



*Danville-Boyle County Planning & Zoning Commission
445 West Main Street P.O. Box 670
Danville, Kentucky 40423*

**MINUTES OF THE DANVILLE-BOYLE COUNTY BOARD OF ADJUSTMENTS MEETING
MARCH 15, 2018**

The Danville-Boyle County Board of Adjustments met for a regular meeting in the Danville City Hall public meeting room on Thursday, March 15, 2018 at 10:00 a.m.

MEMBERS PRESENT WERE:

Virgie Johnson, Chairman
David Anderson
Donna Fairchild
Linda Green
Mike Lay
Preston Miles
Jesse Purdy

OTHERS PRESENT WERE:

Henry Smith, Attorney
Steve Hunter, Director
Jennie Hollon, Office Manager
Others

A. CALL TO ORDER/ROLL CALL

Chairman Johnson called the meeting to order and announced there was a quorum present.

B. APPROVAL OF MINUTES- REGULAR MEETING FEBRUARY 15, 2018

Commissioner Purdy made a motion to approve the minutes of the February 15, 2018 meeting as presented. Commissioner Miles seconded the motion and it unanimously carried.

C. PUBLIC HEARINGS

1. WAL-MART- CONDITIONAL USE PERMIT

Wal-Mart Real Estate Business Trust has applied for approval of a Conditional Use Permit on a tract of land containing approximately 21.446 acres located at 100 Walton Avenue, Danville, Kentucky. The applicants are requesting a Conditional Use Permit for a Commercial Use exceeding 50,000 square feet in an area located in the **HC** (Highway Commercial) zoning district.

Steve Hunter reviewed the staff report. Walmart desires to add a liquor store and pick-up delivery addition to the existing retail store, not to exceed a revised total of 200,000 SF.

Chairman Green asked if any changes were added for ingress and egress, from the original addition variance request. Director Steve Hunter stated that a few less parking spaces were on the new plan.

Commissioner Fairchild made a motion to **approve** the Conditional Use Permit for a Commercial Use exceeding 50,000 square feet in area in the **HC** zoning district located at 100 Sam Walton Avenue, as the Board is empowered by Zoning Ordinance section 5.7.3 to grant this conditional use permit with the following conditions:

1. The existing retail building expansion will be up to 200,000 sf.

The testimony presented in this public hearing has shown that the use:

- A. The use is not detrimental to the public health, safety or welfare in the zone in which it is proposed.
- B. The use will not contribute toward an overburdening of public infrastructure and/ or services.
- C. The use will not result in increased traffic congestion, additional parking problems, substantial increase in population density, environmental problems or constitute a nuisance.
- D. That the use otherwise meets the requirements of the Zoning Ordinance.

Commissioner Lay seconded the motion made by Commissioner Fairchild and it carried unanimously.

2. BOYLE COUNTY INDUSTRIAL FOUNDATION- VARIANCE

The Boyle County Economic Development Partnership, Inc. and the Cincinnati, New Orleans & Texas Pacific Railway Co. have applied for a Variance for building height on a property located on Corporate Drive, Danville, Kentucky. The property is zoned Industrial Business Development (IBD) and contains approximately 40-50 acres.

The applicants submitted the following narrative:

On behalf of the prospect, the property owner and the applicant request a variance for the subject tract to allow a maximum building height not to exceed 150 feet (90 feet above the current zoning ordinance limitation of 60 feet) so that our community will not be eliminated as a candidate for the project's location. This variance is a required condition of our local due diligence to assure the company that its building can be constructed on the targeted site as the list of candidate communities is narrowed. The company has already concluded an extensive series of interviews with state regulatory agencies in November 2017 to determine that the Commonwealth of Kentucky is a conducive location for its business operation. After the company's qualification of Kentucky as a suitable jurisdiction for its location versus other states, then communities and sites meeting the company's stringent criteria were selected. At the local level, the Danville-Boyle County Economic Development Partnership (EDP) has completed three (3) complex questionnaires required by Project Eagle that each comprised more than 25 pages of responses and supporting documents detailing site, utility, environmental, regulatory, tax, and community data.

If Danville is chosen as the location for this project, the company must comply with all applicable federal/state regulatory standards, including environmental, as part of the mandatory approvals of its building plan and permitting of its operation by federal/state regulatory agencies. State approval of the

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company's building plan must be completed before the Danville-Boyle County Planning & Zoning Commission approves the site plan locally. There are multiple safeguards as well as opportunities for

community input at different stages as the project progresses. In the EDP's work with Project Eagle representatives, we have been impressed by the company's attention to and pride in being a good environmental steward. As an example, the company plans to affix solar panels to the roof of its facility to incorporate alternative energy sources in its operation. In fact, one of the questions asked during the company's December site visit was whether there were any local restrictions to the placement of solar panels on an industrial facility. The EDP demonstrated our community's values to the company by recommending the solar 2 panel assembly and installation services of Danville's Wilderness Trace Solar, LLC, and by pointing out the solar array installed by Danville's Denyo Manufacturing Corporation as part of its most recent expansion.

