

TRIPLE S BOARD OF ADJUSTMENTS & APPEALS

AGENDA

January 26, 2023

7:00 p.m.

Stratton Community Center

215 Washington Street, Shelbyville, Kentucky

CALL TO ORDER

GENERAL BUSINESS

1. Approval of the December 8, 2022 Meeting Minutes
2. 2023 Election of Officers

NEW BUSINESS

1. **Interpretation – 993-01-23 – 563 Frankfort Road – Shelby County** – Administrative Official request for an Interpretation for compatibility of a non-conforming use (Welding Shop) to another non-conforming use (Repair Vehicles & Various Mechanical Equipment) per Section 520.e of the Shelby County Zoning Regulations. The property is zoned Commercial (C) & Residential (R).

ADJOURN

**Reminder: Next Regularly Scheduled Meeting of the Triple S Board of Adjustments and Appeals will
March 30, 2023 at 7:00 p.m.**

TRIPLE S BOARD OF ADJUSTMENTS & APPEALS
December 8, 2022
Meeting Minutes

Members in Attendance: Wayne Long, Joey Budd, Lisa Bolin, Doyle Mayton, Matthew Page, Darren Wills, Josh Hurst

Members Absent:

Others in Attendance: Stuart Ulferts, Board Attorney, Ryan Libke, Executive Director, Michael Firkins, Planner/Zoning Enforcement

Call to Order

Chairman Wayne Long called the December 8, 2022 meeting of the Triple S Board of Adjustments and Appeals to order at 7:00 p.m.

Approval of the October 27, 2022 Minutes

Mr. Wills made a motion to approve the minutes.

Ms. Bolin seconded the motion.

Motion Carried (6-0)

OLD BUSINESS:

Docket #979-10-22 – Variance Request – Robert W. & Judy L. Allen – 1006 Bagdad Road – Shelby County

Mr. Pruitt: Here to pick up the variance for recording.

Mr. Libke: They dropped off the plat today; they got the signatures from the water company to release that easement that was along the west property line. They also have redrawn the north property in the back top to adjust that line for that building is twenty-five feet, so, basically that variance now is not needed. Once this gets recorded that line will now make that structure twenty-five feet, but the west property line would still require a variance, but there will be no easement, when this gets recorded now you have some allowance there.

Mr. Wills: So, the side variance we need to approve?

Mr. Libke: Correct. You still have structures that are too close to the western property line, I think the closest one was eleven and a half feet.

Mr. Hurst: So, the thirteen-and-a-half-foot variance is what we are looking at?

Mr. Libke: Correct.

Chairman Long: Anyone from the audience wish to comment on the variance request?

Mr. Ulferts: I think whomever makes the motion to amend that motion, there should be included in the motion a contingently that the plat is recorded as presented to the commission office, because the whole point here

was there would be easements that, if they exist, could constitute in the legal approval, and that is what we are trying to avoid. So, just make sure that the approval is contingent on the plat as presented.

Chairman Long: Anyone from the board have questions or comments?

Mr. Hurst: The section in the application that says, Mr. Allen constructed several accessory buildings over the current zoning lines. Do we know if we approved others that were out of compliance?

Mr. Firkins: None of those buildings have been permitted.

Mr. Wills made a motion to approve the thirteen and one-half feet side yard setback variance to allow the existing structure to be eleven and one-half feet from the side property line, contingent that the plat is recorded as presented.

Mr. Page seconded the motion.

Motion Carried (6-0)

NEW BUSINESS:

Docket #987-12-22 – Variance Request – Southern Petroleum Inc. – 1536 Midland Trail – Shelbyville

Mr. Tyler Sikkema, C & B sign Services. I am representing Southern Petroleum. So we are requesting to have permission to have two of these BP fascia signs on the north and west side of the canopy already, and I am requesting that we can install a third one on the east side of the canopy. It is part of BP's regular standards to have three of these signs on part of the canopy, and we want to fulfill that requirement. There is also no identification on the west side of the canopy, well currently, but if we don't approved, there won't be as well we like people to look up on the canopy and see this is a BP, this is somewhere we can go and get our gas.

