

**ON NOVEMBER 2<sup>ND</sup>, 2009 THE BOARD OF ADJUSTMENT HELD A MEETING IN THE 2ND FLOOR COURTROOM OF THE WOODFORD COUNTY COURTHOUSE TO HEAR THE FOLLOWING APPEALS:**

Sam Dozier opened the meeting at 6:00 p.m. with those being in attendance as follows:

**MEMBERS PRESENT:** Sam Dozier, Al Schooler, David Prewitt, Tim Turney, Frank Stark, Staff Paul Noel Jr. and Petra Dotson

**MEMBERS ABSENT:** None

**MINUTES:** David Prewitt moved, as seconded by Al Schooler, to accept the October 5<sup>th</sup>, 2009 minutes as distributed. Motion carried 5-0.

**OLD BUSINESS:**

**DECISION:**

**10-104-2009**      **CONDITIONAL USE PERMIT:** Thomas R. Post/William K. Moore – 230 Pisgah Road – A-1 Zoning District – Section 701.4(G) - Applicant is seeking to amend conditions of the Conditional Use Permit granted on May 2<sup>nd</sup>, 2005 (case #03-107-2005) to include number of charitable events and events hosted by registered guests.

Mr. Dozier explained that the hearing is closed and therefore no further conditions or testimony can be added and it is up to the Board to make a decision.

Tim Turney had a question on page 4 of the October 5<sup>th</sup> meeting minutes with regards to not being a registered guest and having a reservation within 24 hours. Mr. Noel interrupted by explaining all restaurant issues are off the table since it was not advertised for last month's meeting. He further explained the only issues to be decided on are the number of events for both charitable and non charitable. Mr. Stark asked if it was condition #4 and #5 for the Conditional Use Permit. Mr. Noel confirmed that was correct.

Mr. Stark explained that he was not at last month's meeting but has read the copious minutes and is aware there was a lot of discussion from both sides. It is his opinion the Castle is a wonderful asset to Woodford County and is being under utilized now because of the conditions placed on the Castle. It is his opinion somewhere between one event per month and unlimited for both charitable and non-charitable events is the right number. Mr. Stark stated he is not sure if unlimited is the right number but he is sure that the Castle can be better utilized. There should be some consideration for additional charitable events allowed per month as well as guests staying at the Castle. Mr. Stark believes the issue should be open for discussion. He further stated he thinks there should

be more charitable events allowed than events from registered guests. He suggested 15 charitable and 10 non-charitable events hosted by overnight guests per month.

Mr. Schooler stated he also believes the Castle is under utilized. He believes Mr. Post has done a great thing to rebuild the Castle which is good for the community. He thinks a higher number for events should be considered. Mr. Schooler recommended doubling the number suggested by Mr. Stark. Mr. Turney was asking for further clarification. Mr. Schooler stated he was talking about guests and not the charitable events. Mr. Turney explained it has to do with the number of events and not registered over night guests. Mr. Schooler stated it was his understanding they can stay over night. Mr. Stark explained they are registered guests; for example someone comes in to town and has a wedding, they will have the people stay there and host a reception. As it stands today, that can happen one time a month. Mr. Schooler asked why not let Mr. Post utilize the Castle since he is nice enough to host charitable events at no cost. Mr. Post would be penalized by allowing a small number of events by registered guests. Mr. Schooler suggested Mr. Post have a decent number of events and is not sure if 10 is a good number. Mr. Schooler recommended 10 nights of events within a two week period. Mr. Stark asked how many he meant. Mr. Schooler stated 20 events per month and Mr. Turney asked if that was 20 total events and 10 for charitable events. Mr. Schooler gave an example of someone investing in a business like a barber shop and that someone would want to make as much money as you can to recoup the investment. Mr. Stark wanted to confirm Mr. Schooler's suggestion and stated it would be 20 events a month which would be 240 events a year and charitable events restricted to 10 events a month which would be 120 a year.

Mr. Stark stated the Castle is a resource. He does not think the decision is based solely on charitable events and because of allowing people to stay there. The important factor is that the Castle is providing employment for Woodford County. People who are coming in to Woodford County and staying at the Castle will be going in to the community and spending money. This is a positive economical benefit to Woodford County. Mr. Stark indicated he wanted to address the lighting issue mentioned at last month's meeting. He has driven by the Castle on several occasions and he believes the restrictions put on the Castle have been upheld. He did not see lights shining on anything and does not believe it is an issue. Mr. Noel stated he has been there several times after dark since the last meeting and the only thing he can see on the east side of the structure is a wall light at the door. There are no pole lights or anything like that.

