depth:	Twenty-five (15 & 10 for a total of 25) feet
Minimum Rear Yard Depth:	Twenty five (25) feet
Maximum Building Height:	Thirty-five (35) feet

3. Article X, Section 10.2.,C.,8.F R-RE / Conditional Uses States:

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

      8. Recreational uses, other than those publicly owned and/or operated as follows:

         f. Gun clubs and ranges

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

   A. The Board of Adjustments may approve, modify, or deny any application for a conditional use permit. If it approves such permit, it may attach necessary conditions such as time limitations; requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature.....The Board shall have power to revoke conditional use permits, or variance for noncompliance with the condition thereof. Furthermore, the Board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in persona for such cost.

   B. Granting of a conditional use permit does <u>not</u> exempt the applicant from complying with all of the requirements of this ordinance, the building code, housing code, and other regulations of the city.

   C. In any case where a conditional use permit has not been exercised within the time limit set by the board or within twelve (12) consecutive calendar months from date of issuance, such conditional use permit shall not revert to its original designation unless there has been a public hearing.

   D. If the landowner is not complying with all of the conditions listed on the conditional use permit, the Zoning Administrator shall report the fact in writing to the Chairman of the Board of Adjustments. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time it is furnished to the chairman of the Board of Adjustments. The Board shall hold a hearing on the report within thirty (30) days, and notice of the time and place of the hearing shall be furnished to the landowner at least one week prior to the hearing. If the Board of Adjustments finds that the facts alleged in the report of the Zoning Administrator are true and that the landowner has taken no steps to comply within the time between the date of the report and the date of the hearing, the Board of Adjustments may authorize the Zoning Administrator, to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

5. A review of public records indicates the following: Unable to locate any cases on the site.

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

The submitted drawings indicate the following:

1) The site is a 10.68 acre lot of record.
2) The site is currently used for agricultural.
3) The site plan shows the location of a proposed house and septic leech field.
4) The site plan shows a proposed storage building 12x24 feet adjacent to the range.
5) The site plan shows a proposed shooting range located at the south west corner of the property.
6) The site plan indicates Physically Restrictive Development Areas (PRDA) due to steep slopes of 20% or greater.
7) A notation on the plat indicates the development will conform to the Hillside Development Controls described in the Campbell County Zoning Ordinance.
8) The site plan indicates public water is available.
9) Page C-1 shows the base floor elevation of the shooting range to be 678 feet.
10) The graphic at the top and bottom of page C-1 shows the berms on either side and at the end of the shooting rage to be at an elevation of 698 feet. That would be 20 feet taller than the base floor elevation of the shooting range.
11) Page C-1 shows the height of the western property line at 726 feet. That would be 48 feet higher than the bottom of the range floor.
12) Page C-2 shows the grading of the shooting range in more detail.
13) Page C-2 shows the proposed landscaping of cedar trees at 10 foot spacing (staggered) around the shooting range on top of the berm.
14) The site plan does not include lighting or signage.
15) The applicant has indicated sound mitigation (such as berms and evergreen trees) measures will be implemented. The applicant noted with the sound mitigation techniques used on this site it will result in a reduction of 40 to 70 decibels at 120 feet.
16) The applicant has conservatively estimated a rifle sound will be reduced from 120 db to 80 db and a pistol will be reduced from 112 to 72 db at 120 feet.
17) The applicant states the range will be for personal use only and will not be open to the public or have private members.
18) The applicant stated the range will only be used between the hours of 8:00am and sunset.
19) The applicant has stated they chose the safest location and orientation of the range away from homes and roads.
20) Erosion control measures will be implemented.
21) Water flow and drainage control measures will be implemented.
22) Landscaping will be utilized to obscure visibility of the range from the road and adjacent properties.
23) An accessory building will be used to store items such as maintenance equipment, targets and target stands.
24) Projectiles will be safely contained within the range backstop and side berms without causing personal injury or property damage.
25) The range will utilize the lands topography to far exceed the NRA minimum recommendations for a range backstop (20') and side berms (8') foot heights.
26) This range will have backstop and sides of (20') feet. However, the effective backstop height will be approximately 50' feet due to the lands topography.
27) Adjacent property to the West:
    1. This property is 40.9 acres.
    2. This property continues an uphill grade 220 feet from the property line.
    3. The height of the adjacent property 220 feet west of this line is 772 feet. That is 94 feet approximately 9 stories above the base of the range.
28) Adjacent property to the North West:
    1. This property is 38.2 acres.
    2. This property is 600 feet from the base of the range.
    3. The elevation at the property line is 770 feet. That is 92 feet above the base of the range.

