

**Taylor Mill Board of Adjustments
Regular Meeting
August 1, 2019**

PLEDGE OF ALLEGIANCE & CALL TO ORDER

Chairman Osterhage led the Pledge of Allegiance and called the meeting to order at 7:01 p.m. The City Clerk called the roll.

Chairman Jack Osterhage	Present
Ms. Janice Foster	Present
Mr. Ed Kuehne	Present
Mr. Scott Smith	Absent
Mr. Russell Staubach	Present

Chairman Osterhage stated that a quorum was present.

APPROVAL OF MINUTES

Chairman Osterhage called for a motion to approve the minutes of July 25, 2019 Board of Adjustments meeting as submitted. Mr. Kuehne so moved, with a second from Ms. Foster. The City Clerk called the roll.

Mr. Ed Kuehne	Yes
Ms. Janice Foster	Yes
Chairman Jack Osterhage	Yes
Mr. Russell Staubach	Abstained

MOTION CARRIED

Chairman Osterhage made a motion to amend the BOA Meeting dates to the second Thursday of each month as needed and for there to be a four (4) week notification period. Mr. Kuehne made a second. The Clerk called the role.

Chairman Jack Osterhage	Yes
Mr. Ed Kuehne	Yes
Ms. Janice Foster	Yes
Mr. Russell Staubach	Yes

MOTION CARRIED

PUBLIC HEARING

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

CASE NO: BOA1907-0002

APPLICANT: Terry Frank on behalf of Warren Frank

LOCATION: 602 Cleveland Avenue, Taylor Mill, Kentucky 41015

REQUEST: To seek variances from the required street side and rear yard setbacks within the R-1F (Residential One-F) Zone of the Taylor Mill Zoning Ordinance; the applicant began constructing a 696 square foot detached garage on the site within 9 feet of the street side property line where 12.5 feet is required and within 0.5 feet of the rear property line where 15 feet is required.

CONFIRMATION OF NOTIFICATION: Jill Conniff of Planning and Development Services of Kenton County stated that all interested parties had been notified in accordance with Kentucky Revised Statutes.

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

DECLARATION OF CONFLICTS: None.

DECLARATION OF SITE VISITS: None.

STAFF REPORT AND REVIEW: Planning and Development Services Associate Planner, Ms. Jill Conniff, reviewed the request and maps of the site layout in various perspectives. The site in question, containing approximately .18 acres, is located at the northwest intersection of Cleveland Avenue and Howard Avenue. Cleveland Avenue and Howard Avenue are classified within the mobility element of Direction 2030: *Your Voice Your Choice* as local streets.

The site has an existing single-family house on the site and the beginning construction of the detached garage in question. The surrounding area is characterized by suburban single-family residential.

The site in question is currently zoned R-1F (Residential One-F). The R-1F Zone permits single-family residential dwellings (detached) subject to area and height requirements.

STAFF RECOMMENDATION: Unfavorable recommendation for the variances from the required street side and rear yard setbacks within the R-1F (Residential One-F) Zone, allowing the continued construction of a garage 9 feet from the street side property line and 0.5 feet from the rear property line.

SUPPORTING INFORMATION/BASES FOR STAFF RECOMMENDATION:

Ms. Conniff reviewed supporting information for staff recommendations for the one request:

The variance request is the result of actions of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought. The applicant began construction on the garage without applying for the applicable variances and permits. The Zoning Ordinance is clear that the board shall deny any request result from a willful violation of the ordinance.

KRS 100.243 and Section 18.6., A., 2., b., of the Taylor Mill Zoning Ordinance states that the board shall deny any request for a variance in which the circumstances are the result of willful violations of the zoning regulations.

