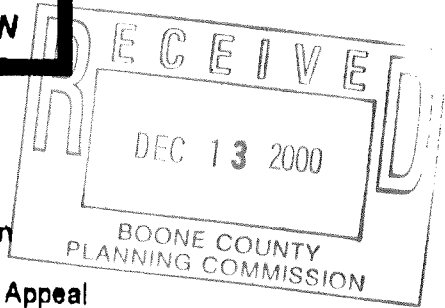


01-BOA-006-A

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) X Boone Florence Walton Union
2. (Check One) Conditional Use Permit X Variance Appeal
3. Applicant's Name Precision Construction Corp. Phone Number 859-371-8823 Fax No. 859-371-8333 Applicant's Address 5660 Limaburg Road Burlington KY 41005
4. Description of Request: 5' change in building set back from normal 50' to 45'
5. Name of Development Nature's Way Landscape
6. Location of Development 1534 Production Drive Burlington, KY 41005
7. Acreage Under Review .45
8. Lot Number and Name of Subdivision (if part of a subdivision) Commerce Park West Lot #28
9. Owner of Property Precision Construction Corp. Phone Number of Owner 859-371-8823 Address of Property Owner Burlington KY 41005
10. City State Zip
11. Proposed Use(s) on Site Office
12. Total Square Footage of Existing and/or Proposed Buildings 3,300
13. Current Zoning on Property II
14. Deed Book 251 Page No. 163 Group No. 2026
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: Precision cons. William Harward pres.

PROPERTY OWNER: William Harward pres.

(over)

**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 12-13-00 Fee Received 500.00 RA 26273
- 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) Three (3) additional parking spaces and one (1) handicapped space are provided in accordance with Article 33, Sections 3325 and 3312 of the
- 7. Boone County Zoning Regulations (BCZR). (2) That improvements to the site, including the addition to the building and new parking area, be brought into compliance with Article 37, Section 3705 of the BCZR concerning landscaping requirements. (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.

Burlington, Kentucky 41006
(859) 334-2196 - Phone
(859) 334-2264 - Fax
plancom@boonecountyky.org - E-mail

www.boonecountyky.org

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: Precision Construction Corporation
LOCATION: 1534 Production Drive,
Boone County, Kentucky
ZONING: Industrial One (I-1)
DATE: January 3, 2001

Proposal

The applicant is requesting a variance to allow a reduction in the front yard setback from fifty feet (50') to forty-five feet (45'). The variance is requested in order to construct a 810 square foot addition to an existing warehouse (containing 2,800 sq. ft.) currently leased by Nature's Way Landscape and Lawn Care. The .63 acre site is located on Lot 28 of Commerce Park West at 1534 Production Drive in an Industrial One (I-1) 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 - Statement detailing variance request.

Exhibit D - Site plan for the property.

Surrounding Land Uses and Zoning

All of the adjacent property is zoned Industrial One (I-1) and located within Commerce Park West. Adjacent land uses are located in similar industrial buildings and are as follows: Quality Signs (north), B&B Transportation (east), Nature's Way Landscape and Automotive Service Production (south), and Hold, Inc. storage buildings (west).

Applicable Regulations

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.

Article 2, Section 271 of the Boone County Zoning Regulations states, "If any lot of record does not meet the minimum square footage requirements that are generally applicable in the district wherein said lot is located, and that lot existed at the effective date of adoption or amendment of this order, the owner may develop that lot in conformance with the

dimensional (square footage) regulations, including front yard setback requirements, *previously in effect.*”

Article 31, Table 31.1 of the Boone County Zoning Regulations requires that a fifteen foot (15’) landscaped buffer be planted and maintained between the right-of-way and the parking area when the parking is located in the front yard area.

Article 33, Section 3000 of the Boone County Zoning Regulations states, “Whenever a building or structure constructed after the effective date of this order is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity, or otherwise creates a need for an increase in the number of existing parking spaces, ***additional parking spaces shall be provided on the basis of the enlargement or change.***”

Article 33, Section 3000 of the Boone County Zoning Regulations requires one (1) parking space for the disabled where 1-25 spaces must be provided.