29) Adjacent property to the East
    1. This property is 21.55 acres.
    2. This property is 240 feet from the base of the range.
    3. The elevation at the property line is 640 feet. That is 38 feet below the base of the range.

7. Additional Information provided by applicant:

    1. The applicant intends to build their primary residence on this property.
    2. The applicant is going to work with Campbell County Cooperative Extension Services Natural Resources and Environmental Management program to improve the quality, productivity and sustainability of natural resources on this property. Specifically to improve soil, plants, forests and other ecosystems on the property.
    3. The applicant is certified by the NRA in Range Development and Operations.

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

    A. That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or the community;

    The applicant states: "This application is being submitted to obtain approval for necessary permits to build a personal use recreational shooting range at the referenced property."

    B. That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;

    The applicant states: "Upon approval, the applicants plan to build their primary residence on this property. As a resident of Unincorporated Campbell County in a Rural Residential Estate zone it is legal to shoot on one's property."

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

    The applicant states: "The purpose of applying for this Conditional Use Permit is to obtain approval and necessary permitting to involve subject matter experts in the range building process. Approval of this Conditional Use Permit will allow the applicants to construct a safer and more environmentally friendly shooting range on their property."

9. 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 ~~October 8th, 2015 edition of the Campbell County Recorder~~ October 12th, 2015 edition of the Kentucky Enquirer advertising applicant's request and the hearing to be held on October 20th, 2015.***
    Ms. Minter noted following the issuance of the staff report, a publication error occurred and the notice was alternatively published in the Kentucky Enquirer.

Summary of Applicants Request:

The applicant is requesting a conditional use permit for a personal recreational shooting range within the Rural Residential Estate Zone.

Staff Recommendation:

To approve the conditional use permit for a personal recreational shooting range subject to the following conditions:

1. That the shooting range only be operated between the hours of 8:00am and sunset.
2. That the range be for personal use only not for public or private memberships.
3. That the shooting range not be illuminated.
4. That signage not be installed.
5. That the evergreen trees planted for screening be 6 feet tall after one year of growth.

Ms. Minter noted that the Applicant also requested that the board consider three additional conditions:

6. That the conditional use action period be extended to 24 months to allow for a flexible construction schedule.
7. That the shooting range be allowed to be installed prior to the permit of the home but not to exceed 24 months prior to the permit for the home.
8. That the evergreen trees or dense shrubs be planted for screening along the berm. (replacing item #5)

Additional information to the Applicant:

1. The applicant must comply with all Campbell County Zoning Ordinance, Subdivision Regulations, Building Codes and Adopted Comprehensive Plan at the time of development.
2. The applicant must apply for and receive approval from the building department for structures that are built on the property.
3. The applicant must comply with the Hillside Development Control Regulations due to steep slope of 20% or greater.

BASES FOR STAFF RECOMMENDATION:

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

2. Notice of public hearing was given in accordance with Section 18.2 of the Campbell County Zoning Ordinance;

3. In accordance with KRS. 100.237, the Board of Adjustment shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named herein which may be suitable only in specific locations in the zone.

4. The evidence presented by the applicant and staff is such as to establish beyond any reasonable doubt:

    a. That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or the community;
    b. That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.
    c. That such use will comply with any regulations and conditions in the Campbell County Zoning Ordinance for such use.

5. Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of this ordinance, the building code, housing code, and other regulations.

Ms. Minter advised the Board that there have been minor changes to staff recommendation since the report was issued. Staff has removed items that would apply to all cases and have reduced the conditions requested to pertinent site specific conditions. The applicant contacted staff and asked for changes to the recommendation. The applicant would like to extend the period of construction from 12 months to 24

months. They are aware that the construction of the home and the gun range would require more than the 12 months normally permitted. The applicant is also requesting that they be permitted to construct the gun range prior to the construction of a single family home. The final item the applicant has requested is that condition 5 be modified to state "evergreen trees or dense shrubs" instead of "be 6 feet tall after one year of growth" as they are having difficulty locating 6 foot trees.