PRESENTATION/COMMENTS BY APPLICANT: Mr. Terry Frank, addressed the Board of Adjustment to explain his situation and the need for his request of a variance to be granted. Mr. Frank explained that part of his yard is on a hillside that is steep and the only area that he could really build on is in the back section of the yard that is flat and somewhat level. Mr. Frank said that he had received a notice from PDS regarding the storage of his boat and spare truck stating that he had to move them to the back yard. Mr. Frank said that he complied and moved the boat and truck to the back yard, but that he was cited because it wasn't on a concrete slab. When he was cited, there was nothing in the paperwork that said he had to obtain a permit. To comply, Mr. Frank had a cement slab put down, but thought that a garage would look better than a carport. Regarding the easement, he knew there was one. Mr. Frank said that he had communicated with SD1 and that they granted him approval to build his garage because it was ten and a half feet away from the SD1 pipe. Mr. Frank thought that he was taking measures to fall into compliance and had been granted permission to build from SD1. His desire was to comply and make his yard look nice by building a garage. Mr. Frank explained that he didn't realize that a permit was needed for a garage to be built, otherwise he would've gotten one. He said that he had the support of his neighbors to build the garage. Mr. Frank was requesting the board to allow him to continue with the construction of the garage.

Chairman Osterhage invited anyone from the audience to speak.

COMMENTS FROM PROPONENTS: None

COMMENTS FROM OPPONENTS: None

CLOSED PUBLIC HEARING: Chairman Osterhage thanked those who have attended the meeting and the public hearing portion closed at 7:25 p.m.

The Board members discussed the request.

Chairman Osterhage called for a motion to overrule the Zoning Administrator's Decision. Chairman Osterhage stated his motion to allow the garage to be built is based upon the fact that it was not a willful violation. Staff said that had the applicant had applied for a permit that he likely would have received a favorable recommendation based upon the topography. The steep topography of the land creates a special circumstance where the grade is too steep to construct the garage within the building setbacks. The strict application of the zoning ordinance would create an unnecessary hardship due to the expense of a retaining wall. There are other structures located within the same vicinity and would not be out of character with the surrounding neighborhood. Mr. Kuehne made a second to allow the request of the applicant to build a garage to be granted. The Clerk called the roll.

Chairman Jack Osterhage	Yes
Mr. Ed Kuehne	Yes
Ms. Janice Foster	Yes
Mr. Russell Staubach	Yes

MOTION CARRIED

Chairman Osterhage called the meeting back to order at 7:29 p.m.

CASE NO: BOA1907-0003

APPLICANT: Renaissance Design Build, Inc., per Nathan Grimes on behalf of Saber Management-KY LLC.

LOCATION: 5336 Taylor Mill Road, Taylor Mill, Kentucky 41015

REQUEST: To seek a conditional use permit and a variance for the expansion of a cemetery within the R-1D (Residential One-D) Zone of the Taylor Mill Zoning Ordinance; the applicant proposes to construct two mausoleum buildings, one of which would have a rear yard setback of 25 feet where 50 feet is required.

CONFIRMATION OF NOTIFICATION: Megan Bessey of Planning and Development Services of Kenton County stated that all interested parties had been notified in accordance with Kentucky Revised Statutes.

DECLARATION OF CONFLICTS: None.

DECLARATION OF SITE VISITS: None.

STAFF REPORT AND REVIEW: Planning and Development Services Associate Planner, Ms. Megan Bessey, reviewed the request and maps of the site layout in various perspectives. The site in question, containing an area of approximately 49.56 acres, is located at the intersection of Pride Parkway and Old Taylor Mill Road. Pride Parkway is

classified within the mobility element of Direction 2030: *Your Voice Your Choice* as an urban minor arterial. Old Taylor Mill Road is classified as an urban minor collector.

The site in question is currently occupied by Floral Hills Memorial Gardens and Funeral Home and includes a cemetery, burial grounds, one building with a parking lot, two mausoleums, two outbuildings associated with maintenance and ancillary storage of materials, and a wooded area. Access points are provided off Old Taylor Mill Road and Pride Parkway.

STAFF RECOMMENDATION 1: Favorable recommendation for a conditional use permit for the expansion of a cemetery within the R-1D (Residential One-D) Zone of the Taylor Mill Zoning Ordinance.

SUPPORTING INFORMATION/BASES FOR STAFF RECOMMENDATION:

Ms. Bessey reviewed supporting information for staff recommendations for the one request: The existing funeral home and burial grounds is a necessary and desirable land use which provides a service that contributes to the general well-being of the community. Allowing the construction of the mausoleums will allow the funeral home to accommodate the needs of their clientele as demand continues to grow their services.

STAFF RECOMMENDATION 2: Favorable recommendation for a variance within the R-1D (Residential One-D) Zone of the Taylor Mill Zoning Ordinance, in which one of the buildings has a rear yard setback of 25 feet where 50 feet is required.

