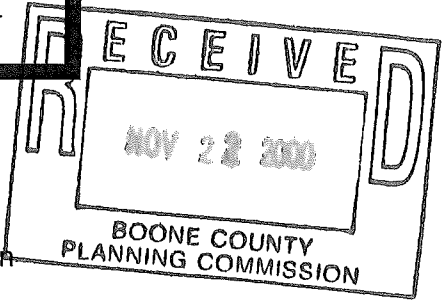


APPLICATION FORM

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 _____ Florence _____ Walton _____ Union _____
- 2. (Check One) _____ Conditional Use Permit Variance _____ Appeal _____
_____ Change in Non-Conforming Use
- 3. Applicant's Name C & D Real Estate, LLC
Phone Number (859) 525-6770 Fax No. 525-7990
Applicant's Address 7623 Dixie Hwy
Florence KY 41042
City State Zip
- 4. Description of Request: Rear Yard Setback reduced from 50 feet to 35 feet.
- 5. Name of Development Shearer Medical Facility
- 6. Location of Development 10060 Demia Way
- 7. Acreage Under Review 1.008 Acres
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
Lot No. 6 of Daniels Business Park
- 9. Owner of Property C & D Real Estate, LLC
Phone Number of Owner SAME AS ABOVE 10.
Address of Property Owner _____
City State Zip
- 11. Proposed Use(s) on Site Medical Office Building
- 12. Total Square Footage of Existing and/or Proposed Buildings 6,264 S.F.
- 13. Current Zoning on Property C-4
- 14. Deed Book 779 Page No. 132 Group No. ~~3077~~ 2058
- 15. Is the site subject to a zone change? No
If yes, give date of approval _____
- 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: D. D. Shearer MD

Property Owner's Signature: D. D. Shearer MD

BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
APPLICATION
PAGE 2

SECTION B (To be completed by the Boone County Planning Commission Staff)

1. Date Received 11-22-00 Fee Received \$500.00 RA 26123
2. Is application complete? _____ Yes _____ No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:

Approved
 Approved with Conditions (See #6)
 Denial (See #7)

6. Conditions: (1) The buffer area is not reduced below twenty-feet (20') in the rear of the property in order to minimize the impacts of the development upon the homes located within the Greenlawn Estates Mobile Home Park. (2) A shared ten foot (10') buffer area (between the proposed facility and two adjacent uses) is approved by the Zoning Administrator (**See attached letters submitted at the meeting**). (3) 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.

Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005
(606) 334-2196 Phone
(606) 334-2264 Fax

NOTE: See Boone County Planning Commission Fee Schedule for Board of Adjustment Fees.

Site Plan Review is not granted by the appropriate Board of Adjustment.

An application consists of all fees paid in full, submitted drawings and a completed application form.

STAFF REPORT

APPLICANT: C&D Real Estate, LLC
LOCATION: Lot 6 of Daniels Business Park, 10060 Demia Way,
Boone County, Kentucky
ZONING: Commercial-Four (C-4)/CD
DATE: December 5, 2000

Proposal

The applicant is requesting a variance to allow a reduction in the rear yard setback from fifty feet (50') to thirty-five feet (35') in order to construct a 6,264 square foot medical office building on a 1.008 acre site located on Lot 6 of Daniels Business Park at 10060 Demia Way in a Commercial Four (C-4) district.

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

Exhibit A - Deed for the property.

Exhibit B - List of adjacent property owners.

Exhibit C - Site Plan for the property.

Surrounding Land Uses and Zoning

All of the adjacent property is zoned Commercial Four (C-4) with the exception of the Greenlawn Mobile Home Park, located to the east of the site, which is zoned MHP. Adjacent land uses located directly to the north of the property are Valvoline Oil (C-4), B.P. (C-4), and a small shopping center containing Discount Liquor and other stores (C-4). Directly to the south and west are vacant lots included within Daniels Business Park. Grace Baptist Church, also zoned C-4, is located to the southwest of the site several lots removed from the proposed medical office building.

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 Four (C-4) district is adjacent to a Mobile Home Park (MHP) district and ten feet (10') where the use abuts another Commercial Four (C-4) district. This section (#3) also states that the maximum reduction for a buffer yard area is 50 percent.