Ms. Minter offered to answer any questions that the Board may have. Mr. Bachmann asked if anyone had questions of staff. Mr. Bachmann started by asking if the applicant would be required to build the home prior to the conditional use. Ms. Minter explained that the R-RE Zone would require that the home to be in place prior to the accessory structure. In past, from the building permit side, we have allowed the accessory use construction permit to be submitted at the same time as the home permit. This way they can work on both projects. We don't really care which gets completed first so long as they were applied for at the same time.

Ms. Haynes asked if staff knew the hours of operation of the nearby gun clubs. Ms. Minter replied that she did not know. Mr. M. Williams advised the Board he was a member of the Bob White Club for the past 50 years. As a member, he can state that they do not allow use of the rifle range or the trap ranges until 9:00 or 10:00 AM in the morning and on Sunday's maybe after 11:00 AM. Mr. M. Williams doesn't know what initiated the hours, but there is a trailer park not far away from the Bob White Club. They are not allowed to shoot at 8:00 AM at that site. Now, are you allowed to squirrel hunt prior to those times on that property? He is not certain. Ms. Haynes stated that shots from hunting are different than those for a gun range. Mr. M. Williams replied that he was aware of the difference, but also there is a difference in sound ranges between a rifle and a shotgun. Mr. M. Williams stated he is also aware of the other gun ranges and he can state that the construction of this gun range will exceed the construction of all three of those gun clubs unless they are going to go in there with RPG or Stingers. They have gone as far as they can go without putting a roof on it.

Mr. Verst stated that his understanding is that, in the Unincorporated Campbell County, homeowners have the right to shoot on their own property. Ms. Minter confirmed that was correct. Mr. Verst continued that this request is for the applicant to construct an actual range. Ms. Minter confirmed this was correct. Mr. Verst stated that, if they Board were to approve this request, it would be for the construction of the range. If we were to recommend conditions to go with that approval, they would have to comply with these conditions. If he didn't, we would have the ability to revoke his conditional use permit, correct? Ms. Minter replied this was correct. Mr. Verst asked, once the range is constructed, what does revoking the conditional use permit entail?

Ms. Minter advised the Board that, if the applicant fails to comply with the conditions, there would be a public hearing at that time. This would allow the Board to review the conditions and determine if they have been met or not. At that time, the Board can order the structure be closed. Mr. Wischer acknowledged that this was the correct procedure. Mr. Verst asked if the range was closed, the property owner still have the ability to shoot on his property. Ms. Minter confirmed that this was correct.

Mr. Mason asked if the conditional use stay with the property or with the owner. What happens if it is sold? Ms. Minter replied that the conditional use would stay with the property. Staff would record a Certificate of Land Use Restriction (CLUR) with the County Clerk. It will list the conditions and would remain in effect on the property should the site be sold.

Mr. Verst stated his concern was that, if the gun range was constructed and the owner decides to cut down all the trees and shoot at 5:00 AM in the morning, we could revoke the conditional use permit, but they would still have the right to shoot on their property. Mr. Verst was not quite sure what revoking the conditional use does at that point. Mr. Verst proposed it is more for noise concern he guesses. Mr. Wischer stated that he had a discussion with Mr. Michael Duncan this morning regarding this case. Mr. Wisher stated their conclusion was that it was more for noise concerns. The conditional use permit would insulate some nuisance actions, but if you took away the blanket that the conditional use permit entails then, if they were out there shooting at 4:00 AM in the morning, people could institute nuisance actions against the property owner.

Ms. Haynes asked if this was approved would this be setting it up so that they could go public at some time in the future. Ms. Minter replied that the applicant specifically states it is for personal use. Within the R-RE Zone, if he wanted to become a public range or private club, the applicant would be required to come back before the Board and apply for a new conditional use permit. Mr. Wischer stated he agreed with Ms. Minter on that. You can get into numbering no matter than a certain number of people on the site at a time. You can consider this as a condition.

Mr. J. Williams asked if we put a time limit on this (such as 8:00 AM) but he is out there at 7:00 AM, how are we to differentiate what they are doing out there. He is uncomfortable with the time limit because how are you going to tell the difference. Ms. Minter stated that she believes it would be possible to tell because of the difference in the type of sound between hunting (intermittent shots) and target practice (continuous shots fired). Ms. Minter stated the reason for this conditional use is that they do recognize the right to shoot on their property, but they want to construct a range and shoot potentially more than others in this vicinity.