The canopy is an existing surface so putting a sign there; it is not like we are erecting a new structure to put the sign on. It would look better if the sign was not there, it would look more symmetrical with the front side, and the other side is really able to put that BP branding on that side of the canopy.

I also know that a competitor down the street, I think they have three canopy signs, and I think it would be appropriate in Southern Petroleum would have the same branding as opposed to having branding on all three sides of the canopy.

And from the Togo sign on the center of the building, that is also a BP requirement, and there is no sign currently on the building and it appears that. I think a sign would kind of help say this place is open, this place is ready to serve these customers, and it would be a little bit more inviting. And as well at the Speedway, I think has three or four signs attached to the building and we just like one in this situation. It is also an existing surface, and so it is not like we are creating something new to put this sign up. We are taking something that is empty and put in some branding lines on it for the people to know we are open and ready to serve you.

Chairman Long: Any questions or comments from the Board?

Mr. Mayton: Is there already a sign on the side of the canopy towards Long John Silver's?

Mr. Sikkema: I don't believe there is, I believe there was a variance request to have a second sign that was granted, but no, I don't think there is a sign on that side.

Chairman Long: We will come back to the Board in a minute. Anyone from the audience have any comments or questions? Board we will come back to you then.

Mr. Sikkema: Right there on the left elevation it will show that there are no existing signs on the left side of the canopy or east side there.

Chairman Long: Any additional comments or questions, from the Board?

Mr. Hurst made a motion to approve the sign variances to allow two additional fascia signs on the west side of the canopy and the entrance in the building, based on the fact this will allow better visibility, and will not affect the character of the area, and similar businesses having similar signs.

Mr. Mayton seconded the motion.

Motion Carried (6-0)

Lady in the audience: Asked about the reason of the withdrawal of Docket #988-12-22-Zaring Mill Landing, LLC, and 4210 Zaring Mill Road.

Mr. Libke: The applicant sent in a request to have it withdrawn off the docket, so they have withdrawn their application, if they want to come back, they will have to go back through the procedure.

Docket #989-12-22 – Conditional Use Permit – Jonathan & Amber Poyser – Henry Smith Road – Shelby County

Jonathan Poyser: Mark Amber and I own an eighty-three-acre farm on Henry Smith Road in Simpsonville, and we are presenting for consideration, by the board this evening, a Conditional Use Permit to allow us to erect approximately thirty-five hundred square foot wedding venue facility that will provide services to approximately 250 guests on our property.

The basic property outline here, as well. There are some pictures of the structure that will be built.

I am happy to answer any questions.

We are more than happy to comply with the Conditional Use Permit conditions, such as music at 11 p.m., 250 maximum guests, and happy to provide a copy of the insurance as necessary.

Mr. Wills: Is it 24 hundred feet from Fisherville Road?

Mr. Poyser: Yes.

Mr. Wills: How far down the road is it from highway 148?

Mr. Wills: Do you know if there have been any road studies done, to see if there is room when passing that many cars?

Mr. Poyser: It is approximately eighteen feet wide.

Mr. Wills: I am just wondering, if you had 250 guests, that would be at least well over a hundred cars coming in at one time. I wonder if there were any road studies were done that road can handle that kind of capacity.

Mr. Poyser: I can't answer the question; I don't believe there has been any road study done.

Mr. Wills: Is it something that is available, that can be done?

Mr. Libke: So, under the ordinance, the zoning regulations a study would not be required in this instance.

Mr. Wills: Because of the certain number of cars?

Mr. Libke: No, it is required because you have to study the peak hour, the peak hour days is Tuesday through Thursday only. These events would probably only take place on Friday, Saturday or Sundays, and in the peak hours you have to have coming out at that intersection of Henry Smith Road twenty-five peak hour trips, in and out. These events won't take place during the peak hours, peak hours in Shelby County is typically between seven and nine, and four and six. So, what they did they and what they would have studied this intersection. And that is what they studied. The level of service for that intersection would determine the delay pulling out onto Fisherville Road, and so, that will service anything from an E all the way up to an A is acceptable, you have to at a F to be a failing, and that is typically a long delay of so many seconds, and that is what they would look at, and in this case it does not meet the criteria, because of the peak hours.