Mr. Stark stated he believes Mr. Post has abided by the conditions placed on him by the Board. He explained he was never approached by anyone over the decision made by the Board of Adjustment and usually people are vocal about being unhappy with the Board's decision. There have been no complaints brought to his attention. Mr. Noel stated that fact should not be considered in the final decision. Mr. Stark indicated he understands that but was trying to point out that Mr. Post has abided by the conditions.

Mr. Turney stated he wanted to go back to discussing condition #3. Mr. Turney stated it was previously suggested for events to be 3 to 2 charitable vs. non-charitable or 2 to 1 non-charitable vs. charitable. The Board needs to come to an agreement. He asked if

there was a big difference between what is charitable and non-charitable and how would these events be monitored? At some point, it would need to be totaled. His concern is restricting something that is not enforceable. Mr. Turney stated the previous suggestion is 360 days for charitable and approximately 330 for non-charitable. He asked if it would be better to go with a percentage of minimum of charitable events to non-charitable events or to put a flat number per month. Mr. Turney wanted to know how that would be monitored?

Mr. Prewitt indicated that depending on what the Board decides with regards to events, Planning and Zoning staff are to monitor and provide the Board with a monthly report of how the Castle is being utilized to include how many charitable and non-charitable events, # of occupancies, # of nights occupied and number of guests. He explained this will track how things are going and would include # of complaints. His suggestion is that it be brought back to the Board every month for a minimum of one year.

Mr. Schooler stated he does not want to restrict Mr. Post so many nights where he does not have any events. There is a use for the facility so why restrict it? Mr. Stark advised Mr. Turney had a good point and how would the conditions be monitored? Mr. Noel explained what has been approved in 2005 and to stay consistent he suggested the number of events be considered on a monthly basis. Mr. Stark explained that instead of saying events should be 15 or 10 a month and keep track of it just don't limit the number of events. Mr. Stark stated there have been some sizable numbers suggested anyway and the Board may be naïve in thinking the Castle can reach those numbers but if it is not restricted then there is not an issue. The limit would be 1 every day of the month. If there was a charitable event and a wedding at the same time then that may become an issue. That would cause a lot of people hanging around and which may become a problem. Mr. Noel stated a situation like that would make the Castle lose business. Mr. Stark stated he was just trying to make a point that perhaps the Board should consider a total per month such as 15 and 15, or 29 and 1. Mr. Dozier asked if that means 1 event an evening. Mr. Prewitt asked if that meant 1 event per evening, or 1 event per 24 hour period? He advised there is a possibility the Castle could have something in the evening and have a wedding in the afternoon. Mr. Noel stated if you get in to that then you might consider whether a wedding and a reception is one same event. Mr. Stark stated he would consider that one event.

Mr. Schooler stated he understands the way the Conditional Use Permit was set up in 2005 and Mr. Post was nice enough to offer charitable events. He asked if the Board is going to say how many charitable events Mr. Post can have? Since it is charitable it should be Mr. Post's choice. Mr. Schooler indicated he has a problem with putting conditions on charitable events on something that someone owns. He knows a decision has to be decided with regards to the conditional use but he has a problem with determining what charitable events Mr. Post can have. Mr. Turney asked if there was any restriction on the number of people per event? Mr. Schooler asked if there were any for guests. Mr. Noel indicated there is a certain number of rooms.

Mr. Stark states the applicant requests condition #4 be deleted; however in this condition there is something that needs to be kept which is confining the musical entertainment inside the building interior. Mr. Schooler asked if that was discussed at last month's meeting. Mr. Noel indicated it was a part of that condition that was requested to be changed. Mr. Prewitt made the following suggestion for the wording of the motion and stated he would leave out the number of events until the decision is made. He made the following suggestion for condition #4:

The number of charitable events to be hosted at the property is limited to no more than XX per month and must be confined within the area of the outer Castle wall. Musical entertainment shall be confined to the buildings interior.

The following is Mr. Prewitt's suggestion for condition #5:

The use of the facility on the property for receptions, parties or other events is limited to those conducted by a registered guest and shall be in a number of no more than XX per month in addition to the events allowed in condition #4.

Mr. Stark stated he likes the wording and wanted to know if there is a number they can agree upon or should it be unlimited. He also stated he agrees with the monthly reporting if there is a limit on the number of events.

Mr. Turney stated he does not disagree with the music but his concern would be if someone was having an afternoon wedding outside can they have a band outside by the pool during the wedding. Mr. Prewitt indicated the way the conditions are presently written the music would have to be confined to the building's interior. Mr. Turney stated he agrees with that but suggested the music be confined to the building's interior after a certain time of the day such as 4:30 or 5:00 p.m. He believes an afternoon wedding or social event could have musical entertainment outside, such as a 3 piece or 4 piece band, before 6:pm. Mr. Stark stated if the Board agrees with that he suggests no magnification be used at all. Mr. Turney indicated he agrees with that as well.

