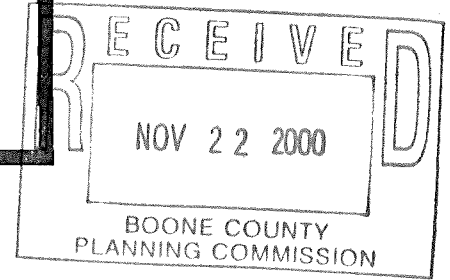


01-BCBOA-001-1A

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION



See Boone County Zoning Regulations SECTION A (To be completed by applicant)

- 1. (Check One) Boone [X] Florence [check] Walton Union
2. (Check One) Conditional Use Permit [X] Variance Appeal
3. Applicant's Name Kevin Schwartz, Phone Number 282-7282, Fax No. 282-7282, Applicant's Address 1250 Beamon, Florence, KY 41042
4. Description of Request: We are proposing to change the rear yard setback to a five-foot (5') minimum setback.
5. Name of Development
6. Location of Development Just southwest of the intersection of Old Mount Zion Road and U.S. 25.
7. Acreage Under Review
8. Lot Number and Name of Subdivision (if part of a subdivision)
9. Owner of Property Brigid Schwartz, Phone Number of Owner 282-7282, Address of Property Owner Florence, KY 41042
10.
11. Proposed Use(s) on Site Automotive repair facility
12. Total Square Footage of Existing and/or Proposed Buildings 2,880 square feet
13. Current Zoning on Property C-1
14. Deed Book 759, Page No. 199, Group No. 2058
15. Is the site subject to a zone change? No
16. Have you submitted a Site Plan with this request? Yes
17. Have you submitted a list of adjoining property owners with this request? Yes
18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

Applicant's Signature: [Signature]

Property Owner's Signature: [Signature]

(over)

## STAFF REPORT

APPLICANT: Kevin Schwartz

LOCATION: South side of Old Mt. Zion Road,  
Boone County, Kentucky

ZONING: Commercial One (C-1)

DATE: December 4, 2000

### Proposal

The applicant is requesting a variance to allow a reduction in the rear yard setback from twenty feet (20') to five feet (5') in order to construct a 2,880 square foot automotive repair facility on a 0.35 acre site located on the south side of Old Mt. Zion Road in a Commercial One (C-1) district.

The applicant submitted Exhibits A, B, and C as part of the application.

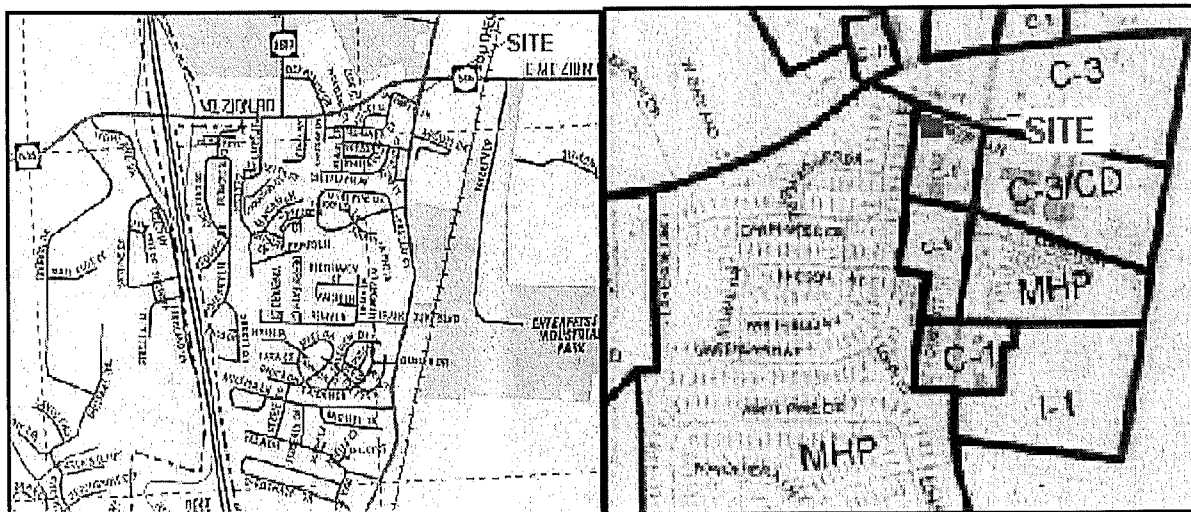
Exhibit A - Site Plan for the property.