Mr. Bachmann asked if there were any other questions for staff. There being none, Mr. Bachmann asked for the applicant or their representative to step forward. Mr. Joe Kramer, Cardinal Engineering, approached the podium. Mr. Kramer stated that, until his client approached him, he was unaware that you could have a conditional use permit for a private gun range. Their intention is to drain the lake that is located on the property and recess the gun range in that location for safety purposes. Mr. Kramer believes staff did a good job laying out their request. Mr. Kramer stated that anything he could offer was included in the staff report. During the planning stage of this project, Mr. Kramer advised Mr. Edwards to make as many relevant comparisons to the Bob White Club since this was an established and well known gun club. Since people are familiar with the Bob White Club, they would be better able to visualize the range Mr. Edwards wants to build. Mr. Kramer asked Mr. Brandon Edwards to come forward and explain his desire for a gun range to the Board.

Mr. Brandon Edwards, prospective property owner, approached the podium. Mr. Edwards stated that he had the simple request that no additional restrictions be placed upon him than would be if he just purchased and shot on his property. His only desire is to build the safest gun range possible for his private use. This protects not only the community, but his family and pets as well. Mr. Edwards offered to answer any questions that the Board had for him.

Mr. M. Williams asked Mr. Edwards the type of guns he will be shooting? Handguns? Rifles? Shotguns? Mr. Edwards replied that primarily he shoots handguns, but, again, he does not want to be like anyone else in the county and to be able to shoot whatever he wants. Mr. Kramer advised Mr. Edwards to give a little bit of history on his personal background to give the Board some context for your request. Mr. Edwards stated that he has a past history in the military and has been in federal law enforcement for the past 10 years. He enjoys shooting; it's part of his life. He competes nationally and is a national pistol champion. When they located a property that interested them, he contacted the Campbell County Police to see if there would be any restrictions from their point of view. His wife has family in this area. Although he went to school in Northern Kentucky, they have lived in Washington DC for the past 10 years. This is where they want to raise their family. Mr. Edwards wanted to make certain that if he did move to Northern Kentucky that they were adhering to all the laws and wanted to do this thing legally. When he spoke with Campbell County Police, Mr. Edwards was advised it was legal to shoot on his property that the nuisance kicked in if it was before 7:00 AM or after 10:00 PM. Mr. Edwards stated he didn't want to be out at those times practicing which was why he decided to specify the hours of after 8:00 AM and ending at sunset.

Mr. Edwards stated he has a job. He works Monday through Friday and sometimes on the weekend so it's not like he would be there every day all day long practicing. He wants to use it more for training for his profession and competitions. Mr. Edwards reiterated that he didn't want any additional restrictions placed on him just because he wanted to be safer than the average person. Mr. Edwards stated he doesn't expect everyone to build a gun range, but this is something that he really desires. He has a small son and pets himself and wants them to be as safe as possible. Mr. Edwards has spoken with three different architects and Mr. Kramer's firm and has had six different excavators out to the property to review the site. They want this to be done properly. Mr. Edwards stated he did try to meet as many of his potential neighbors as possible and he appreciated them coming to the meeting tonight. When he spoke to staff, this is the process they recommended.

Mr. Kramer added that Campbell County does not have a specific requirement for noise. Trees were included on the plan to act as noise mitigation not as landscaping to hide what they are doing. Mr. Kramer asked Mr. Edwards to expand upon this aspect. Mr. Edwards stated that, from the road, you cannot see the pond. They plan on draining the pond and mucking it out. By partially submerging the gun range, the actual land/berms that will be created will act as a buffer to lower the sound of the shots and any noise associated with it. The lower we go with the gun range, the lower the sound. The higher we go with the berms, the lower the sound. The more trees we plant, the lower the sound. We have purchased 1,600 trees through the Campbell County Cooperative Extension to place upon our property. There is a difference though between transplanted trees and trees grown on site. Establishing trees on site will require a younger sapling. Trees that are 6 feet tall are more difficult to adapt to the transplant. The smartest way possible will be to grow them on site. Mr. Edwards stated that they are proposing red cedar trees, because they smell so good and the family likes them. However, they don't want to be restricted to just red cedar trees because they want to use trees that will survive and thrive in this climate and soil composition area.

Mr. Edwards stated he was on the site on Thursday and one of the neighbors was shooting a rifle. Can you hear it? Yeah, but there was no sound mitigation at all and the sound was not deafening. This is Campbell County and they have a right to shoot. Mr. Edwards pulled the City of Alexandria's sound ordinance regulating the noise levels as an example. The plan for this gun range will either meet or exceed their requirements so that, noise wise, he could potentially operate with the city limits.