Article 33, Section 3325 of the Boone County Zoning Regulations requires one (1) parking space per 250 gfa of office space located in an I-1 district.

Article 37, Section 3745 of the Boone County Zoning Regulations, pertaining to landscape requirements for existing sites that are currently developed, states, “Improvements to an existing site that include building additions, vehicular use area expansions or load/unloading area expansion shall be required to bring only the new improvements into compliance with this Article (Article 37)”.

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 ten feet (10’) feet where an Industrial One (I-1) district is adjacent to another Industrial One (I-1) district, although no trees and shrubs are required. A waiver of these requirements can be obtained in accordance with Article 37, Section 3717 of the Boone County Zoning Regulations.

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 site plan submitted as part of the variance application does not depict the construction of additional parking spaces or landscaping required in accordance with Articles 33 and 37 of the BCZR. In addition, the lot shown on the site plan only contains 110 feet of frontage where current regulations require 150 feet. For this reason, it is important to note that the final plat for Commerce Park West (which contains the lot depicted on the site plan) was approved in May of 1979 in accordance with regulations adopted at this time and may be developed (or structure expanded) in accordance with previous lot and setback requirements as stated in Section 271 of the Boone County Zoning Regulation (BCZR). However, when an addition is made to an existing building, a site plan that depicts parking and buffer yards being installed in accordance with current regulations is required. Therefore, the proposed 810 sq. ft. addition to the existing building requires an additional four (4) parking spaces, one (1) of which must be designated for disabled parking. In addition, the new improvements (building addition and parking area) must be installed in compliance with the landscaping requirements contained in Article 37 of the BCZR, unless waived by the Zoning Administrator during the site plan review process.

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 variance. It is the staff's opinion that granting a five foot (5') front 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. Three (3) additional parking spaces and one (1) handicapped space are provided in accordance with Article 33, Sections 3325 and 3312 of the Boone County Zoning Regulations (BCZR).
2. That improvements to the site, including the addition to the building and new parking area, be brought into compliance with Article 37, Section 3705 of the BCZR concerning landscaping requirements.
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 - Statement detailing variance request.
- Exhibit D - Site Plan for the property.
- Exhibit E - Location/Zoning Map

KNOW ALL MEN BY THESE PRESENTS: ~~DEED~~ ^{BOOK 251 PAGE 163} DEED Property Transfer Tax Paid 44.00
JERRY W. ROUSE, Clerk D.C. 78.

FREDA CONRAD, a single woman
for and in consideration of Forty Three Thousand Seven Hundred Forty Dollars (\$43,740)
the receipt whereof is hereby acknowledged. do(es) hereby bargain, sell and convey to

PRECISION CONSTRUCTION CORPORATION, a Kentucky corporation, its
SUCCESSORS
and assigns forever, the following described real estate, lying and being in Burlington Boone County, Kentucky to-wit:
Grantee Mailing Address _____ Group No. 2026
Property Address _____ Plat Book _____ Page _____

Beginning at an angle point in the Grantors westerly boundary, said point being a corner common to the Grantor herein and the southeasterlymost corner of Lot No. 5 of the Lubrecht Industrial Park, as recorded in Plat Book 11, Page 30 of the records of the Boone County Clerk at Burlington, Kentucky; thence along the common boundary of the said Grantor and said Industrial Park, N 14°-27'-43" W, 1,261.41 feet to a point; thence leaving said boundary and along a new dividing line N 75°-32'-17" E, 550.00 feet to a point; thence S 14°-27'-43" E, 861.41 feet to a point; thence S 21°-38'-49" W, 492.11 feet to a point; thence S 75°-00'-12" W, 260.00 feet to the point of beginning, CONTAINING 14.58 acres.

John Conrad died a resident of Boone County, Kentucky 13 December, 1962 and by virtue of the survivorship clause Grantor herein is the owner in fee simple of the above described property.

