

Taylor Mill Board of Adjustment Meeting
Thursday, January 7, 2016
7:00 p.m.

Agenda

1. Roll Call
2. Confirmation of Quorum
3. Election of Officers
 - a. Chairman
 - b. Vice-chairman
 - c. Secretary
4. Adoption of Minutes
5. Public Hearing BOA1512-0002
 - a. Confirmation of Notification
 - b. Declaration of Conflicts
 - c. Declaration of Site Visit
 - d. NKAPC Staff Report
 - e. Comments from Applicant
 - f. Comments from Proponents
 - g. Comments from Opponents
 - h. Discussion by Board Members
 - i. Motion/Second Regarding Findings of Facts
 - j. Vote
6. Adjournment

**Taylor Mill Board of Adjustments
Regular Meeting
January 7, 2016**

Chairman Lucas called the meeting to order at 7:00 p.m. The City Clerk called the roll.

Chairman Lucas	Here
Mr. Fuller	Here
Mr. Meyer	Here
Mr. Osterhage	Here
Mr. Singleton	Here

Chairman Lucas stated that a quorum was present.

Mr. Osterhage made a motion to accept the minutes from the October 23, 2014, Board of Adjustment meeting as submitted. Mr. Singleton made a second. The City Clerk called the roll.

Mr. Osterhage	Yes
Mr. Singleton	Yes
Chairman Lucas	Yes
Mr. Fuller	Yes
Mr. Meyer	Yes

MOTION CARRIED

Chairman Lucas made a point of order that the Board needs to elect new officers for the new fiscal year. Mr. Osterhage made a motion for Chairman Lucas to continue as Chairman. Mr. Meyer made a second. The City Clerk called the roll.

Mr. Osterhage	Yes
Mr. Meyer	Yes
Chairman Lucas	Abstain
Mr. Fuller	Yes
Mr. Singleton	Yes

MOTION CARRIED

Chairman Lucas made a motion for Mr. Osterhage to continue as Vice-Chairman. Mr. Fuller made a second. The City Clerk called the roll.

Chairman Lucas	Yes
Mr. Fuller	Yes
Mr. Meyer	Yes
Mr. Osterhage	Abstain
Mr. Singleton	Yes

MOTION CARRIED

Mr. Fuller made a motion for Mr. Singleton to continue as Secretary. Mr. Meyer made a second. The City Clerk called the roll.

Mr. Fuller	Yes
Mr. Meyer	Yes
Chairman Lucas	Yes
Mr. Osterhage	Yes
Mr. Singleton	Abstain

MOTION CARRIED

PUBLIC HEARING

Chairman Lucas stated the purpose of the meeting, and reviewed for the applicant the procedure process.

APPLICANT: CARDINAL ENGINEERING PER JEFF FLAHERTY ON BEHALF OF CHRISTOPER G. KLENSCH

LOCATION: 5347 Old Taylor Mill Road (Pride Parkway); an approximately 4.95 acre area located on the west side of Pride Parkway, between Lakewood Drive and Wayman Branch Road, approximately 500 feet south of Lakewood Drive.

REQUEST: To seek a change in the status of nonconforming use in the R-1D Zone; the applicant proposes to change a portion of the property currently used by a construction company for a shop facility and outdoor construction yard to an automotive repair and sales business.

CONFIRMATION OF NOTIFICATION: Chairman Lucas stated that all interested parties had been notified of the meeting and packets sent out.

DECLARATION OF CONFLICTS: None

DECLARATION OF SITE VISITS: No specific site visit but Board of Adjustment Members are familiar with the site.

Chairman Lucas gave a brief explanation of the process of the hearing for everyone present.

STAFF REPORT AND REVIEW: Planning Development Services Planning Manager, Andy Videkovich presented and read aloud the professional staff report, which had been previously distributed to all board members. He went over in depth the site description and zoning requirements. (see attached report)

STAFF RECOMMENDATION: Favorable recommendation on the request to change the status of a nonconforming use in the R-1D Zone; the applicant proposes to change the property currently used by a construction company for a shop facility and outdoor construction yard to an automotive repair and sales business, subject to the following conditions:

1. The business hours will be Monday through Friday 9:00 a.m. until 5:00 p.m.
2. All repair work being performed will be inside an enclosed structure.
3. Only cars that are currently under repair or are for sale will be stored on the property.
4. All cars being stored on the property will be within the existing fenced area.
5. The site meets the minimum requirements of Section 11.1 for off-street parking.

Mr. Osterhage asked for further details on the sales aspect of the business.

Mr. Videkovich stated the sales will be on the existing off street parking area. Mr. Videkovich stated the applicant can elaborate on that more.

Mr. Osterhage asked for further details on the results or discussion from their first option of rezoning the property.