Ms. Bolin: That road is really narrow, is there enough room for two cars to pass? That is my biggest concern.

Mr. Poyser: In my experience, there is enough room to pass two cars on the road.

Mr. Wills: Do you have a specific game of operations that you would adhere to day of the week or, weekends?

Mr. Poyser: It is probably going to be a Friday, Saturday or Sunday operation for wedding venues. That is not to say there might be chance of an event for holidays during the week.

Mr. Mayton: Are you all going to build out there; are you preparing to live there?

Mr. Poyser: Yes right across from it.

Chairman Long: The slide that we showed earlier, where the blue line indicated; did you say the property just to left of the blue line is also owned by you all?

Mr. Poyser: Yes, that is correct.

Mr. Hurst: On this rendering, that you were showing a minute ago, is it on the property line.

Mr. Poyser: The location of the building would be in this area.

Mr. Hurst: Do you have access to city water on that property?

Mr. Poyser: Yes.

Chairman Long: Any other questions from the Board; anyone from the audience wish to speak?

Steve Brangers: My main concern is, we live on the front side, on the left of this property. And one concern is the road itself. If we throw a hundred cars in there at a time, it will be tight, would there ever be possibility that road could be expanded? That would be a question. As far as the location, I do not really have a problem with. The only other thing I have a question about is our daughter got married off 148 there is a barn and they set the time frame for music at 10. So, I just had a couple of concerns.

Mr. Hurst: What should we consider in regards to the roadway and the size of it?

Mr. Ulferts: Public health safety and welfare is the number one.

Mr. Libke: That is one of the questions I would have for the applicant; you stated the road is approximately eighteen feet, did you actually measure the road and is that.

Mr. Poyser: Yes, the area that I measured has been eighteen feet and, there are some that are actually wider than that in some areas. Again it is only 2500 feet back there; it is not very long to get back to that area. There is really not that much traffic on this road.

Mr. Page: What type of parking, in a field or asphalt, drive way?

Mr. Poyser: Yes, initially there will be drive way parking area, which is adjacent to the building itself.

Mr. Libke: The size of the building, so what will have to happen is you will have to submit a development plan for review when you go to construct all of this and develop it, for review by the planning commission, if it is approved first. Through that review process we will review parking standards to make sure the zoning regulations of the county is being adhered to. You will have to pave according to the regs, especially the handicap spaces all have to be paved. That is a building code requirement, poured concrete. We will have to review all that and look at the change and the Purvis surface and storm water runoff and all that will go through, lighting all that will have to be reviewed by the planning commission.

Mr. And list those as specific things.

Mr. Libke: If you want to set additional standards, you can.

Unknown: We need to put something in there like you said, for example the handicap spaces must be paved.

Mr. Libke: No, that is all code requirements. When they come to permit, they will have to check all the boxes, that they comply with all those building official when they do the CO, they will have to make sure they comply with the building codes.

Ms. Bolin: Asked about the number of guests.

Mr. Poyser: 250 guests are ideal.

Mr. Libke: Let me ask a question on that, you said the building was going to be 3500 square feet? I was wondering if you had met with the fire marshal, and any discussions on how many occupants you can have. I am not sure what the load allowance is for that size building.

Mr. Poyser: We will make sure it is the right size.

Chairman Long: Are there any conditions you would like to see?

Unknown: I have not see any conditions that you referenced, Ryan.

Mr. Long: These are conditions that we typically allow.

Unknown: The neighbors have they all been notified?

Mr. Libke: They have all been notified. There is one that came tonight and spoke.

Ms. Bolin: Asked about the conditions.

Mr. Libke: Yes you are holding your hearing right now, the chairman has already offered the public a chance to speak.

