Kenton County Board of Adjustment  
Meeting Minutes: NOVEMBER 20, 2019  

Chairman Guidi called the meeting of the Kenton County Board of Adjustment to order at 2:00 p.m. in the Fiscal Court Chambers of the Kenton County Government Building in Covington.

Attendance of members was as follows.

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<th>Member</th>
<th>Term Expiration</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
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<tr>
<td>Richard Guidi, Chair</td>
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<td>Jim Brewer, Vice Chair</td>
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<td>John Haas, Secretary</td>
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<td>Joe Bergman</td>
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<td>Rodney Kannady</td>
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<td>Rusty Smith</td>
<td>12/31/2021</td>
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X  present  
A  absent  
-  no meeting  
*  not on the Board

Staff members present: Patrick Denbow, AICP, Senior Planner; Andy Videkovich, AICP, Current Planning Manager and Pamela Bushelman, Senior Secretary

Others present: Garry Edmonson, Legal Counsel

Ms. Bushelman called the roll and five of the five members were present and a quorum was established.

Chairman Guidi then moved to the approval of the agenda. There were no other additions or changes. Mr. Brewer made a motion to accept the agenda; seconded by Mr. Kannady, and a voice vote found all in favor. The motion passed.

Chairman Guidi noted that members had received the minutes of the September 18, 2019 meeting and asked if there were any corrections, changes, or additions. There were none. Mr. Brewer then made a motion to accept the September 18, 2019 minutes as written; seconded by Mr. Kannady, and a roll call vote found Mr. Brewer, Mr. Bergman and Mr. Kannady in favor with Chairman Guidi and Mr. Haas abstaining. The motion passed.
NEW BUSINESS

Chairman Guidi then declared the public hearing open to consider case number BOA1910-0003.

APPLICANT: Kari Shankar on behalf of AKRG LLC
LOCATION: 731 Cox Road, Independence
REQUEST: To seek a conditional use permit through the Independence Zoning Ordinance for construction of a completely enclosed self-storage facility within the NSC (Neighborhood Shopping Center) Zone; and, to appeal an interpretation of the term “completely enclosed” made by the Zoning Administrator. The applicant proposes to construct a 21,500-square foot self-storage facility with 178 total units, approximately 90 of which are proposed to provide drive-up access. The entire facility is to be surrounded by a privacy fence.

He began the public hearing with confirmation of notification. Mr. Denbow confirmed that public notice was published per KRS 100.

Chairman Guidi then asked members if any of them had a conflict of interest with the case to be heard. The Board members reported that there were no conflicts. He then asked members if there had been any visits to the site for the purpose of this meeting. There were none.

Mr. Denbow began the staff presentation and entered the staff report as Exhibit A into the record: (a copy of which is attached to the original Minutes of record)

- Exhibit 1 PDS Staff Report dated November 13, 2019
- Exhibit 2 Materials submitted by the applicant
- Exhibit 3 Site Plan
- Exhibit 4 Presentation slides

Mr. Denbow then reviewed the applicants request for a conditional use permit and an appeal. He noted that he would provide the review and recommendations for each request separately for this meeting.

Mr. Denbow continued the staff presentation with a brief review of the site location, street classifications, site and adjoining property classifications. He then reviewed the site plan submitted by the applicant that proposes the construction of a self-storage facility that is approximately 21,500-square feet and include approximately 178 total units, approximately 90 of which are proposed to provide drive-up access. He then reviewed the property setbacks, building footprint and the proposed privacy fence that would surround the entire facility. He noted that all proposed structures meet the set-back requirements for the zone and then reviewed the required landscape buffer adjacent to the residential properties. He went on to show the proposed drive-up units that would have exterior access and the units that would have interior only access. Mr. Denbow continued with the presentation showing that access to the property would be from Cox Road to a gate with a keypad entry.

Mr. Denbow then reviewed the applicant’s submission letter and reasoning for the proposed construction including the site characteristics and proposed safety and security measures included with the applicant’s plan.

Mr. Denbow stated that Request #1 is the appeal of the zoning administrator’s interpretation of the term ‘completely enclosed’. The applicant believes that by surrounding the entire site with a privacy
fence that the entire facility would be ‘completely enclosed’. He then reviewed the zoning ordinance that defines ‘completely enclosed’ as: a building separated on all sides from adjacent open space or from other buildings or other structures by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance and exit doors.

Mr. Denbow then reviewed the 2013 Zoning Text Amendment (Z13-03-01/2105-R) regarding the conditional use and provisions for completely enclosed self-storage units and warehousing businesses. He then reviewed the regulations for the Board’s hearing of appeals.