Exhibit B - List of adjacent property owners.

Exhibit C - Deed for the property.

It is important to note that the applicant obtained approval from the Boone County Board of Adjustment for a Conditional Use Permit on November 8, 2000 in order to construct and operate an 2,520 sq. ft. automotive repair facility on this site.

### Location and Zoning Maps



## Surrounding Land Uses and Zoning

Most of the adjacent property is zoned either Commercial One (C-1) or Commercial Services (C-3). Adjacent land uses located directly to the north of the property are Sheehan Pools (C-3), Children's Express (C-3), and the Music House (C-3). To the east is Papa Dino's Food Mart which is zoned C-1. Ameristop Gas Station and Convenience store, zoned C-1, is located to the south. Greenlawn Estates Mobile Home Park is located to the west and is zoned MHP.

## Applicable Regulations

Article 37, Section 3745 of the Boone County Zoning Regulations requires buffer yards when one zoning district adjoins another zoning district. Table #1 under this heading requires a buffer of twenty feet (20') feet where a Commercial One (C-1) district is adjacent to a Mobile Home Park (MHP) district. If the site is less than 3 acres, the buffer yard *may* be reduced to ten feet (10'). This section (#3) also states that the maximum reduction for a buffer yard area is 50 percent.

Article 33, Section 3311 of the Boone County Zoning Regulations requires that 90° parking spaces have a stall width of nine feet (9'), and stall length/depth of eighteen feet (18'). The stall length may be reduced by 2.5 feet when a clear overhang of 2.5 feet is provided. In addition, this article requires a two-way or double loaded drive width of twenty-four feet (24').

Article 2, Section 250 of the Boone County Zoning Regulations states that the Board of Adjustment and Zoning Appeals shall have the power to hear and decide on applications for variances. A variance is defined as a departure from the dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

## Variance Regulations

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a variance as stated in Section 251 of the Boone County Zoning Regulations:

1. Before any variance is granted, the Board must find that the granting of the 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 contained in the zoning regulations. In making these findings, the Board shall consider whether:
  - a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
  - b. The strict application of the provisions contained in the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
  - c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

2. The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

### Staff Concerns/Comments

1. The applicant has increased the size of his proposed automotive repair facility from 2,520 sq. ft. to 2,880 sq. ft. since approval of his conditional use permit on November 8, 2000. It is important to note that the applicant must either decrease the building size to 2,520 sq. ft. as submitted and approved in the original conditional use permit or apply for another conditional use permit showing the revised 2,880 sq. ft. building. In addition, the site plan submitted as part of the applicant's variance application: (1) depicts eleven (11) of the parking spaces as being reduced by 2.5' using the 10' buffer as an overhang area, (2) shows only a 6' buffer between the proposed use and the adjacent commercial area located to the south of the property, and (3) shows an increased two-way or double loaded aisle width of 34.41 feet where only 24 feet are required in accordance with Article 33, Section 3311 of the Boone County Zoning Regulations.
2. As the building has been shifted to the southern portion of the site, it is no longer necessary to utilize the 10 foot buffer area located in the front yard as an overhang for the site's eleven (11) parking spaces. Therefore it is recommended that the applicant modify his site plan to depict 9' x 18' parking spaces as required by Article 33, Section 3311 of the Boone County Zoning Regulations in order to maximize the amount of buffer yard (greenspace). It is important to note that the buffer yard area has already been reduced from 20 feet to 10 feet (or 50%).
3. In order to achieve the appropriate double-loaded driveway aisle width of 24', the applicant was asked (as part of the approval of the conditional use permit) to shift his building several approximately one-half foot (0.59') to the south in order to meet this requirement. The revised plan shows a 34.41' aisle width (10' over the amount needed to comply with this requirement). The proposed plan depicts the applicant's building as encroaching upon the ten foot (10') wide buffer area by approximately four feet (4'). It is recommended that building be shifted four feet (4') to the north so that the 10' buffer yard can be installed in accordance with Article 37, Section 3745 of the Boone County Zoning Regulations.