Mr. Stark stated he is favoring not limiting the number of events because it's something that doesn't have to be monitored. He suggested 1 event per day. Mr. Noel asked if that meant for either category and Mr. Stark stated it would be. Mr. Turney stated that he would like to put the caveat that, at a minimum of 1-2 charitable events a month. He stated that was in the original agreement and sees no reason to remove that. Mr. Stark asked if he meant the Castle must have a charitable event? Mr. Turney indicated that would be the case. Mr. Stark asked what would happen if the Castle does not have a charitable event in a month? Mr. Noel explained that the organizations would be coming to Mr. Post for the event. Mr. Schooler stated it should be up to the owner to decide whether he wants to have a charitable event and when he should have it. He stated he would not want to restrict someone to say you have to have Boy Scouts over at 7 o'clock and does not think that is right.

Mr. Stark stated he thinks it is time to make a motion based on unlimited events using the language Mr. Prewitt suggested. Mr. Turney stated before a motion is made he wanted to go through it one more time. The motion would pertain to condition #4 and the

suggestion is to delete everything until you get to the music part. Therefore, condition #4 would say musical entertainment shall be confined to the buildings interior after 6pm and no magnification of sound. Mr. Turney indicated condition #5 should say the use of the facility of the property for receptions, parties or other events and the remaining language should be deleted. Mr. Turney stated it should be clear that all other restrictions stay in place and nothing else changes with the exception of condition #4 and #5. Mr. Stark asked if the Board wants the same restriction on #5 with regards to the music confined to building's interior after 6pm. Mr. Turney stated condition #4 covers everything. Mr. Noel asked if the monitoring should be added along with reporting it to Planning and Zoning. Mr. Turney suggested that be added and the monitoring should be for one year. Mr. Turney stated that as always the Board will have the right to review since it is a conditional use. Mr. Schooler asked if the monitoring was to be submitted to Planning and Zoning or the Board? Mr. Noel stated it will go to the Board. Mr. Dozier indicated a motion needs to be made at this time.

Mr. Turney began to make the motion however Mr. Noel interrupted and asked the Board if he could read the motion since he wrote it down which the Board said was ok. Mr. Noel stated condition #4 is amended as follows:

Condition #4- musical entertainment shall be confined to the buildings interior after 6 pm. No outdoor amplification is allowed.

Mr. Turney then added Condition #5 is to be amended as follows - The use of the facilities on the property for receptions, parties or other events by request.

Mr. Noel asked if he meant to add that the events were by a registered guest. Mr. Schooler asked if what was said meant it is unlimited. Mr. Noel explained what was requested would read: The use of the facilities on the property for receptions, parties or other events by request. Mr. Stark indicated he wants to make sure the noise issue is covered in both conditions. Mr. Turney asked if that meant if you have a charitable event you don't have to be a registered guest. Mr. Noel suggested the following for condition #4 - At any event musical entertained shall be confined to the buildings interior after 6 pm. No outdoor amplification is allowed. Mr. Prewitt suggested adding the following language- the Board requests the items above and all conditions be monitored on a monthly basis and a monthly report be provided to the Board and Planning and Zoning staff to include number of events, guests, complaints etc for 1 year.

Mr. Turney was asking if condition #5 meant charitable events are allowed without being a registered guest. Mr. Noel stated it does not address charitable events. Mr. Turney stated that way he reads it is if you are going to have a charitable event there needs to be a registered guest. Mr. Noel stated you can add charitable events are not required to be sponsored by a registered guest.

Mr. Stark requested Mr. Noel stated the motion again. Mr. Schooler stated the Board wants to protect the integrity of the County and surrounding area of Pisgah Pike but we also want the owner to have a say so on his own property. The Board doesn't want to

slam a hammer down on anybody. Mr. Schooler indicated the Board needs to be fair and he believes the Board is being fair.

Mr. Noel read the motion which now reads as follows:

**Condition #4 amended as follows: At any event, musical entertainment shall be confined to the building's interior after 6:00 p.m. No outdoor amplification of music is allowed.**

**Condition #5 amended as follows: The use of the facilities on the property for receptions, parties or other events is limited to those conducted by a registered guest. Charitable events are not required to be sponsored by a registered guest.**

**In addition, there will be monitoring of all items in the conditions for this conditional use on a monthly basis. A monthly report will be provided to the Board that will list the number of events, overnight guests/registered guests, complaints, etc. Mr. Turney confirmed that was his motion which was seconded by Mr. Schooler. Motion carried 5-0 in favor.**

**NEW BUSINESS:  
11-106-2009**

**CONDITIONAL USE PERMIT:** Ardmore Stud LLC – 2519 McCracken Pike – A-1 Zoning District – Section 701.4 (K) - Applicant is seeking to utilize dwellings on the farm as bed & breakfast/inn with some seasonal events.