Mr. Denbow then continued to the review of request #2 to seek a conditional use permit through the Independence Zoning Ordinance for construction of a completely enclosed self-storage facility within the NSC (Neighborhood Shopping Center) Zone. He went on to review the Board’s authority and findings that allow the approval of Conditional Uses. He affirmed that completely enclosed self-storage units are permitted as a Conditional Use in the NSC zone.

Mr. Denbow then proceeded to staff’s recommendation for Request #1 (Appeal) to uphold the interpretation of the term ‘completely enclosed’ as made by the Zoning Administrator. He noted specifically that the recommendation was based on the zoning code definition of ‘completely enclosed’ and the intent of the city regarding the 2013 Zoning Text Amendment.

Mr. Denbow then presented staff’s recommendation for Request #2 (Conditional Use) as unfavorable after finding that the applicant was not proposing a ‘completely enclosed’ self-storage facility as defined in the zoning ordinance. He also noted the adverse effects of the Conditional Use on the surrounding properties and stated that there are additional construction standards if the Conditional Use is approved.

Upon conclusion of the staff presentation, Mr. Denbow asked if there were any questions from the Board.

Chairman Guidi and Mr. Brewer asked for clarification that the unfavorable recommendation was based on the proposed building having 90 exterior doors and not be considered completely enclosed making it an undesirable facility in the community. Mr. Denbow stated that was correct.

Mr. Brewer and Mr. Denbow then discussed the adjoining property that has a building with several exterior doors for deliveries to the tenants. Mr. Denbow stated that this particular use was to be completely enclosed based on the zoning ordinance and the intent of the city of Independence when the text amendment was adopted in 2013.

Mr. Denbow, Chairman Guidi and Mr. Brewer then discussed the interpretation of ‘normal entrance and exit doors for a storage facility’. It was noted that ‘completely enclosed’ was defined prior to the approved 2013 text amendment and that the city of Independence did not want exterior access self-storage facilities. Chairman Guidi argued that there is no definition for ‘normal entrance and exit doors’ in the ordinance. Mr. Denbow reviewed the Kenton County Planning Commission Action and Recommendations that are included in the ordinance by reference.

A short discussion was held regarding the required landscape buffers, the type and location and maintenance responsibilities for the landscaping. Mr. Brewer asked about the height and type of the privacy fence that would be built and discussion was held regarding the permitted classes of fence,
height and requirements that would have to be met by the applicant. It was also noted that if the trees in the current buffer zone were left untouched the applicant could receive landscape credit.

There being no further questions for staff, Chairman Guidi asked if the applicant would like to address the Board. Mr. Kari Shankar and Mr. Ed Turner (applicant/employee) were sworn in for testimony by Mr. Garry Edmondson, Legal Counsel.

Mr. Shankar provided a brief history of the building’s past and present use of his self-storage property that adjoins the site in question, and stated that there is now a high demand for drive-up storage and for the storage of recreational vehicles due to the zoning ordinance within the city of Independence. He stated that potential renters must travel great distances to find drive-up storage and suitable storage for vehicles such as boats, motorcycles and RVs. He also noted that the proposed site is not suitable for commercial because there is no visibility for advertising and no demand for other types of commercial use such as a recreational sport venue or banquet facility. Mr. Shankar believes that there is a great need for this type of storage facility within the community. He also indicated that he could build a fully enclosed storage facility, but the cost would be much higher and would have to be reflected in the rental pricing.

Chairman Guidi asked if the facility would be climate controlled? Mr. Shankar stated neither interior nor exterior units would be climate controlled and went on to explain new technology that uses dehumidifiers and ventilation to control mold.

Mr. Brewer and Mr. Shankar then discussed the area needed for the storage of boats and RVs. Mr. Shankar explained that the proposed plan had mobile partitions and there would be no exterior pad storage of boats or other recreational vehicles and that everything stored would be inside with a door that closes.

Mr. Ed Turner stated that he gets between five and ten requests a week for recreational vehicle storage space and he turns them away and helps them locate another facility.

Discussion continued to address the size and area needed for the maneuverability and storage within the site. Mr. Shankar explained that the partitions are moveable and that with the approval they would have 30-35 feet available for maneuvering larger vehicles, that the privacy fence would truly not allow anybody to see the doors and if the doors are allowed they would be able to convert the site to boat and RV parking. He also indicated that the fence would be a 6-foot solid wood fence but could be built higher at the city’s request.