Jamie Reid: The gentleman that spoke earlier he had mentioned ten o'clock. Has the board approved different time frames like that for when the music to stop?

Mr. Libke: They are just what have been done, in the past; they have not set conditions yet.

Mr. Wills: Read a list of previous conditions that have been set in the past.

Chairman Long: Board is there other conditions you want to consider? If there aren't any then we need to vote on the conditions that are in place.

Mr. Ulferts: You are here to determine whether to grant a conditional use permit. A conditional use is a condition of use that the zoning ordinance says is possible, but may in fact require certain oversight, and not be appropriate in every instance in that zone. Any approved conditional use must meet the following criteria, it is something that would promote the public health safety welfare, but could impair the character of the zoning which it is located, unless restrictions and location size, and stint of character and performance, just means limitations on what that person can or cannot do with that condition, beyond the regular zoning conditions. Now, what are the regular zoning conditions? Ryan just spelled one out. If you build a structure, and that is part of the proposal before you, that structure has to meet requirements and will actually have to go before the commission for approval. In you process consideration you may impose any conditions that you feel would promote the public health safety and welfare of the community with the surrounding area, for the zone itself, were you, in fact approve these. So, the ball is pretty much in your court, it is pretty vague, it is not vague it is just open. I would not suggest that you make conditions that he paved the whole road, for instance, that would be to conferring a bad fit to other people that aren't before you, to widen the whole road. You can certainly limit, and as Ryan has pointed out in these examples, in the past the Board of Adjustments has put limitations on the hours of operation, that a copy of the rental agreement is on file so, we know exactly what he is demanding of his renters, his customers, etc like music and whatever.

I think what your question was about how do you make a motion; the motion should include the conditions.

Mr. Ulferts: But it is your conditions, he is just putting out some examples.

Mr. Mayton made a motion to approve the Conditional Use Permit with the following conditions:

1. All activities shall end by eleven.
2. Rental Agreement copy for the record.
3. Any proposed lighting shall comply with the Shelby County Zoning Regulations; Meet all fire, State and Local building codes.
4. Maximum of 250 occupancy.
5. The Conditional Use Permit well be null and void if the property is sold.

Mr. Page seconded the motion.

Motion Carried (6-0)

Docket #990 -12-22 – Variance Request – Marvin & Brittney N. Hedge – 200 Lansdowne Crescent – Shelby County

Todd Butler: Frankfort, KY. This property is the very back corner. The proposed building side is in a heavily wooded area. The back corner there was surveyed in 1945, the setback currently is 25 feet. So, the back corner is five and a half feet too close to the property line. The problem with the way the building is setting, We got sixty feet, it is a 48 wide building with a twelve feet porch on that side and about ten feet on that side, the ground just drops about ten feet. So, the customer has been bringing dirt and so number one if that hill rolls the erosion will come back under the porch. If we move that building south, that is just an extra expense. You still have another close to ten feet to build out there. Part of that is for our safety. The reason we are asking for a variance is for future security of the building.

Mr. Wills: Can you point out where it is on the aerial?

Mr. Firkins: I will show you where it is on the aerial.

Mr. Hurst made a motion to approve the variance request.

Mr. Mayton seconded the motion.

Motion Carried (6-0)

Docket #991-12-22 – Variance Request – Vimsha Properties, LLC – Clubhouse Drive – Shelbyville

Adam Bender: CMW Design Professional. What we are proposing is a new hotel, four stories, generally in an X-1 zone. Currently new hotels this one is zoned X-1 to allow 36 feet or three stories. We would like a fourth story, because of the number of suites. So, we are proposing 84 suites for this. We are going to be providing enough parking for that. Regulations state they have to have one parking space per suite. We have 23 suites on the fourth floor and so the difference between meeting regulations of three stories versus four stories is the difference of 61 suites and 84.

So, it really comes down to feasibility of cost versus benefits, in order to get that number of suites we have to go to a fourth floor. In order to get the number of suites, we have to go to a fourth floor based on the size of the lot, which is a fairly square lot and for a typical building shape is usually a lot longer, so we actually we had had to remove several suites and make it shorter in order to make fit and meant making it taller.

Mr. Bender: Explained the standards. branding standards, for instance the top of that peak is 62 and one-half feet, and that is the highest point on each side it slopes down, I want to say at the end of this is 51 and a half feet. That distance is now going down to the roof is completely, I will have to check the short two feet and I

So really this is a two piece, and the reason for the variance is the fourth floor in order to make this project feasible at all, and then second one is 48 feet of 62 and one-half feet, so really this is.

Do you mind if I show the elevation?

Mr. Libke: We are passing it around.

Mr. Hurst: It does say on this page here too that the height of the building facing the residential property is 47 feet and 8 inches.

Mr. Bender: This site is mostly surrounded by commercial properties, with the exception of the rear and north there are some residential, single-family multi-family residential. The way we have this building oriented is very respectful of that residential area. We are not going to have any signage on the rear side of the building. One sign, but the lighting will face into the property and will meet all regulations and properly shield, and in the rear, there is no parking, there is a green space, a gazebo, f, and plants, because we do have road frontage on three sides, it will be properly screened. We plan on meeting all the necessary regulations, parking, height area.

Mr. Wills: I guess my concern is regulations vary all the time and a lot of times we deal with some grey areas. I also noticed that at our other exit we have four stories.

Mr. Hurst: The one in Simpsonville?

Mr. Wills: The one next to Cattleman's.

Mr. Libke: That is three stories.

Chairman Long: Asked about the interchange zoning.

Mr. Libke: It is a zoning classification, they have 3 interchange zones, each one has different allowances IC, X-1, and X-2. X-2 is a little more intense it allows for some industry. It is all in your regulation book.

Chairman Long: Any public comments from the audience?

Ted Kuhn: I live at 174 Clubhouse Drive. I am a member of Fairway Crossing Association, even though we only have two of our members that are really affected by the hotel. We are glad to see somebody bought those lots. But, my concern is Fairway Crossings in the back of the hotel is there an exit on Fairway Crossing?

Mr. Bender: Yes we have one entrance and it is on Fairway Crossing, across from the fire station.

Mr. Kuhn: The second question I have for you, are you planning on licensed this as an actual hotel.

Mr. Bender: We are not, but we are willing to do that.

Mr. Kuhn: You mentioned something about the fire pits and so forth, I thing about noise, music, noise, anything like that going after ten o'clock at night.

Mr. Kuhn: The owner is here he owns several hotels; he might be able to speak to that. There is a small gazebo in the back for the people staying there, I would say because the grade is going to be about eight to ten feet lower than the road, and there will also be screens, a small amount of trees and shrubs basically three to four feet tall, it is going to be screened, certainly, if there needs to be a time issue with that out there.

Mr. Kuhn: Think about a privacy fence it would help, because most of those residents are seventy, eighty, and ninety years old and much to your surprise a lot of them are still driving. We are just thinking about those people; we are just happy someone is finally going to use that field. The city did put some little parking signs up to keep the truck traffic off the Holiday Inn there.

Chairman Long: Asked Mr. Kuhn to repeat the questions that he asked?

Mr. Kuhn: Exit off that side, second one was a privacy fence; third one was no music and noise and, so forth after ten o'clock, because of the residents there.

Mr. Libke: We don't have that authority to restrict time on that stuff. You have to check with the City, that is a city ordinance. This Board here tonight is here to look at the height, if they were to purpose a three story hotel there would not even be a meeting on it.

Mr. Hurst: I just have a quick question about the fence versus the buffer because you had mentioned the buffer with trees or shrubs, if you are saying there is roughly a ten feet height difference between the back of the hotel and the roadway, if you are planting shrubs there, I guess my question would be, if there are shrubs or trees along the back property tree line, my question then would be do we need to add a fence on top of that?

Mr. Libke: They can plant some requirements around the site based on the regs.

Mr. Wills: Really the only thing we have to consider is the building height.