Mr. Videkovich stated from KCPC's standpoint, there was not enough land to create a freestanding zone. Mr. Videkovich stated the property is 4.95 acres and you need 5 acres of land. Mr. Videkovich stated the entire area is zoned for residential use. Mr. Videkovich stated with a zone change it must be consistent with the comprehensive plan. Mr. Videkovich stated the Planning Commission did not make those findings.

Mr. Meyer asked how staff determined vehicular traffic would be less than what it was before.

Mr. Videkovich stated it was based primarily on information received from Cardinal Engineering.

Mr. Meyer asked how many automobiles would be for sale at any given time.

Mr. Videkovich stated that was not information the applicant submitted.

Mr. Osterhage asked if the zoning code addresses the number of cars that can be for sale at any given time.

Mr. Videkovich stated zoning does not address it. Mr. Videkovich stated the limiting factor is how big the off street parking is.

PRESENTATION/COMMENTS BY APPLICANT:

Christopher Klensch of 5347 Old Taylor Mill Road (Pride Parkway) addressed the Board of Adjustments. Mr. Klensch stated his appreciation to meet with the Board. Mr. Klensch stated his background with Taylor Mill and what the city means to him. Mr. Klensch stated his father and uncle began Klenco Construction. Mr. Klensch stated Klenco has been operating in Taylor Mill for over thirty years. Mr. Klensch stated the new road brings exposure to his property. Mr. Klensch stated he does not like that he can only turn right out of the property now, but that issue is not a deal breaker. Mr. Klensch stated building houses on his property does not make sense with the turning options. Mr. Klensch stated his business began to decline in 2013, causing downsize. Mr. Klensch stated at one time, Klenco had twenty-five employees. Mr. Klensch stated his office consisted of six to eight employees. Mr. Klensch stated employees came in early to start equipment. Mr. Klensch stated in the last two years, traffic out of Klenco has been less due to cutbacks. Mr. Klensch stated he met Mr. VonBokern and he expressed interest in ultimately purchasing the property although the zone change was not approved. Mr. Klensch stated Mr. VonBokern wants to lease the property. Mr. Klensch stated he has gotten to know Mr. VonBokern well and has made site visits to his other locations. Mr. Klensch found his properties to be clean. Mr. Klensch stated he believes his business will be a good fit for his property. Mr. Klensch stated Mr. VonBokern's operation will be a site improvement. Mr. Klensch stated Mr. VonBokern could bring a successful and vibrant business to Taylor Mill and generate more tax revenue.

Mr. Jeff Flaherty of Cardinal Engineering addressed the Board of Adjustments. Mr. Flaherty stated he was hired by the applicants to help them in this process. Mr. Flaherty stated his findings of turning the property into a residential development. Mr. Flaherty stated the dollars do not work for development.

Mr. David VonBokern of 17 West 8th Street, Covington, Kentucky, addressed the Board of Adjustments. Mr. VonBokern stated he is the owner of DaVon Auto. Mr. VonBokern stated car sales are very regulated by the state. Mr. VonBokern stated ten to fifteen cars would be kept on site. Mr. VonBokern stated car sales are a supplemental part of his business. Mr. VonBokern stated no balloons will be outside. Mr. VonBokern stated his business has been successful and that is why he's looking for a better location. Mr. VonBokern stated there is more than enough parking to meet the requirements of the ordinance.

Mr. Fuller asked if any of the fence could be moved back to give more display area.

Mr. VonBokern stated he does not need that.

Mr. Flaherty stated they would have to come back to the Board due to it being a nonconforming use.

Mr. VonBokern stated his business fixes salvage cars, a little bit of body work and a lot of mechanical work. Mr. VonBokern stated his business is diversified.

Mr. Fuller asked if Mr. VonBokern's business is similar to D&J in Ft. Wright.

Mr. VonBokern stated yes, same type of business but he is more mechanical. Mr. VonBokern stated his business will not affect the property value. Mr. VonBokern gave examples of similar businesses in the Northern Kentucky area. Mr. VonBokern stated he would like to dress up the fence in the front.

Chairman Lucas asked if Mr. VonBokern is restricted to the number of cars he can have on the lot as part of the licensing process.

Mr. VonBokern stated yes. Mr. VonBokern stated the number of tags and parking spots are regulated annually. Mr. VonBokern stated it is a fifteen hundred dollar fine if busted. Mr. VonBokern stated the license is regulated by the state. Mr. VonBokern stated his business does wrecks and everything pertaining to that vehicle.

Chairman Lucas asked about exhaust pipes.

Mr. VonBokern stated his business does that, too. Mr. VonBokern stated his business does a lot of mechanical work. Mr. VonBokern stated he does not do a ton of exhaust work. Mr. VonBokern stated his expertise is in electronics. Mr. VonBokern stated he does a little bit of engine work, approximately three a year.