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 currently shows the required twenty foot (20') buffer yard between the proposed use and the mobile home park. However, a ten foot (10') buffer area is also required between the proposed use and other abutting uses in the Commercial Four (C-4) District. This buffer area is not shown on the site plan submitted as part of the conditional use permit application. Therefore, although this matter is typically addressed during the site plan review process as described in Article 30 of the Boone County Zoning Regulations, it is important to note in order to ensure that the site is large enough to accommodate the appropriate amount of parking and the medical facility without additional variances.

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 fifteen foot (15') rear yard 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 following conditions are met:

1. The buffer area is not reduced below twenty-feet (20') in the rear of the property in order to minimize the impacts of the development upon the homes located within the

Greenlawn Estates Mobile Home Park. In addition, existing vegetation between Greenlawn Estates and the proposed use should be preserved to the greatest extent possible.

2. The ten foot (10') buffer area is added to the site plan where the proposed property abuts other Commercial Four (C-4) lots.
3. 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.

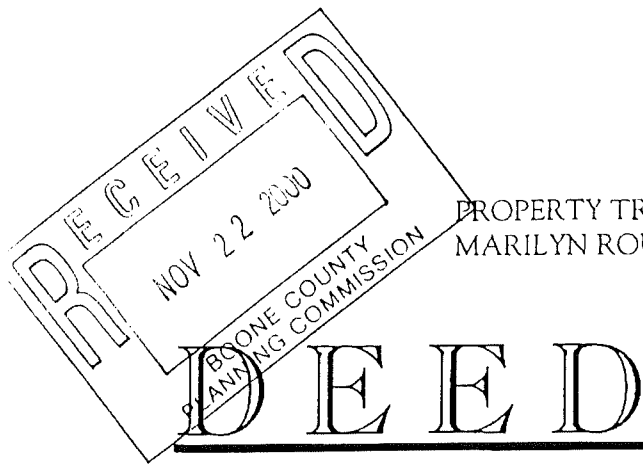
Respectfully submitted,



Lara B. Robertson, AICP

Attachments

- Exhibit A - Deed for the property.
- Exhibit B - List of adjacent property owners.
- Exhibit C - Site Plan for the property.
- Exhibit D - Location/zoning map of the property.



PROPERTY TRANSFER TAX \$ _____
MARILYN ROUSE, Clerk _____, D.C.

KNOW ALL MEN BY THESE PRESENTS: THAT

DGH INVESTMENTS, LLC
a Kentucky limited liability company,

for and in consideration of the sum of ONE HUNDRED EIGHTY THOUSAND and NO/100 (\$180,000.00) DOLLARS and other valuable consideration paid to it, the receipt and sufficiency of which are hereby acknowledged, does hereby bargain, sell and convey to

C & D REAL ESTATE, LLC
a Kentucky limited liability company,

its successors and assigns forever,

all of its right, title and interest in and to the following described real estate, lying and located in Boone County, Kentucky, to wit:

GRANTOR MAILING ADDRESS: 2020 Madison Avenue, Covington, KY 41014
GRANTEE MAILING ADDRESS: 7623 Dixie Highway, Florence, KY 41042
PRESENT STREET ADDRESS: Lot 6 Daniels Business PK, Florence, Ky. 41042

*

GROUP NO. 3819

Being all of Lot 6 of Daniels Business Park as recorded on Plat Slide 459A in Boone County, Kentucky and being more particularly described as follows:

Beginning at a point in the southern right of way line of Demia Way at its intersection with the common lot line between said Lot 6 and Lot 7 of Daniels Business Park; thence with said common line South 04° 54' 53" East 292.39 feet to a point in the rear line of said Lot 6, thence leaving said

Heritage Bank
1818 Burlington Pike
Burlington, KY 41005
RETURN TO:

STATE OF KENTUCKY.....)

:Sct.

COUNTY OF BOONE.....)

The foregoing instrument was acknowledged before me this 20th day of April, 2000, by DGH Investments, LLC, a Kentucky limited liability company, acting by and through Eugene Daniels, its authorized member, having been duly authorized to so act, to be his free act and deed as such authorized member, and the free act and deed of the Company.

My Commission Expires: 12-23-00.