Mr. Libke: Is the fence going to cover the height of the building? That is the question I would ask.

Mr. Raj Krishnani: Made a speech about the hotels that they build.

Mr. Libke: Explained about the fire department and typically height requirements of building in communities are derived around your fire apparatus. So, typically a lot of your smaller communities don't have the larger trucks that can reach as high and handle a tall structure. As far as I know this has been in there since 1994 going back to previous regulations before that, there are some districts that had that height requirement, but like the IC zone and that old commercial zone and all that in the city also allowed some that was fifty feet tall structures. It is just what they decide on, there is really no reason that I am aware of. It is probably about safety health and welfare.

Mr. Hurst made a motion to approve the twenty-six and a half feet height variance request to allow the hotel to be sixty-two and a half feet in eighth, based on this request, there is no issue on public health safety. The fire department is able to service the area with their resources and allows them to reasonably use the land.

Mr. Page seconded the motion.

Motion Carried (6-0)

**Docket #992-12-22 – Amended Conditional Use Request – Kentucky Equine Hospital LLC – 9460
Shelbyville Road – Shelby County**

Adam Bender: We were here right around this time last year and had a Conditional Use approved the existing hospital. We had four approvals for design, ready to break ground and the cost was too high. The biggest cost was because it was addition to an existing building ninety square footage. We had to put in a sprinkler system, and it was a very hard cost, not just because of the existing structure, but the remodeling and so we had to trash the project different options and y finally arrived at a new design that we feel will work to meet the owners needs to expand this hospital to provide service in the area.

And being able to keep the cost reasonable, this is going to be a two-phase project, behind the green space expansion, the physical therapy area, this will be phase two, but this first phase will involve grading in the area sites of the infrastructure in the second phase. I am sure it is going to come fairly close behind phase one.

There are the some site improvements that you saw the last time that we are still hoping to do with this one. One building are our trailers and this is our horse barn, the drop-off is to the left, they have done two lanes versus entering Shelbyville Road, will run right next to the hospital and Colt Run Road. There are times when they have two trailers at one time, which blocks the drive, so, we are hoping to expand that to create a third lane, and people would be able to bypass around them as need be. We also have some parking and with this new expansion you can see that there is a drive all the way around the building. That is being driven by meeting FDA guidelines that we do not have a sprinkler in the building. So, we are going to be adding some fire hydrants, for sure, and this is all be a fire safety access road so that the fire department has access on the sides of the building. It meets the requirements, as far as, the distance is twenty feet between the drive and the building ,and it will be properly designed to handle the road for a fire truck.

There are some issues with the site, but I think we can overcome them with looking at this with the owner, even with that the cost is still not going to be what we looked at originally.

This will be a build condition, and second is there is an existing septic field in the area, that we have been working with the health department to relocate, and that is going very well, so, we are relocating. The nice thing about that this hospital room when expansion in 2014, what they did was rather than add on to the existing septic field there, they created a second septic field, which since then has caused some issues, and that has caused a lot of maintenance, and people don't generally maintain our septic fields as well as they should. It is really going to help people getting of that septic system a little better than what they have right now.

Mr. Bender: This is what the facility is going to look like, and we went back and forth with the owner, as far as, does he want a more traditional look or does he want a modern look, we want to go with this more modern look, and hopefully this will set the stage for the future. It has got the logo on the side, it is a nineteen-foot-tall building, not nearly as tall as a hotel. It is a nice clean look, parking in the front, everything will be paved properly, landscaped properly, lighting if required in an agricultural zone. We will meet all the requirements.

Chairman Long: Board any questions on this; any questions from the audience?

Barbara Jackson: 9770 Shelbyville Road: noted she is opposed to the Amended Conditional Use Request.

Mr. Libke: To amend what they were approved for a year ago, everything that they had shown on that plan to this new plan. You can see that they are adding on to the existing barn, Equine Center to the west, adding on the east side. There are improvements along the front of the property for parking and a drive lane around that new addition. But, now what you have got is instead of adding on the building on the east side of the property still do parking up along US 60. Does that drive exist or is that a new drive off Colt Run there, is there a drive there, Adam, straight in the middle?