Mr. Edwards added that the Bob White Club is relatively flat while their site will have a lot of berms and topography to mitigate the sound. This isn't to say anything negative; this is just for reference. Mr. Edwards stated he did not know the distance to the berm at the shooting range at Bob White Club. Mr. M. Williams stated that the distance is approximately 150 to 200 meters; you are actually looking up a hill. When you get to the berm, the hill takes a much sharper rise. There is a farm behind the fence. In all the years he had been there, no one had ever killed a cow or had any complaints or trouble. Mr. Edwards stated that Mr. M. Williams can agree that the extent to which he is going to provide a safe gun range far exceeds what exist at the Bob White Club. Mr. M. Williams stated that this was correct.

Ms. Haynes stated that the [Bob White Club] website states that there will be no center fire cartridges on the range before 12:00 Noon. Ms. Haynes asked what center fire cartridges were? Mr. Edwards stated this is a cartridge that is commonly referred to for pistol caliber rounds. It is a cartridge that has a primer in the center of the brass. Any cartridge that has a primer in the center of the brass other than a rim fire. A rim fire is a 22 caliber bullet. It means the primer is on the rim of the brass so that when the firing pin hits the rim of the brass, it fires. A center fire cartridge would include anything greater than a 22 on up to shotguns/rifles, etc. Ms. Haynes asked if this meant it might mean louder. Mr. Edwards stated it could potentially, but there is a lot that goes into the ballistics and noise. To make a general statement like that is wrong. However, a center fire cartridge is louder than a 22 cartridge. That being said, it is legal for me to shoot on my property. There is no cartridge restriction for anyone in Campbell County. That is just a rule that Bob White Club has placed upon themselves. Ms. Haynes stated it is probably contributed to being a good neighbor.

Mr. Bachmann asked if there were any other questions for the applicant. There being none, Mr. Bachmann asked if anyone in the audience wanted to speak in support of the request. There being none, Mr. Bachmann asked for the sign-in sheet. Ms. Donna White, of 9385 Licking Pike, had signed in and approached the podium. Ms. White stated that a lot of her concerns have been answered. She was here to just find out what was going on. Her primary concern was for the livestock, but it looks like they have done a good job. Ms. White stated she has no issues or complaints regarding their request.

Mr. Everett Aldridge, of 1265 Poplar Ridge Rd, approached the podium. Mr. Aldridge stated that Mr. Edwards claims that the gun range is for his personal use. All you need is a hunting license. Mr. Aldridge asked why he kept giving information about the Bob White Club. Mr. Bachmann asked Mr. Aldridge what his concern with this request was about. Mr. Aldridge stated his was concerned about the use of the property down the road. Mr. Aldridge continued that he feels that Mr. Edwards is going to extend the use to a commercial use. Mr. Aldridge also identified that there is a watershed running across this property and doesn't want to see this watershed be removed. Mr. Aldridge is against this request being approved.

Mr. Kramer addressed the pond issue. The pond is coming out, but there is a detention basin going in above the current location of the pond and will pass through a pipe. Any future change to convert this private range to a commercial range would come back before the Board for their review and approval. Ms. Minter added that this pond is a man-made pond, not a natural pond.

Mr. Mason asked Ms. Minter if staff had reviewed or would be reviewing the grading and construction plans for this site. Ms. Minter confirmed that staff would be reviewing those plans. Mr. Bachmann asked what prevented the property owner from just moving dirt to build a berm and not request a conditional use permit at all. Ms. Minter stated that, because of the extent of his position as a national pistol competitor, staff advised Mr. Edwards to come before the Board and be upfront with the neighbors as to what he was planning. Ms. Minter commended Mr. Edwards for following this path. Mr. Bachmann stated that he could have just built a berm and shot on the property. Ms. Minter stated there were other issues with this site with respect to the building of the structure, but as far as shooting on his property, he is entitled to shoot on his property. Mr. M. Williams advised the Board that if the applicant wanted to shoot on his own property and bring friends, he would be allowed to do so. It appears to Mr. M. Williams that Mr. Edwards is bending over backwards to be safe and up front with what he is doing. Could you image if Campbell County Fiscal Court tried to implement restrictions on the firing of personal arms? There would have been an unimaginable uproar.

Mr. Bachmann asked the audience if anyone else wanted to speak regarding this case. There being none, Mr. Bachmann opened the floor for discussion among the Board. Mr. Verst started the conversation by stating that he appreciates the applicant's efforts. It looks like he has come a long way to do the right thing. Mr. Verst sees no reason to deny the request. He does understand Mr. Aldridge's concern regarding this conditional use. While the applicant is doing everything properly now, if we approve this request, we need to be careful that we have some conditions that prevents this property from becoming a nuisance in the future. If Mr. Edwards sold the property, the next owner might not be willing to comply with these same restrictions.

Mr. Verst reviewed the conditions made by staff. He feels it is very important to notate that the gun range is to be for personal use only. Mr. Verst stated that we have had discussion about the shooting times and we need to be in agreement on what that would be. In general, the applicant has done a very good job on this application. Mr. Verst appreciates that they go through this process to do things right.

Mr. Bachmann asked staff that since this was a choice by the applicant to pursue this conditional use, if at some time the conditional use was taken away, the gun range is on the property. The homeowners are allowed to shoot on their own property. If the permit were revoked, the Board would have very little authority to impose any repercussion on the property. Mr. Verst clarified that this permit was to protect the applicant from nuisance complaints since he would have a conditional use permit to use the range between the hours of 8:00 AM and sunset. If he were to start shooting for 6 hours straight at night, the neighbors would have a right to file a nuisance complaint. While if they were shooting during daylight, there is no nuisance to the community. We know what is going on there in case we have calls.

Mr. M. Williams reminded the Board that, if down the road the applicant wanted to convert the gun range to a commercial range, they would need a different conditional use permit. The Board would have the ability to deny the commercial use at that time. Mr. M. Williams does not have any concern or issues with this request. Mr. Bachmann asked if a commercial gun range could be established in this zone. Ms. Minter stated that it would require a conditional use permit. At this time, we are asking for a very narrow conditional use permit for a personal recreational shooting range. If it were to be made into a commercial use, the Board would be able to consider the conditions that they would need to impose to protect the general welfare of the community. Mr. Mason commented that if there were 15 different people down there shooting then they have gone beyond the context of personal use. Ms. Minter agreed. If the applicant violates the conditions imposed with this permit, staff would contact the owner to determine what was going on. There would be another public hearing so that the Board could review and determine if the permit needs to be revoked.

Mr. Verst asked if the request for additional time, changing the 12 months to 24 months, would be an issue for building inspectors or staff. Ms. Minter stated that staff does not have a problem with the request for extension of the normal 12 months period. Complex homes do sometimes require additional time and staff works with our citizens to resolve those types of issues whenever they can. Staff has a bigger concern with regards not permitting the range and the home at the same time. We want to make certain that the residence is built prior to the gun range becoming operational. Mr. Bachmann asked if staff wanted the permits or the actual structure. Ms. Minter replied that if they are permitted and under construction at the same time, there is a great indicator that the structures will be finalized together. If construction stops for a while and there is no weather issues involved in that, staff can contact them to find out what is going on. If they stop for too long, we may need to terminate the permit and have them reapply because they may be falling under a different building code regulation. As long as there is continual activity, we will continue to work with the applicant and see progress. We acknowledge there are seasonal variations and you may be waiting for something to be manufactured specific for your site. We are concerned and like to have the accessory structure as well as the primary structure occurring at the same time. Ms. Minter continued that she is aware of the applicants concern that the house and the gun range are both costly items and they are looking for flexibility with their finances to accomplish both items to the vision they have for this site.

Mr. Mason asked staff where they found the "6 foot evergreens" requirement. Is it in the zoning ordinance? Ms. Minter replied that this is a common landscaping that we usually request. Ms. Minter stated she was flexible with the height of the trees. She understands that you will need some trees for visual improvement of the lot, but trees are also a method to insure the sound mitigation. Ms. Minter has spent 20 years in acoustics earlier in her life. While she is not familiar with guns, she knows acoustics and how to mitigate sound. In order to effectively install sound mitigation, you will need a double row of pine trees that are fully grown and fully dense in order to get a 5 decibel reduction in the sound. It is going to be very difficult to get that with just a single row of pines. The applicant's plan to go with some smaller shrubbery that will eventually grow up and be the appropriate height is a good plan. Ms. Minter thinks he is going to get more sound mitigation with the berms that he has already designed and just let the vegetation grow. Ms. Minter is ok with the smaller tree.