Mr. Osterhage asked if Mr. VonBokern would be willing to say there would be no more than fifteen cars for sale at any one time.

Mr. VonBokern stated yes.

Mr. Osterhage asked his intentions for the back area of the property that Mr. Klensch tries to keep off.

Mr. VonBokern stated cut the grass. Mr. VonBokern stated he cannot do anything with that area without coming back to the Board, as it is a nonconforming use.

Mr. Meyer asked for clarification on what is referred to as the back.

Mr. Klensch stated the far west side.

Mr. Fuller asked if one parcel could have multiple nonconforming uses.

Mr. Videkovich stated no.

Mr. Meyer stated display concerns for the cars that are for sale. Mr. Meyer asked how people will know that cars are for sale.

Mr. VonBokern stated his cars sell by word of mouth and internet sales.

Mr. Fuller asked if the Board can put restrictions on him for no balloons and signs.

Mr. Videkovich stated the Board can do that. Mr. Videkovich stated the business would still be bounded by the zoning ordinance, making that a zoning violation. Mr. Videkovich stated the zoning violation would be against the owner of the property.

Chairman Lucas stated it would be a nonconforming use in a residential zone. Chairman Lucas stated the business could not disturb residential use.

Mr. Klensch stated Mr. VonBokern would like to add garage doors on the side facing the yard for access in and out.

Mr. Fuller asked is Mr. VonBokern can do that.

Mr. Videkovich stated he can change the structure as long as he meets the building code.

Chairman Lucas stated the role of the Board is interesting as they can put conditions on this if agreed to. Chairman Lucas stated the primary act under the code is to determine if the nonconforming use is the same or more restrictive.

Mr. Singleton asked about hazardous materials used.

Mr. VonBokern stated there is oil and other fluids used, but all fluids are contained. Mr. VonBokern stated nothing is in bulk and is COC Compliant. Mr. VonBokern stated being regulated by the EPA.

Mr. Fuller asked about condition number four.

Mr. Videkovich stated the Board can determine alternative language.

Mr. Singleton asked what the volume is for repairs and mechanical work.

Mr. VonBokern stated having three to five customers per day. Mr. VonBokern stated some days none.

Mr. Singleton asked if automobiles needing repairs are received after hours.

Mr. VonBokern stated sometimes. Mr. VonBokern stated they will have a drop box. Mr. VonBokern stated that currently happens around one time per week. Mr. VonBokern stated that would be mechanical.

Mr. Fuller stated he has parking spots, why would the Board need to regulate it if there are no sign or balloons. Mr. Fuller stated seeing both of Mr. VonBokern locations and they are very clean.

Mr. Singleton asked about existing lighting in the parking lot.

Mr. Klensch stated the parking lot is dark and the business has a motion detector light.
Mr. Klensch stated there is a street light and a light under the shelter.

Mr. VonBokern stated he would have a light on his sign.

Mr. Osterhage asked how the lighting would get addressed.

Mr. Videkovich stated the business would have to conform to the zoning ordinance which is fairly vague. Mr. Videkovich stated the ordinance states that it cannot glare onto any adjacent property or right-of-way.

COMMENTS FROM PROPONENTS:

No comments made from proponents.

COMMENTS FROM OPPONENTS:

Ms. Kay Preston of 713 Lakewood Drive addressed the Board of Adjustments. Ms. Preston stated the applicant cannot know if the new business would lower the value of surrounding properties.

Mr. Osterhage stated the presentation to the Board is that this is a less intrusive use than what is going on their now.

The Board explained this is not a zone change, but a change of nonconforming use.

Ms. Sarah Frietch of 737 Lakewood Drive addressed the Board of Adjustments. Ms. Frietch stated the location of her property is on a flag lot. Ms. Frietch stated this is the first time she heard of damaged vehicles being kept behind the fence. Ms. Frietch stated seeing everything behind the fence from her property.

Mr. Fuller stated he was at the council meeting when Mr. VonBokern made his proposal and took it that vehicles would be behind the fence.

Mr. Meyer asked about the carport.

Mr. Klensch stated the carport is in the fenced-in area.

Ms. Frietch stated neighbors on Lakewood did not receive notice of the meeting tonight.

Mr. Fuller stated a couple properties would not have been notified. Mr. Fuller stated properties that touch the property are the only ones officially notified.

Ms. Frietch stated she is trying to protect the value of her property. Ms. Frietch stated she does not want a zone change.

Mr. Meyer stated there is no zone change.

Ms. Frietch stated she understood but was told that would not be a course of action. Ms. Frietch stated not much traffic comes out of Klenco Construction. Ms. Frietch stated never seeing twenty five employees pulling in and out of the location.