In its recruitment practices, the EDP follows a long tradition first set by the Boyle County Industrial Foundation (BCIF) since 1961. BCIF's first President, John Hill Bailey, incorporated Danville-Boyle County's high community standards to establish—among other things—a revered organizational priority for “good corporate citizens” that do not harm our local environment. Our support for Project Eagle is consistent with this priority. It is neither reasonable nor in the best interest of the EDP's business recruitment efforts to invite one project into our community that could negatively impact other prospect activity or our Partnership's allied initiatives in tourism, downtown development, or small business development.

The EDP regrets that we are unable to disclose further details about Project Eagle at this time. The company has requested confidentiality for two key reasons at this stage of its project. First, the company is considering multiple communities in multiple states for its location. Second, the company wishes to avoid any premature disclosures of its investment strategies or plans to competitors within its industry sector. Our community's economic development professionals have established a strong reputation for credibility and trust with our clients due to respecting their expectations for confidentiality. If Danville is ultimately the selected location for this project, additional details about Project Eagle, its manufacturing operation, and its facility will be fully disclosed and thoroughly vetted in the future development stages that this project must necessarily and successfully navigate.”

Attorney Winfield Frankel stated that the company has requested confidentiality due to competition and asked the Board to trust the EDP to not recruit a harmful industry.

Commissioner Anderson questioned Attorney Winfield, asking if he knew **what the structure was, if and what it would discharge, and if the EDP has been to this company elsewhere**. Attorney Frankel replied “no” to all three questions.

Commissioner Green asked where the ingress/egress will be to the facility. Frankel responded that it was not yet determined.

Commissioner Fairchild asked why the company changed sites for their Variance request. Frankel stated that on-site rail access was the factor.

Commissioner Miles questioned if the client was only interested in Tract 2. Frankel responded yes.

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Public Comment:

*Nancy Davis, resident, commended the EDP for attracting a new industry. She stated that she owns 250 acres in this general vicinity and that she had two concerns. One, she would like to know what the structure was, since a structure 14 stories tall would be visible from her property. And her second concern was about clean air and noise pollution.

*Mike Perros, Mayor of the City of Danville, stated that he found comfort in that the EDP has never brought a harmful industry to the community. He added that our ordinance is unique to even have a height restriction in an Industrial area, and if approved, this is only the first step in a lengthy process. The Mayor added that the City struggles to provide services and the industry sector must grow or we fall behind financially.

*Joanne Winfield, Saddleridge Circle, spoke representing the neighborhood of nearly 80 households and shared concerns about noise and pollution.

*Jim Porter, Danville resident, stated that he trusted the EDP, yet wanted the BOA to verify what the structure was.

Jake Weir, Industrial Development Manager, Norfolk Southern Corporation, stated that testimony presented today from the EDP is accurately presented, as he understands the project.

Commissioner Purdy stated that he was concerned about air, land, and water pollution, such as with the EW Brown plant. The EDP has provided no evidence to ensure the health, safety, and welfare of Danville residents with this project.

Commissioner Anderson shared that he is an Economist, and with unemployment at an 18-year low, the City is not desperate for jobs and must use caution (with industrial expansion).

Chairman Johnson shared that while she wished the Board knew more about the structure, the vote today is about a variance on building height and the EPA monitors compliance with health and safety regulations.

Commissioner Anderson made a motion to **deny** the request for a ninety (90) foot variance for building height, in the **IBD** (Industrial-Business Development) zoning district at 0 US Hwy 127/150 By-Pass. **Sufficient testimony has not been presented** in this public hearing that the requested variance meet the criteria set forth in KRS 100.243, "Findings necessary for granting variance," as:

- ❖ **will** adversely affect the public health, safety or welfare.
- ❖ **will** alter the essential character of the general vicinity.
- ❖ **will** cause a hazard or a nuisance to the public
- ❖ **will** allow an unreasonable circumvention of the requirements of the zoning regulations.

Commissioner Purdy seconded the motion made by Commissioner Anderson. Two voted in favor of the denial, and 5 opposed the denial. The motioned failed 2-5.

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Commissioner Miles made the motion to **approve** the request for a ninety (90) foot variance for building height, in the **IBD** (Industrial-Business Development) zoning district at 0 US Hwy 127/150 By-Pass. He stated that the testimony presented in this public hearing has shown that the granting of this variance will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or a nuisance to the public; and will not allow an unreasonable circumvention of the requirements of the zoning regulations. Attorney Henry Smith added “for the reasoning and evidence presented” and with the condition that the project be confined to Tract 2.

Commissioner Green seconded the motion made by Commissioner Miles. The motion carried 5-2 (Fairchild, Green, Lay, Miles, Johnson in favor if the motion to approve the Variance; Anderson, Purdy opposed).

D. OLD BUSINESS

No old business.

E. NEW BUSINESS

F. ADJOURN

Commissioner Lay called the meeting to adjourn. Commissioner Green seconded the motion.

This concluded the business scheduled on the agenda. The meeting was adjourned at 11:10 a.m.

Prepared by:

JENNIE L. HOLLON
OFFICE MANAGER