Mr. Bachmann reviewed that, of the conditions requested to be placed on this approval, it appears we have come to some form of agreement on the conditions that the range be only for personal use; that there be no illumination of the range; that no signage be installed; and that the trees are required, but are not required to be 6 feet tall. Mr. Bachmann asked the Board what their concerns or issues with the request were. Mr. Verst wanted to know what the Boards comments were on the start time. Mr. M. Williams stated 8:00 AM start time at the Bob White Club would not work because they have the trailer park in close proximity. It's more an arrangement we have with the park. Mr. M. Williams commented that he did not know though if this would be true for this location. Mr. M. Williams stated he had no problem with the 8:00 AM start time. Mr. Bachmann agreed stating that, if we wanted to impose a 10:00 AM start time, the applicant can go to another location on this property and shoot because it is his right to shoot. Mr. M. Williams agreed and stated he did not feel the Board should penalize the applicant.

Mr. Verst proposed an alternate condition to the applicant. It appears that the berms and trees are there for sound mitigation purposes and not for visual buffering of the range. Mr. Verst is proposing "That the landscaping and berming be installed and maintained per the approved plan for the purposes of sound attenuation." This way there is no requirement for size or type of vegetation. Ms. Minter added that there are some serious slopes on this property and getting vegetation rooted and growing will take some effort. If it is a transplanted larger tree, this will be will be very difficult to do. Ms. Minter stated that she is very appreciative at the level of the drawings at this point. The applicant is still working through their design and the plans before the Board are very conceptual at this point.

There was general discussion among the Board regarding providing the landscaping. Mr. Verst wants to insure the applicant has flexibility as to the size and type of trees being used. He does not want the condition to be overly imposing to the applicant. At the same time, Mr. Verst wants to insure that adequate sound mitigation is provided. Mr. Edwards asked the Board to consider what types of sound mitigation and landscaping is required of other property owners when they shoot on their property. Mr. Verst stated that the conditional use permit is to protect the applicant from nuisance complaints, but at the same time the Board wants to protect the neighbors in this vicinity from the activity proposed.

Ms. Minter confirmed that the berming and distance are what will provide for sound mitigation not the landscaping or trees. Landscaping and trees provide visual mitigation. Mr. Verst asked if there was any benefit to the landscaping requirement. Ms. Minter replied that, for sound, the berming is much more important. Mr. Verst stated he had visited the site and you are not really going to be able to see the range, but they will be able to see the shed. With that being said, if planting the trees will not benefit sound mitigation, why is staff requiring it? Ms. Minter provided some information to give the Board some perspective. The human ear can hear a 3 decibel difference. You have 2 sounds that are 3 decibels apart, but they are going to sound almost the same. You have to get a distance farther than that to get the benefit of that difference. The dense trees that we are talking about will provide maybe a 5 decibel difference. Ms. Haynes asked if the recommendation was based upon the fact that there was a specification for gun ranges to have this requirement. Ms. Minter stated that we do not have specifications for gun ranges. This is something very unique. It is the first gun range request that Ms. Minter has dealt with.

Mr. Verst asked staff if a person came in and wanted to install a 6 X 8 shed if landscaping would be required for visual buffering. Ms. Minter replied that landscape buffering is required when you have 2 incompatible land uses. For instances, if you had a commercial business butting up against a residential zone, we would require 10 feet of dense trees to buffer the different uses. Largely, it is to put a visual buffering between the 2 properties and does not involve any sound mitigation. Mr. Verst proposed striking the condition. Mr. Edwards stated that his wife has asked that the landscaping be installed so that she doesn't look off the front porch and see the range. When it was proposed, it was because it was their personal preference to have the trees. They have ordered 1,600 trees. Ms. Haynes asked if they were 6 feet tall. Mr. Edwards replied they were seedlings.

Mr. Bachmann asked what the Board thought about the 24 month extension. Mr. Verst stated that if staff was not concerned, he saw no reason to be concerned with it. Mr. Verst proposed that the building permit for the home be submitted within 24 months of approval. The Board agreed. Mr. Edwards asked the Board to clarify that while he was waiting for the completion of the gun range and construction of his residence that he would be able to shoot on his land like any other resident of Campbell County. The Board agreed that was correct.