Mr. Bender: that is an existing drive.

Mr. Libke: That is an existing drive.

Mr. Hurst: The way the building is proposed now is in that area, where it is mainly pasture on the east side of the property. That is a dairy area.

Mr. Libke: So, really the change from the amendment, you look at the plan, is they are adding on to build a new building on the east side of the property. There is a barn on there as well.

Mr. Mayton made a motion to approve the Amended Conditional Use Permit request.

Mr. Bender: based on this lady's testimony it is on the east side where Colt Run comes out, it is very narrow down there, and could we ask them if they would go down and go west where the road is very wide where it meets Shelbyville Road where it would possibly not have those travelers going off into the dirt since it is a lot wider on the east end of Colt Run and Shelbyville Road. Is that something you could do?

Mr. Hurst: So you are saying, when they come out of that back entrance.

Mr. Bender: They turn towards Simpsonville and then they enter Shelbyville Road on the Simpsonville side.

Mr. Hurst: It would be easier on that east end of Colt Run for trucks turn back left, if they are west bound or east bound they have more room to swing around down on that eastern exit.

I am not opposed to signage, my one question would be once they are at the trailers east, and some of them are heading back to Louisville.

Mr. Libke: There is a lot more pavement at that intersection than is at the west end.

Mr. Mayton amended his motion to include conditions that the signage says trailers must turn east to direct traffic on Colt Run Road.

Mr. Page seconded the motion.

Motion Carried (6-0)

Meeting adjourned at 8:42 p.m.

Submitted By: Juanita Stivers, Receptionist

Approval Date: _____

Motion By: _____

Seconded By: _____

Secretary/Treasurer: _____

Triple S Board of Adjustments and Appeals Variance Staff Report



Date: January 26, 2023

Docket Number: 993-01-23

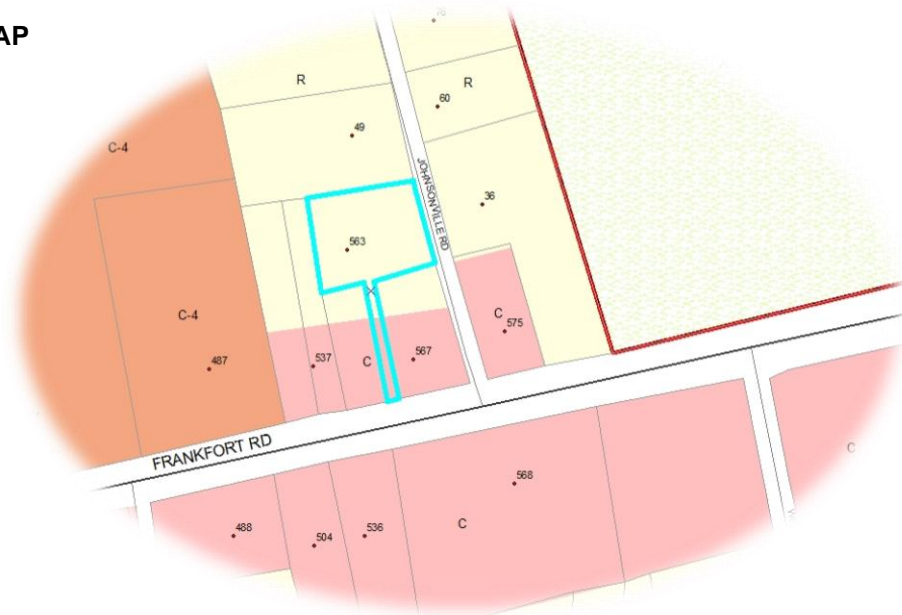
Purpose:

Administrative Official request for an Interpretation for compatibility of a non-conforming use (Welding Shop) to another non-conforming use (Repair Vehicles & Various Mechanical Equipment).