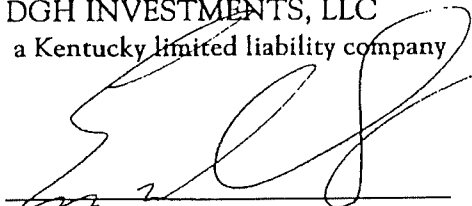
Diane LaFollette

Notary Public
State at Large

CONSIDERATION CERTIFICATE

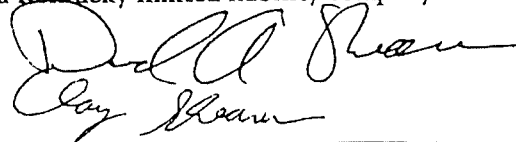
We, the undersigned, hereby certify that the consideration reflected in this deed is the full consideration paid for the property. The grantees execute this certificate for the sole purpose of certifying the consideration hereunder.

DGH INVESTMENTS, LLC
a Kentucky limited liability company



BY:
ITS: AUTHORIZED MEMBER

C & D REAL ESTATE, LLC
a Kentucky limited liability company



BY: DAVID A. SHEARER
ITS: AUTHORIZED MEMBER

Shearer Medical Facility – Variance Request
Adjacent Property Owners

Property Location

Property Owner Address

Greenlawn Mobile Home Park
US 25 and Beeson Ave
Florence, KY 41042

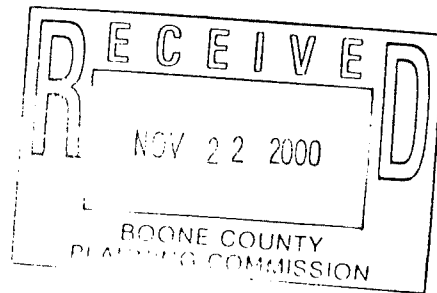
Greenlawn Associates
618 Mt. Moriah Dr.
Cincinnati, OH 45245

Grace Baptist Mission
10080 Demia Way
Florence, KY 41042

Grace Baptist Mission
P.O. Box 1177
Florence, KY 41042

Lot 2 & Lot 5
Daniels Business Park
Demia Way

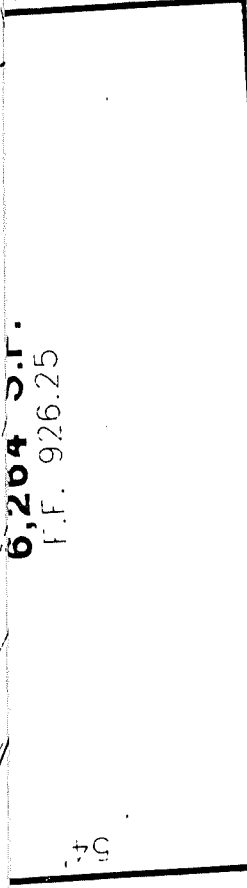
DGH Investments, LLC
2020 Madison Ave.
Covington, KY 41014



S59°05'57" E
253.00'

SUFFX

N55°24'30" W
41.17'



LOT 6

S55°59'50" W
252.75'

Exhibit C



UR-1/CD

COPY

CLUR #01-BCBOA-003-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
C & D Real Estate, LLC
7623 Dixie Hwy.
Florence, KY 41042
2. ADDRESS OF PROPERTY
10060 Demia Way
Florence, KY 41042
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Shearer Medical Facility
4. DEED BOOK 779 PAGE NO. 132 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:
- 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

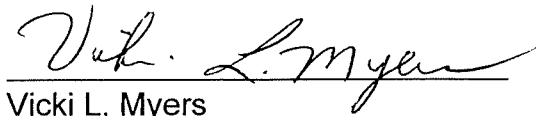

SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

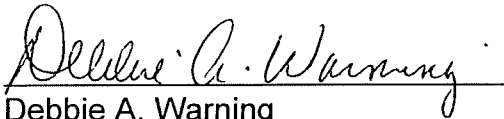
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 23 day of January, 2001.



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-003-A), for C & D Real Estate, LLC, Property Owner(s).

The following conditions will apply:

1. The buffer area is not reduced below twenty (20) feet in the rear of the property.
2. Approval by the Staff of the Boone County Planning Commission of a shared ten (10) foot sideyard buffer area as proposed by the applicant is required.
3. 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*.

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

DEED BOOK 779

PAGE NO. 132

GROUP NO. 2058