Mr. Klensch stated not all employees reported to the shop and went directly to the site. Mr. Klensch stated having several workers operating equipment and office staff.

Mr. Meyer stated never seeing traffic coming out of Klenco.

Ms. Frietch stated concerns about what the view of the business will look like from her property.

Mr. Videkovich stated the business would be able to use the entire off street paved area, but could not expand the area. Mr. Videkovich stated they could stripe the area for parking, unless the Board restricted it.

Ms. Frietch stated concerns about Mr. VonBokern's future business strategy.

Mr. Fuller stated his preference would be to see stored cars instead of construction vehicles.

Ms. Frietch stated continued concerns regarding Mr. VonBokern's business intentions.

Chairman Lucas explained what a nonconforming use is.

ADDITIONAL COMMENTS FROM PUBLIC:

Mr. Mike Blackburn of 707 Forest Lane addressed the Board of Adjustments. Mr. Blackburn stated the Klensch property looks better than the bus garage at Scott High School. Mr. Blackburn stated the property should have been zoned commercial. Mr. Blackburn stated school traffic brings more noise than Mr. VonBokern's business ever would. Mr. Blackburn stated he feels the Klensch property does not devalue other properties. Mr. Blackburn stated he is for the change.

Chairman Lucas asked for a ten minute recess at 8:46 p.m.

Chairman Lucas called the meeting back to order at 8:54 p.m.

Commissioner Murray addressed the Board of Adjustments. Commissioner Murray stated concerns about the number of vehicles for sale at the business. Commissioner Murray

stated his concerns with a service garage. Commissioner Murray stated limiting the number of cars for sale in the lot. Commissioner Murray asked if Mr. VonBokern could move any other business in.

Chairman Lucas stated Mr. VonBokern would have to come back to the Board for any changes.

Mr. Kevin Novesl of 5468 Taylor Mill Road addressed the Board of Adjustments. Mr. Novesl stated he owns a nonconforming piece of property. Mr. Novesl asked Mr. Videkovich if he is aware of any other nonconforming properties in Taylor Mill operating businesses in residential zones.

Mr. Videkovich stated not having that information available tonight.

Mr. Novesl asked to see the five staff recommendations from Planning Development Services. Mr. Novesl asked questions regarding Mr. Klensch downsizing and parking spaces at the property. Mr. Novesl asked Mr. Klensch additional questions about Klenco Construction. Mr. Novesl asked Mr. VonBokern additional questions regarding his business plan.

Mr. Videkovich stated the whole property is a nonconforming use. Mr. Videkovich stated the applicant can use the existing improvements on the site.

Mr. Michael Smith of 6185 Maple Ridge Drive addressed the Board of Adjustments. Mr. Smith stated the zoning states this type of business is not allowed. Mr. Smith stated no automobile sales or service stations are allowed.

Chairman Lucas stated the Board does not disagree with that. Chairman Lucas stated this is a nonconforming use.

Mr. Michael Frietch of 737 Lakewood Drive addressed the Board of Adjustments. Mr. Frietch asked if cars could be relocated southwest of property to be out of site.

Mr. VonBokern stated he would look at options.

A discussion was held about the possible number of vehicles Mr. VonBokern would store on the property and the elevation and site line from surrounding properties.

A discussion continued regarding what a nonconforming use means.

CLOSED PUBLIC HEARING: Chairman Lucas thanked those who have shown up to voice their opinion and the public hearing portion is now closed at 9:30 p.m.

The Board members discussed the request.

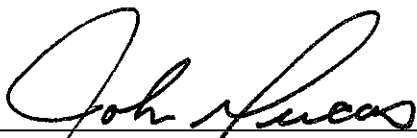
Mr. Osterhage made a motion to accept the application as recommended by staff and adopt the report from Planning Development Services of Kenton County with recommendations, amending item four to read, "All cars being stored on the property will be within the existing fenced in area except those for sale which will number no more than 15," and also providing an additional recommendation that landscaping and fencing, such that to the extent possible, shields cars in the fenced area from surrounding neighbors to best possible. Mr. Fuller made a second. The City Clerk called the roll.

Mr. Osterhage	Yes
Mr. Fuller	Yes
Chairman Lucas	No
Mr. Meyer	No
Mr. Singleton	No


MOTION NOT CARRIED

Appeal is denied for the applicants request to seek a change in the status of a nonconforming use in the R-1D Zone.

There being no further business to come before the Board, Mr. Osterhage made a motion to adjourn at 9:51 p.m. Mr. Singleton made a second. All Board Members present were in favor. The meeting is now adjourned.



Chairman, John Lucas

ATTEST: 

Gena Forsyth, Asst. City Clerk

DATE: April 7, 2016