### Conclusion

KRS 100.241 and Section 250 of the Boone County Zoning Regulations gives the Boone County Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for a rear yard variance. It is the staff's opinion that granting a 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 **IF** the minimum 10 foot buffer area is maintained in the front and rear yards of the property. Therefore, should the board approve this request, it is recommended that the rear yard variance only be granted from 20 feet to 10 feet (not 5 feet) in order to maintain the minimum 10 foot buffer yard requirement and that the parking spaces be modified to 9' x 18' stalls. In addition, it is important to note that the variance would not apply to the increased building size.

It should also be noted that a site plan depicting appropriate buffer yards, landscaping, parking, signage, etc, must be reviewed and approved by the staff of the Boone County Planning Commission in accordance with Article 30 of the Boone County Zoning Regulations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L. Robertson', written in a cursive style.

Lara B. Robertson, AICP

Attachments

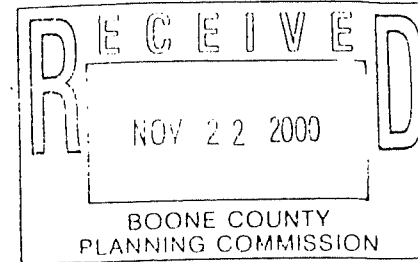
- Exhibit A - Site Plan for the property.
- Exhibit B - List of adjacent property owners.
- Exhibit C - Deed for the property.



November 16, 2000

Boone County Planning Commission  
2995 Washington Street  
Burlington, Kentucky 41005

RE: Automotive Service Facility  
2000840



To Whom It May Concern:

Listed below is a list of the adjacent property owners for the above referenced project:

Brigid Schwartz - Deed Book 759, page 199  
1250 Beemon Lane, Florence, Kentucky 41042

Gabella Corporation - Deed Book 424, page 187  
P.O. Box 92, Florence, Kentucky 41042

Greenlawn Estates Associates - Deed Book 278, page 75  
4070 Mount Carmel Tobasco Road, Cincinnati, Ohio 45230

Kohlhepp, Thomas E. - Deed Book 695, page 264  
3500 Dixie Highway, Erlanger, Kentucky 41018

Decker, Danny M. - Deed Book 734, page 151  
532 South Boone Smith Road, Alexandria, Kentucky 41001

Sheehan, Faye and William - Deed Book 306, page 151  
1076 Mount Zion Road, Independence, Kentucky 41051

If you have any questions regarding the above information, please feel free to contact me at your convenience.

Sincerely,

CDS ASSOCIATES, INC.

David Garrett  
Technician  
Kentucky Office

DG:lkd  
2000840 automotive service facility

BOOK 758 PAGE 139

RECEIVED  
1999 SEP -7 A 11:20

GENERAL WARRANTY DEED

BOONE COUNTY CLERK, KY

PROPERTY TRANSFER TAX PAID \$175.00  
MARILYN K. ROUSE, CLERK

Know All Men By These Presents:

That Firststar Bank, FSB., Trustee of the Howard Beeson Trust under agreement of Trust dated December 14, 1988, as amended June 23, 1992 and as amended October 19, 1998, by and through its Vice President/Trust Officer, Todd Felthaus, and pursuant to a resolution of its Board of Directors, and Linda West Co-Trustee, of the Elaine Beeson Trust dated December 14, 1988, Nancy Coleman, Co-Trustee, of the Elaine Beeson Trust dated December 14, 1988 and Thomas Beeson, Co-Trustee of the Elaine Beeson Trust dated December 14, 1988, for and in full consideration of One Hundred Seventy-Five Thousand (\$175,000.00) Dollars to it paid by the Grantee herein, the receipt of which is acknowledged, do bargain, sell, and convey to:

Brigid Schwartz, a single woman, her heirs and assigns forever, the following described Real Estate in the County of Boone and Commonwealth of Kentucky, to wit:

Grantors Address: c/o Katz, Teller, Brant & Hild, 255 E. 5th St  
Cincinnati, OH 45202

Grantees Address: 1250 Beeman Lane  
Florence, KY 41042

Street Address: 10051 Dixie Highway, Florence, Kentucky 41042

Tax Mailing Address: 1250 Beeman Lane  
Florence KY 41042

Group Number: 2058

PARCEL I:

A parcel of land lying and being on the northwesterly side of U.S. 25 in Boone County, Kentucky and being more particularly described as follows:

BEGINNING at a point in the northwesterly right-of-way line of U.S. 25 at its intersection with the southwesterly right-of-way line of Mt. Zion Road, and running thence:

S 12° 30' W., along the northwesterly right-of-way line of U.S. 25, a distance of 100 feet, to a point, thence, N65° 20' W., leaving U.S. 25 a distance of 150 feet, to a point, thence, N 12° 30' E., a distance of 100 feet, to a point in the southwesterly right-of-way line of Mt. Zion Road, thence, S 65° 20' E., along the southwesterly right-of-way line of Mt. Zion Road, a distance of 150 feet, to the place of beginning, and containing 0.35 acres more or less. Subject to all easements and/or rights-of-way of record.

Subject to easements, conditions, restrictions, and covenants of record and/or in existence.

PARCEL II:

A parcel of land lying on the southwesterly right-of-way line of Mt. Zion Road in Boone County, Kentucky and being more particularly described as follows:

BEGINNING at a point 150 feet from the northwesterly right-of-way line of U.S. 25 at its intersection with the southwesterly right-of-way line of Mt. Zion Road, and running thence S 12° 30' W., parallel with the northwesterly right-of-way line of U.S. 25, a distance of 100 feet, to a point, thence, N65° 20' W., a distance of 150 feet, to a point, thence, N 12° 30' E., a distance of 100 feet, to a point in the southwesterly right-of-way line of Mt. Zion Road, thence, S 65° 20' E., along the southwesterly right-of-way line of Mt. Zion Road, a distance

RETURN TO *Preparer*

199/3

(2)

(1)

of 150 feet, to the place of beginning, containing 0.35 acres more or less. Subject to all easements and/or rights-of-way of record.

Subject to easements, conditions, restrictions, and covenants of record and/or in existence.

Being the same property conveyed to Howard Beeson and Elaine Beeson, Trustees under agreement of trust dated December 14, 1988, wherein Howard Beeson is the Grantor from Howard Beeson and Elaine Beeson, husband and wife by deed dated December 14, 1988 and recorded December 19, 1988 in Deed Book 399, Page 1 of the Boone County Clerk's records at Burlington, Kentucky and also by deed to Howard Beeson and Elaine Beeson, Trustees under agreement of trust dated December 14, 1988, wherein Elaine Beeson is the Grantor from Howard Beeson and Elaine Beeson, husband and wife, by deed dated December 14, 1988 and recorded December 19, 1988 in Deed Book 339 at Page 40 of the Boone County Clerk's records at Burlington, Kentucky.

Together with all the Privileges and Appurtenances to the same belonging. To Have and To Hold the same to the said Brigid Schwartz, a single woman, her heirs and assigns, forever, the Grantors, its successors and assigns, HEREBY COVENANTING with the Grantee, her heirs and assigns, that the TITLE so conveyed is CLEAR, FREE and UNENCUMBERED, and that it will WARRANT AND DEFEND the same against all legal claims whatsoever, except real estate taxes for 1999 and thereafter, which have been pro-rated as of the date of closing and which Grantee assumes and agrees to pay.