Mr. Bachmann asked if the starting hour had been resolved. Ms. Haynes stated she was ok with the proposed starting time if none of the neighbors seemed concerned by it. Mr. Edwards asked the Board to clarify if he was allowed to install safety signs around the gun range. Ms. Minter stated that staff preferred that the safety signs be installed. Staff just doesn't want any advertising signs that could be seen from the road.

Mr. Bachmann asked if there were any other comments or questions. There being none, Mr. Bachmann called for a motion. Mr. Verst made a motion on Case #BA-07-15, a request by Brandon & Melissa Edwards for a conditional use permit to build a gun range for personal use on the property identified as 9220 Licking Pike, to approve the conditional use permit subject to the following conditions:

1. That the shooting range only be operated between the hours of 8:00am and sunset.
2. That the range be for personal use only not for public or private memberships.
3. That the shooting range not be illuminated.
4. That signage visible from the road advertising the range not be installed.
5. That the conditional use action period be extended to 24 months to allow for a flexible construction schedule.
6. That a building permit application be filed for the construction of a single family home within 24 months of the completion of the range construction or the beginning of the range's operation.

Additional Points of Information for the Applicant:

1. The applicant must comply with all Campbell County Zoning Ordinance, Subdivision Regulations, Building Codes and Adopted Comprehensive Plan at the time of development.
2. The applicant must apply for and receive approval from the building department for structures that are built on the property.

3. The applicant must comply with the Hillside Development Control Regulations due to steep slope of 20% or greater.

The bases for his motion is the information provided in the staff report; testimony by staff, applicant and audience here tonight; and discussion among the Board. Mr. Verst additional made a statement that he feels that the application as submitted not detrimental to safety and welfare of the neighbors; provides a benefit to the community; and provides a safe atmosphere and location for the applicant to shoot. Mr. Bachmann called for a second to the motion. Mr. M. Williams seconded the motion. Mr. Bachmann asked if there were any discussion or questions regarding the motion. Ms. Haynes asked for clarification that the building permit for the residence would be submitted 24 months from the start of construction on the range. Mr. Verst corrected that the building permit for the residence be submitted within 24 months from the completion of the range construction or start of the range operation. Mr. Verst clarified that he does not want the range to left uncompleted for 5 years while they try to construct their home. Mr. Edwards asked if this meant he would be allowed to use the range while his home is under construction. The Board agreed. Mr. Bachmann called for a roll call vote. A roll call vote found Ms. Haynes, Mr. Verst, Mr. J. Williams, Mr. M. Williams and Mr. Mason in favor. Mr. Bachmann abstained. Motion passed.

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

DIRECTOR'S REPORT

Ms. Minter passed out two articles that were brought to her attention regarding issues for which the Commission or Board had previously indicated they would like additional information. One article pertained to "Commission Wars". It discusses how to handle conflicts that may arise at public meetings. The second article was "Sign Regulations" and it was a brief summary of the changes brought about by the Supreme Court ruling on sign regulations. Ms. Minter encouraged the Board to read this article carefully as Campbell County has been waiting for this decision to be published so that we can rewrite our sign ordinance.

Ms. Minter informed the Board of training opportunities coming soon that may be of interest. The Campbell Conservation District's Farmland Work Group will be presenting a training event on November 11, 2015 from 8:15 AM to 4:00 PM regarding Farm Estate Transition Planning. Campbell County Planning & Zoning in cooperation with PDSKC will be offering a lunch and learn session on November 13, 2015 from 12:00 to 2:00 PM providing training on the use and features of Link-GIS. Both training opportunities are open to the public and will qualify to meet the continuing education requirements of HB 55.

Ms. Minter asked the Board to join her at the November 4th Campbell County Fiscal Court meeting to recognize David Schaber and the presentation of the World Planning Day Proclamation declaring November 8th as David Schaber Day. Mr. Schaber served 35 years on the Board of Adjustments and 25 years on the Planning & Zoning Commission. He has served as a mentor to many of our current Board Members and Commissioners. Campbell County recognizes and appreciates the years of service that he has faithfully provided and wishes him well in his new endeavors.

Ms. Minter had no other items for discussion, but advised the Board they would be meeting in November to hear a request that was 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. M. Williams made a motion to adjourn. Mr. Verst seconded the motion. An oral vote found everyone in favor, none opposed. Motion passed. Meeting adjourned at 9:17 PM.

Prepared by:

Cynthia Minter
Director

Approved:

Scott Bachmann
Chair