Mr. Guidi asked about the height of the building and Mr. Shankar stated that the typical height is approximately 10.5 feet, but with approval for the doors they could go up to 14 feet which is what would be needed for boat and RV parking. Mr. Haas asked for clarification on the building height and Mr. Shankar replied that it would depend on the approval of the Board. If it is not approved the building would be 10.5 feet tall and, with approval for the exterior doors, the building would be 14 feet tall to accommodate the area needed to park boats and RVs. Mr. Guidi clarified with the applicant that if the request is denied they would still build a 10.5-foot-tall building with interior access, but if approved it would be a smaller and taller building. The applicant confirmed the statement.
Discussion continued regarding the location of the boat and RV parking access within the facility with one side facing Taylor Mill Road and the other access area facing toward the rear of the adjoining properties. It was also clarified for Mr. Bergman that 30 spaces are planned for boat and RV storage.

Mr. Shankar then distributed updated site plans to the Board (included for the record as Exhibit B) that would provide for another option for construction. The Board members spent time reviewing and discussing the new site plan. Specifically, the new site plan allowed the facility to be completely enclosed with a larger drive-thru area that could store smaller vehicles. Mr. Haas also clarified the entrance and exit and delivery doors on the building of the adjoining property.

Chairman Guidi then asked if there were any proponents who would like to address the Board. There were none.

Chairman Guidi then asked if there were any opponents who would like to address the Board. There were none.

Chairman Guidi then opened the Board discussion. There was a lengthy discussion that included the issue of the definition for ‘completely enclosed’ and ‘normal entrance and exit doors’ and the background for the requirement for climate-controlled storage facilities.

Chairman Guidi noted that Request #1 was to address the appeal of the zoning administrator’s interpretation of ‘normal entrance and exit doors’ within the definition for ‘completely enclosed’. Discussion continued and the planned doors were interpreted by the Board as ‘normal’ for a self-storage facility. It was also noted that this facility is a Conditional Use in the NSC zone and could have other conditions, and the city’s intent for those conditions to be that self-storage units would only have interior access. Mr. Brewer suggested that the Board deny the requests and that the applicant should approach the city to modify the ordinance with a text amendment that would allow for covered or contained RV and boat storage rather than trying to circumvent the wording and purpose of the ordinance. All Board members agreed that there is a definite need for the storage of recreational vehicles and boats.

Mr. Guidi then stated that Request #2 hinges on the outcome of Request #1 and that the site plan would be modified to meet the ordinance requirements if Request #1 was upheld. Mr. Brewer again indicated that it would be the better and least costly solution to let the city of Independence decide. It was also noted by Mr. Videkovich that no comments had been received from the city.

For Request #1 for the appeal of the zoning administrator’s interpretation of the definition of ‘completely enclosed’ Mr. Brewer made a motion to accept the findings and conditions of staff and deny the appeal; seconded by Mr. Bergman. A roll call vote found Mr. Brewer and Mr. Bergman favorable and Chairman Guidi, Mr. Haas and Mr. Kannady unfavorable and the motion failed.

Chairman Guidi then made a motion to reverse the zoning administrator’s interpretation of ‘completely enclosed’ meaning that the Board’s interpretation is that a multiple system of exterior doors is normal for a self-storage facility; seconded by Mr. Haas. A roll call vote found Chairman Guidi, Mr. Haas and Mr. Kannady favorable and Mr. Brewer and Mr. Bergman unfavorable. The motion passed.
For Request #2 for a Conditional Use permit to construct a completely enclosed self-storage facility in the NSC zone. Chairman Guidi made a motion to grant the Conditional Use permit for the completely enclosed self-storage facility based on testimony that the interpretation of “completely enclosed” was the primary basis for an unfavorable recommendation, that with the interpretation being overturned, it would meet the needs of the community and there would be no adverse effects; seconded by Mr. Kannady. A roll call vote found all members in favor and the motion passed.

Mr. Haas then made an additional motion to add the condition that the solid wood privacy fence be a minimum of six feet in height; seconded by Mr. Kannady. A roll call vote found all in favor and the motion passed.

Mr. Guidi then concluded the public hearing for BOA1910-0003.

With nothing further, staff mentioned that no issues have been received for the December 18th meeting and that the deadline to submit is at 5 p.m. An email confirmation will be sent to all members when the status is known.

There being no further business, Mr. Brewer made a motion to adjourn; seconded by Mr. Kannady and a voice vote passed unanimously.

The meeting was adjourned at approximately 3:05 p.m.