IN WITNESS WHEREOF, the said Grantors, Firstar Bank, FSB., Trustee of the Howard Beeson Trust under agreement of Trust dated December 14, 1988, as amended June 23, 1992 and as amended October 19, 1998, by and through its Vice President/Trust Officer, Todd Felthaus, and pursuant to a resolution of its Board of Directors and Linda West Co-Trustee, of the Elaine Beeson Trust dated December 14, 1988, Nancy Coleman, Co-Trustee, of the Elaine Beeson Trust dated December 14, 1988 and Thomas Beeson, Co-Trustee of Elaine Beeson Trust dated December 14, 1988, have hereunto set its hands, this 27th day of August, 1999.

Firstar Bank, FSB., Trustee of the Howard Beeson Trust under agreement of Trust dated December 14, 1988, as amended June 23, 1992 and as amended October 19, 1998, Grantor

BY: Todd A. Felthaus VP+TO  
Todd Felthaus, Vice President/Trust Officer

Linda West Trustee  
Linda West, Co-Trustee, of Elaine Beeson Trust dated December 14, 1988, Grantor

Nancy Coleman Trustee  
Nancy Coleman, Co-Trustee, of Elaine Beeson Trust dated December 14, 1988, Grantor

Thomas Beeson  
Thomas Beeson, Co-Trustee of Elaine Beeson Trust dated December 14, 1988, Grantor

COPY

CLUR #01-BCBOA-001-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Brigid Schwartz  
1250 Beemon Lane  
Florence, KY 41042

2. ADDRESS OF PROPERTY

Old Mt. Zion Road  
Florence, KY 41042

3. NAME OF SUBDIVISION OR  
DEVELOPMENT (if applicable)

\_\_\_\_\_

4. DEED BOOK 759

PAGE NO. 199

GROUP NO. 2058

5. TYPE OF RESTRICTION(S) (Check all that apply)

\_\_\_ Zoning Map Amendment:  
From \_\_\_ To \_\_\_

\_\_\_ Conditional Use Permit

\_\_\_ Development Plan

\_\_\_ Conditional Zoning

\_\_\_ Subdivision Plat  
(Not Recorded)

\_\_\_ Other:

X Variance

6. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT,  
LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL  
RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION  
2995 WASHINGTON STREET  
BURLINGTON, KENTUCKY 41005

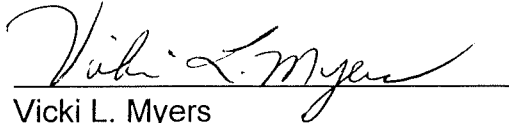
  
SIGNATURE OF COMPLETING OFFICIAL

Todd K. Morgan, Planner, Zoning Services  
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

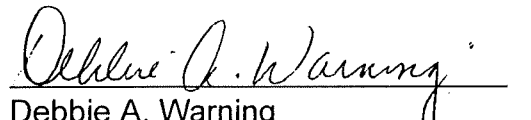
COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 23 day of January, 2001.

  
\_\_\_\_\_  
Vicki L. Myers  
NOTARY PUBLIC, State at Large

My commission Expires:  
April 17, 2003

This instrument was prepared for recording purposes only by:

  
\_\_\_\_\_  
Debbie A. Warning  
Boone County Planning Commission  
2995 Washington Street  
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Variance approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of January 10, 2001 Certificate of Land Use Restriction (#01-BCBOA-001-A), for Brigid Schwartz, Property Owner(s).

The following conditions will apply:

1. A Variance is granted for a reduction of the rear yard setback from twenty (20) feet to ten (10) feet, with the conditions that the parking stalls be modified to 9' x 18'.
2. A Site Plan showing the appropriate buffer yards, landscaping, parking, signage, etc. must be reviewed and approved by the staff of the Boone County Planning Commission.

The approved Variance as well as the preceding conditions apply to the property described in:

DEED BOOK 759

PAGE NO. 199

GROUP NO. 2058