Being part of the same property conveyed to the Grantor(s) by
by deed dated 22 day of October, 1954 and recorded in Deed Book 115 Page 316 in the office of the Clerk of the Boone County Court, Burlington, Kentucky.
Together with all the privileges and appurtenances to the same belonging. To have and to hold the same to the said

PRECISION CONSTRUCTION CORPORATION, a Kentucky corporation, its
SUCCESSORS
and assigns forever, with covenants of general warranty,
IN WITNESS whereof the said FREDA CONRAD, a single person

hereunto set her hand this 28 day of September, 1978
FREDA CONRAD

STATE OF KENTUCKY
SCT.
County of Boone
The foregoing instrument was acknowledged before me this 28 day of September, 1978 by
FREDA CONRAD.
My Commission Expires 3/1/79 Robert F. Barrett
Notary Public

STATE OF KENTUCKY
SCT.
COUNTY OF BOONE
I, JERRY W. ROUSE, Clerk of the County Court in and for the County and State aforesaid, do certify that the foregoing instrument of writing from FREDA CONRAD
to PRECISION CONSTRUCTION CORPORATION was this 29th day of September, 1978
produced to me, certified as above and lodged for record at 2:02 o'clock P. m.
Whereupon, the same with foregoing and this certificate have been duly recorded in my office.
Given under my hand, this 29th day of September, 1978

This instrument was Prepared by Frank E. Barrett Attorney
223 Main Street
Florence, Kentucky 41042 6.15 Address
Recording Fee Paid _____
JERRY W. ROUSE, Clerk
By Brendy Cope D. C.
Return to Rob Barrett



5660 Limaburg Road
Burlington, Kentucky 41005
Telephone: (859) 371-8823
Fax: (859) 371-8333

ADJOINING PROPERTY OWNERS

- Quality Sign 1530 Production Drive
- Hold, Inc. 5672 Commercial Drive
- B & B Transportation 1543 Production Drive
- Mark Todd 1538 Production Drive