Mr. Noel stated the farm has been totally re-done starting from the road to as far back as it goes including the historic home and barns on the property. There is also an additional for agricultural accessory structures and possibly another residence( not involved in the bed and breakfast). Mr. Noel referred the Board to the application and indicated it shows exactly what the applicant is proposing. The applicant is requesting a bed and breakfast/inn with some seasonal events. Mr. Noel advised this case has gone in front of the Agricultural Review Board with their approval.

Mr. Dozier asked the applicant if he would like to address the Board. Mr. Bob Cromartie introduced himself. He is the manager of Ardmore. The property was purchased a year and a half ago and began complete renovation. The existing structures include a historic home, outbuildings such as a smoke house, slave quarters, a root cellar, a springhouse and stock barn. All renovations are near completion. The uniqueness of the Bed and Breakfast facility is that it will give guests an opportunity to stay on an a working operating horse farm. The farm sets itself up very well for operating both businesses together. In addition to the Bed and Breakfast facility, they would like to host events such as weddings, parties and receptions. Ardmore has been approached by various civic groups about hosting events at the farm. They do not have as large as a facility as Castle Post. Mr. Cromartie stated he has spoken to all the neighbors and they are all very supportive although they are not present to express that. The property is very secluded.

Mr. Stark referred to the AARC meeting minutes which states shall be no more than 24 special events (private or non-profit) per year. He wanted to know if that is still the request. Mr. Cromartie explained that was discussed at the AARC and they believe at this point they cannot accommodate more than that. He does hope that the farm is successful and eventually he would request more events. For right now, they believe 24 special events per year. The request is for number of events for the year because some events will be seasonable and weddings seem to fall around the same time so they didn't want to restrict the events to a monthly basis. They also discussed the maximum persons of 200 per event which is something Mr. Cromartie believes they can accommodate comfortably. It boils down to parking and being able to run the agricultural business along with the Bed and Breakfast.

Mr. Stark asked where the 200 people would park at an event. Mr. Cromartie indicated there is a lot of land and once the gates are open there is plenty of places to park. He referred to the plan layout and stated all the roads marked on the plan are paved. It's very easy keep two tires on the road and two tires on the side and still allow vehicles to pass. There is parking up around the house to accommodate guests and there are a number of parking facilities. At that time, Mr. Cromartie referred to a diagram and showed the Board members where the available parking is. Mr. Stark stated he believes that takes care of people staying at the Bed and Breakfast but was wondering where the people attending the event will park. He wanted to know if those people would be seen off McCracken Pike? Mr. Cromartie confirmed they would not be seen. He also stated you have to cross a bridge after entering the farm's entrance. There is a natural buffer which allows a barrier between the highway and any activity that is going on at the farm. Although it is cleared, landscaped and "park like" it is set way off the road. Most of the activities would be in the very back of the farm and there are no residences that are close. Mr. Cromartie referred to the map to show the Board where the closest residence is and where the large events would be hosted to show the distance between the two. Mr. Noel indicated the area where the larger events would be held is a relatively high point in the farm which would help the parking issue.

Mr. Prewitt indicated it is very secluded. Mr. Stark explained that if the farm was extremely successful in the future and would need more than 24 events per year now would be the time to consider a larger number so that the case would not have to be re-submitted to the Board. Mr. Cromartie indicated he hopes that the farm would have an event every weekend because there has been a significant investment in the farm and they want to maximize the return. He stated he is happy with 24 events a year and he does not see it in the near future but something they would like to grow in to. Mr. Turney indicated he would rather the case be re-submitted if there is a request to change the number of events. Mr. Stark stated the Board is not required to follow AARC recommendations and it is not binding. He was just thinking that if later there would be a number change in events now would be the time to do it.

Mr. Cromartie asked if he can change the number of events per year to 36 instead of 24. Mr. Turney stated it can be submitted as a condition. Mr. Turney stated he does not think that makes much a difference. Mr. Prewitt explained he is more comfortable with 24

since that is what AARC recommended. Mr. Schooler stated he is fine with either 24 or 36. Mr. Stark stated he agrees with 36 and because they just approved the Castle to have more events and the farm is much more secluded then the Castle it seems silly not to increase the number.

There were no further questions or comments. Mr. Dozier closed the hearing. Mr. Turney stated he was ok with 36 events per year but the motion should add conditions A & B as noted in the AARC minutes(A is 36 events a year and B is no more than 200 persons per event)

**Mr. Stark moved to approve the Conditional Use Permit with the caveat that events are limited to 36 per year and no more than 200 persons per event. Motion seconded by Tim Turney. Motion carried 5-0 in favor.**

**Tim Turney moved to adjourn the meeting as seconded by Mr. Prewitt. Motion carried 5-0 in favor.**

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Sam Dozier III, Chairman