Background:

The property at 563 Frankfort Road has been used as a welding shop (Ellis Welding & Brazing Co.) dating back before zoning being adopted in Shelby County in the year 1961. The property is zoned both Commercial (C) and Residential (R). The welding shop lies within the Residential (R) zoning.

ZONING MAP



AERIAL PHOTO



Zoning Regulations:

Article V – Nonconforming Lots, Structures, and Uses

Section 520 Nonconforming Uses of Land and Structures

Where, at the time of passage of these Regulations, the lawful use of a building or premises exists which would not be permitted by the regulations imposed by these Regulations, the use may be continued so long as it remains otherwise legal with the following limitations:

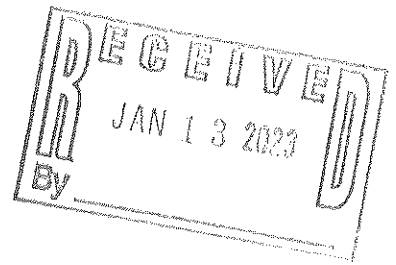
- a. A non-conforming structure shall not be enlarged, replaced, or structurally altered except in conformance with this order. Any structure, however, may be restored to a safe condition if declared unsafe by the Administrative Officer or another official with jurisdiction.
- b. A non-conforming use shall not be re-established after discontinuation for a period of six (6) months unless it is determined by the Board of Zoning Adjustment that the proposed use is of a similar or less restrictive use and that the proposed use will be of benefit to the neighborhood. Vacating of premises or building or non-operative status shall be evidence of a discontinued use.
- c. Except as provided in Section 905 (4), for Article IX, a non-conforming structure damaged to an extent greater than fifty (50) percent of the current replacement value may be repaired and restored only to a structure and use conforming to the provisions of these Regulations; provided, however, that a nonconforming residential structure may be rebuilt in the same general yard area if such damage is due to fire or natural causes and if rebuilt within twelve (12) months of the date of damage. Manufactured and certified mobile homes are only to be placed on lots in conformance with Article IX. Restoring to a safe condition of any structure declared to be unsafe by any public official shall not be prohibited by these Regulations.
- d. A non-conforming or non-certified mobile or manufactured home, as defined in Article IX, shall not be sold for use upon the same property or re-rented unless and until it is upgraded to the standard required for the zone in which it is located.
- e. A non-conforming use may be changed to another non-conforming use which is less compatible with permitted uses, but it may not be changed to a less compatible use. The Board of Zoning Adjustment and Appeals shall rule on compatibility upon application by the Administrative Official for an interpretation. A non-conforming use may be changed to a conforming use.
- f. An owner claiming a continuing non-conforming use shall bear the burden of showing that said use was in existence as of the effective date of these Regulations and has not been discontinued for a period of one (1) year since the said effective date. An owner may register a continuing non-conforming use with the Administrative/Enforcement Official within twelve (12) months of the adoption of these Regulations to establish that said use was in existence as of the effective date of these Regulations.

Board Duties:

Rule on the compatibility of a welding and brazing shop and automobile repair and repair of various mechanical equipment.

Attachments:

1. Gribbins Letter dated January 12, 2023



January 12, 2023

Mr. Ryan Libke, Director
Triple S Planning and Zoning Commission
419 Washington Street
Shelbyville, Ky. 40065

RE:563 Frankfort Road
Shelbyville, Ky. 40065
PVA Parcel No. S11-06-027

Dear Mr. Libke,

We are currently in the process of trying to purchase the property known as Ellis Welding and Brazing Co. located at 563 Frankfort Road, Shelbyville, Ky.

This business was started in the 1950s and was grandfathered as a nonconforming use when the Triple S Planning and Zoning Commission was established in the early 1960s.

We would like to continue to do welding work but we would also like to be able to repair vehicles and various mechanical equipment for ourselves and customers.

Respectfully,

Jerry and Susan Gribbins

Handwritten signatures of Jerry and Susan Gribbins. The signature for Jerry is written in a cursive style, and the signature for Susan is written in a similar cursive style below it.