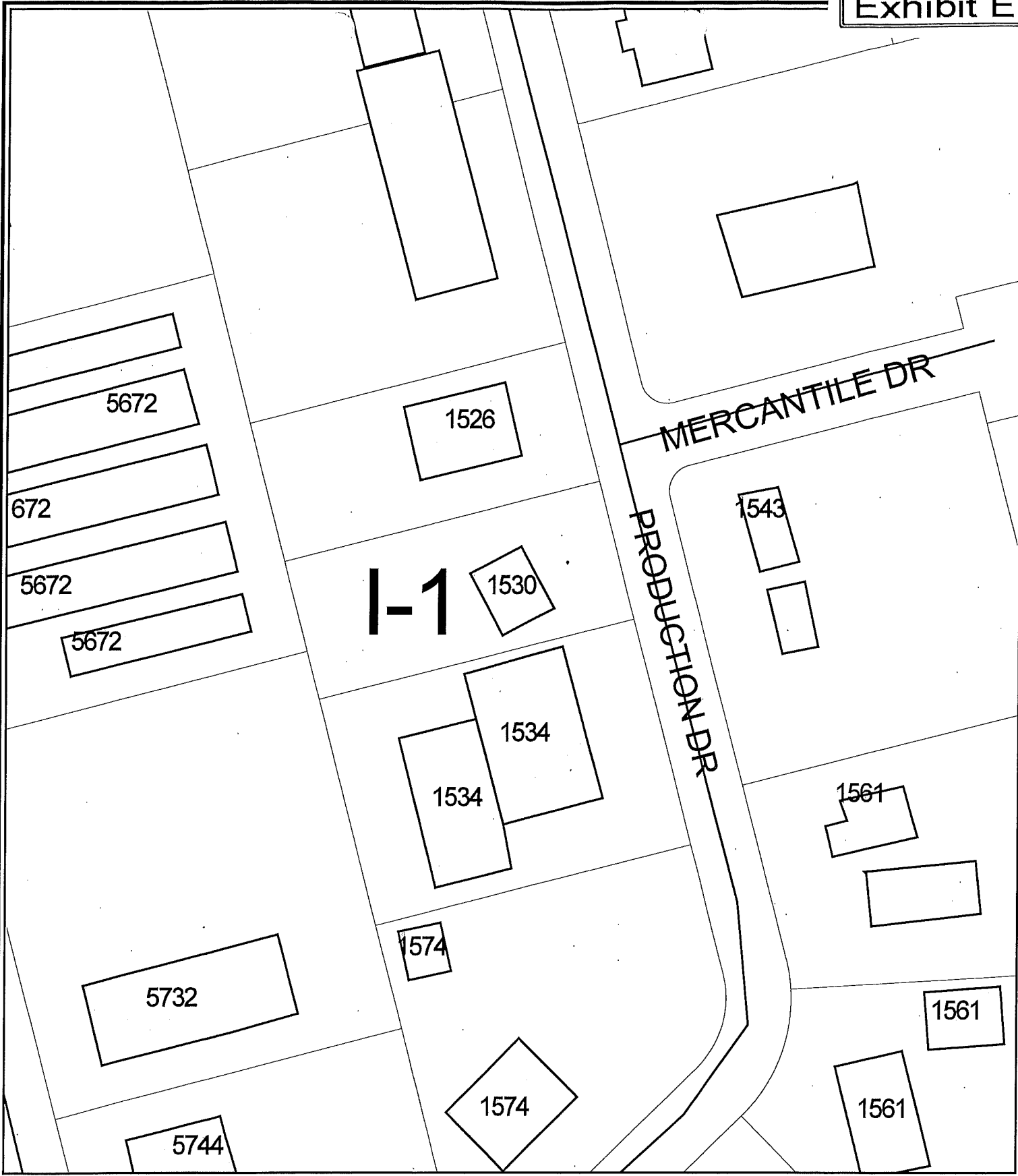
REASON FOR VARIANCE

This is to build an office for the existing warehouse which will enhance the looks of the property, bettering the looks of Commerce Park West.

The current tenant of the building is a growing company and they are now storing their landscaping equipment and running the office all out of the warehouse. They are in need of an office separated from the warehouse to run a more efficient business.

This is an original building in Commerce Park West. It is not parallel to the street. We only have 5' on one end to the building line and 17' to the opposite end.

We would like to have an additional 5' to make 10' on one end and 22' on the opposite end.



1530 Production Dr.



1 inch equals 100 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 January 4, 2001



COPY

CLUR #01-BCBOA-006-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Precision Construction Corp.
5660 Limaburg Road
Burlington, KY 41005

2. ADDRESS OF PROPERTY
1534 Production Drive
Burlington, KY 41005
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Nature's Way Landscape

4. DEED BOOK 251 PAGE NO. 163 GROUP NO. 2026

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

 Zoning Map Amendment: Conditional Use Permit
 From To

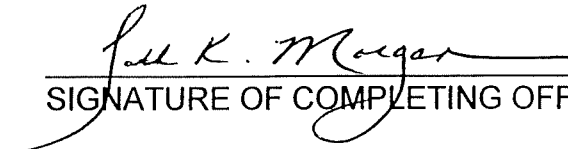
 Development Plan Conditional Zoning

 Subdivision Plat Other:
 (Not Recorded)

 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

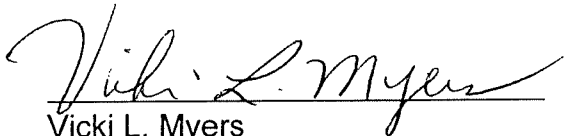

SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

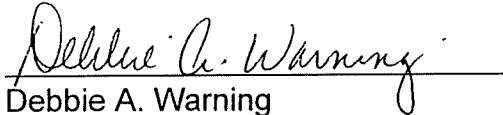
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 23 day of January, 2001.



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-006-A), for Precision Construction Corp., Property Owner(s).

The following conditions will apply:

1. Three (3) additional parking spaces and one handicapped space must be provided in accordance with Article 33, sections 3325 and 3312 of the *Boone County Zoning Regulations*.
2. Improvements to the site, including the addition to the building and new parking area must be brought into compliance with Article 37, Section 3705 of the *Boone County Zoning Regulations* concerning landscaping requirements.
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 251

PAGE NO. 163

GROUP NO. 2026