SUPPORTING INFORMATION/BASES FOR STAFF RECOMMENDATION:

Ms. Bessey reviewed supporting information for staff recommendations for the one request:

The proposed variance will allow an unreasonable circumvention of the zoning ordinance. The purpose of the 50 foot setback requirement is to provide a buffer between incompatible land uses. While the request is relatively minor in scope, it is not the result of special circumstances that apply to this property and the strict application of the zoning regulations will not deprive the applicant of the reasonable use of their land.

PRESENTATION/COMMENTS BY APPLICANT: Mr. Robert Garner and Mr. Dewey Akers with Floral Hills Funeral Home addressed the Board of Adjustment to explain the need for them to be given permission to build two mausoleums. They are experiencing more requests from clientele to have more mausoleum spaces and in order to satisfy the demands there is a need for new construction. The funeral home and burial grounds is a valuable resource to the owners and the community and it is their desire to make the best use of the land to better accommodate their clients. Doing away with the lake would take away from the aesthetics of the grounds and the only real location to build new mausoleums is the area in which they are seeking approval.

Chairman Osterhage invited anyone from the audience to speak.

Questions were raised as to whether or not there would be new construction of a road around Jefferson and Forrest Lane. The owner expressed that there was no reason to ever have another entrance or a road in that area. Another question raised was how big the mausoleum was going to be. The new mausoleums will be smaller than the current one and will be about 15 feet high and hold about 240 caskets each.

CLOSED PUBLIC HEARING: Chairman Osterhage thanked those who have attended the meeting and the public hearing portion closed at 8:01 p.m.

The Board members discussed the first request.

For the first recommendation, Chairman Osterhage called for a favorable motion to approve the conditional use permit for the expansion of a cemetery within the R-1D (Residential One-D) Zone. Mr. Staubach stated his motion to allow the conditional use permit is based upon the Staff recommendation and the need for the funeral home to accommodate the needs of their clients. Ms. Foster made second. The Clerk called the role.

Mr. Russell Staubach	Yes
Ms. Janice Foster	Yes
Mr. Ed Kuehne	Yes
Chairman Jack Osterhage	Yes

MOTION CARRIED

The Board members discussed the second request.

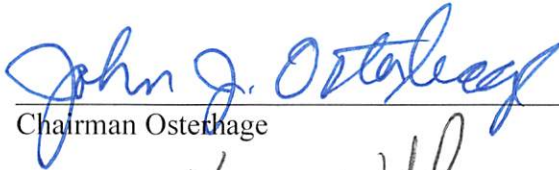
For the second recommendation, Chairman Osterhage called for a motion to go against the Staff recommendation. Staff calls for an unfavorable recommendation for a variance within the R-1D (Residential One-D) Zone of the Taylor Mill Zoning Ordinance, in which one of the buildings has a rear yard setback of twenty five feet where fifty feet is required. Mr. Staubach stated his motion to oppose the Staff recommendation motion is based upon what was discussed in the meeting. Furthermore, there is a hardship based upon the demand and land usage restrictions. The existing neighbors did not find that it was an issue with them. There would be a twenty foot landscape buffer zone and the requirement for the funeral home to be held accountable to fix and maintain the landscape buffer is in place. The special circumstance of the lake and certain restrictions that was expressed by the engineer gives basis for the granting permission for the variance request for twenty-five feet setback versus a fifty-foot setback. Mr. Staubach so moved, with a second from Mr. Kuehne.

Mr. Russell Staubach	Yes
Mr. Ed Kuehne	Yes
Ms. Janice Foster	Yes
Chairman Jack Osterhage	Yes

MOTION CARRIED

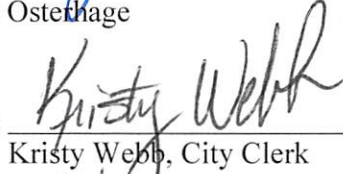
ADJOURNMENT: There being no further business before the Board, Chairman Osterhage called for a motion to adjourn. Mr. Kuehne so moved, with a second from Mr. Smith to adjourn the meeting. The motion passed and the meeting was adjourned at the time of 8:07 p.m.

MOTION CARRIED



Chairman Osterhage

ATTEST:



Kristy Webb, City Clerk

DATE:

