

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 SCOTT K. WARNECKE  
Phone Number (859) 801-7080 Fax No. \_\_\_\_\_  
Applicant's Address 2060 W. Horizon Dr.  
Hebron, KY 41048  
City State Zip
- 4. Description of Request: Appointment only  
Barber Shop.
- 5. Name of Development L.B.'s Barbershop
- 6. Location of Development 2942 Park St. Burlington, KY
- 7. Acreage Under Review \_\_\_\_\_
- 8. Lot Number and Name of Subdivision (if part of a subdivision) \_\_\_\_\_
- 9. Owner of Property Hans Philippo
- 10. Address of Property Owner 7450 Industrial Rd Phone No. (859) 525-0887  
Florence, KY 41042  
City State Zip
- 11. Proposed Use(s) on Site Appointment only  
Barber shop
- 12. Total Square Footage of Existing and/or Proposed Buildings 350 sq feet
- 13. Current Zoning on Property SR-1
- 14. Deed Book 537 Page No. 109 Group No. 2025
- 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.

ORIGINAL Property Owner's Signature: [Signature]  
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: [Signature]  
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

**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 10/15/09 Fee Received \$ 632<sup>00</sup> R# 59610
2. Is application complete?  Yes  No
3. Staff Reviewer \_\_\_\_\_
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
11/16/09 **Approved**  
\_\_\_\_\_ **Approved with Conditions (See #6)**  
\_\_\_\_\_ **Denial (See #7)**
6. Conditions of Approval: NONE  
\_\_\_\_\_  
\_\_\_\_\_
7. Reasons for Denial: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Boone County Planning Commission  
Boone County Administration Building  
2950 Washington Street, Room 317  
P.O. Box 958  
Burlington, Kentucky 41005  
(859) 334-2196 - Phone  
(859) 334-2264 - Fax  
plancom@boonecountyky.org - E-mail  
[www.boonecountyky.org](http://www.boonecountyky.org) - Web Page**

**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: Scott Warnecke

LOCATION: 2942 Park Street, Boone County, Kentucky

ZONING: Suburban Residential One (SR-1)

DATE: November 16, 2009

### PROPOSAL

The applicant is requesting a Change in Non-Conforming Use so he can operate an appointment only barber shop out of an existing office/storage building. The subject property is located at 2942 Park Street and is zoned Suburban Residential One (SR-1).

The applicant submitted a letter indicating the property is owned by Holland Roofing. Holland Roofing uses the portion of the building facing Bullittsville Road for file storage and leases the area adjoining Park Street to GSC Management. GSC Management operates Gold Star Chili restaurants in the area and uses their tenant space as an office. The applicant is proposing to sublease 350 square feet on the east side of the building from GSC Management.

### APPLICABLE REGULATIONS

Article 2, Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment and Zoning Appeals is to act on applications for changes in non-conforming use.

Article 2, Section 270 of the Boone County Zoning Regulations states that it is the intent of the regulations to keep non-conforming lots, uses or structures from being "enlarged or extended beyond the scope and area of its operation at the time it became a legal non-conforming use, nor shall other uses or structures which are prohibited elsewhere in the same district be permitted on lots of non-conforming uses or structures.

Article 2, Section 272 of the Boone County Zoning Regulations states where, at the time of the adoption of this order, legally established, uses of land exist which would not be permitted by regulations imposed by this order, the uses may be continued so long as they remain otherwise lawful, provided the Board shall not allow the enlargement or extension of a non-conforming use beyond the scope and area of its operation at the time these regulations were adopted."

KRS 100.253 allows the following:

1. The lawful use of a building or premises, existing at the time of the adoption of any zoning regulations affecting it, may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein.
2. The board of adjustment shall not allow the enlargement or extension of a non-conforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the board permit a change from one (1) nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification, provided, however, the board of adjustment may grant approval, effective to maintain nonconforming-use status, for enlargements or extensions, made or to be made, of the facilities of a nonconforming use, where the use consists of the

presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.

3. Any use which has existed illegally and does not conform to the provisions of the zoning regulations, and has been in continuous existence for a period of ten (10) years, and which has not been the subject of any adverse order or other adverse action by the administrative official during said period, shall be deemed a nonconforming use. Thereafter, such use shall be governed by the provisions of subsection (2) of this section.

Article 2, Section 273 of the Boone County Zoning Regulations states that The Board of Adjustments and Zoning Appeals shall have the power to hear and decide on applications to permit a change from one nonconforming use to another.

The Board shall not permit such a change unless the new nonconforming use is as equally or more compatible with permitted uses in the district in which it is located as the existing nonconforming use. Application for change of nonconforming use shall conform to the procedures and requirements for appeals as specified in Sections 245-254, inclusive, of this order and Kentucky Revised Statutes, Section 100.253.

The Board shall not allow any changed nonconforming use to be increased or enlarged, nor extended to occupy a greater area of land than was occupied by the original nonconforming use. In permitting such change in nonconforming use, the Board may require appropriate conditions and safeguards in accord with other provisions of this order, such as the provision of landscaping and buffering, the improvement of parking areas, and restrictions on the hours of operation.

#### SITE CHARACTERISTICS

The approximate 0.56 acre site is located on the northeast corner of the Bullittsville Road/Park Street intersection and contains a 3,640 square foot office/storage building and a concrete/gravel parking lot. Access to the building is provided from an open curb cut on Park Street. The topography of the parcel falls from 840' above sea level at Park Street to 836' at the northwest property corner.

#### SITE HISTORY

The property was purchased by Hellman Lumber Company in 1977. Holland Roofing purchased the property from Hellman Lumber Company in 1992.

The property has been zoned Suburban Residential One since 1980.

#### SURROUNDING LAND USES & ZONING

North: Undeveloped Property Fronting on Bullittsville Road and N. Orient Street (SR-1)

South: Park Street, Holland Roofing Warehouse and Storage Yard (SR-1)

East: Two Apartment Buildings Fronting on Park Street (SR-1)

West: Bullittsville Road and Burlington Cemetery (SR-1)

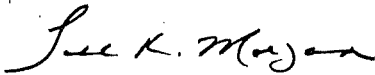
STAFF COMMENTS

1. The applicant's letter indicates that he will operate out of the tenant space 40 hours per week. Staff would like the applicant to explain the maximum number of appointments he could schedule in a day.
2. The Board needs to determine if changing the 350 square foot area to an appointment only barber shop is equally or more compatible with the permitted SR-1 uses than the existing office function.

CONCLUSION

KRS 100.253 and Section 220 of the Boone County Zoning Regulations gives the Boone County Board of Adjustment and Zoning Appeals the authority to act on the request.

Respectfully submitted,



Todd K. Morgan, AICP  
Senior Planner, Zoning Services

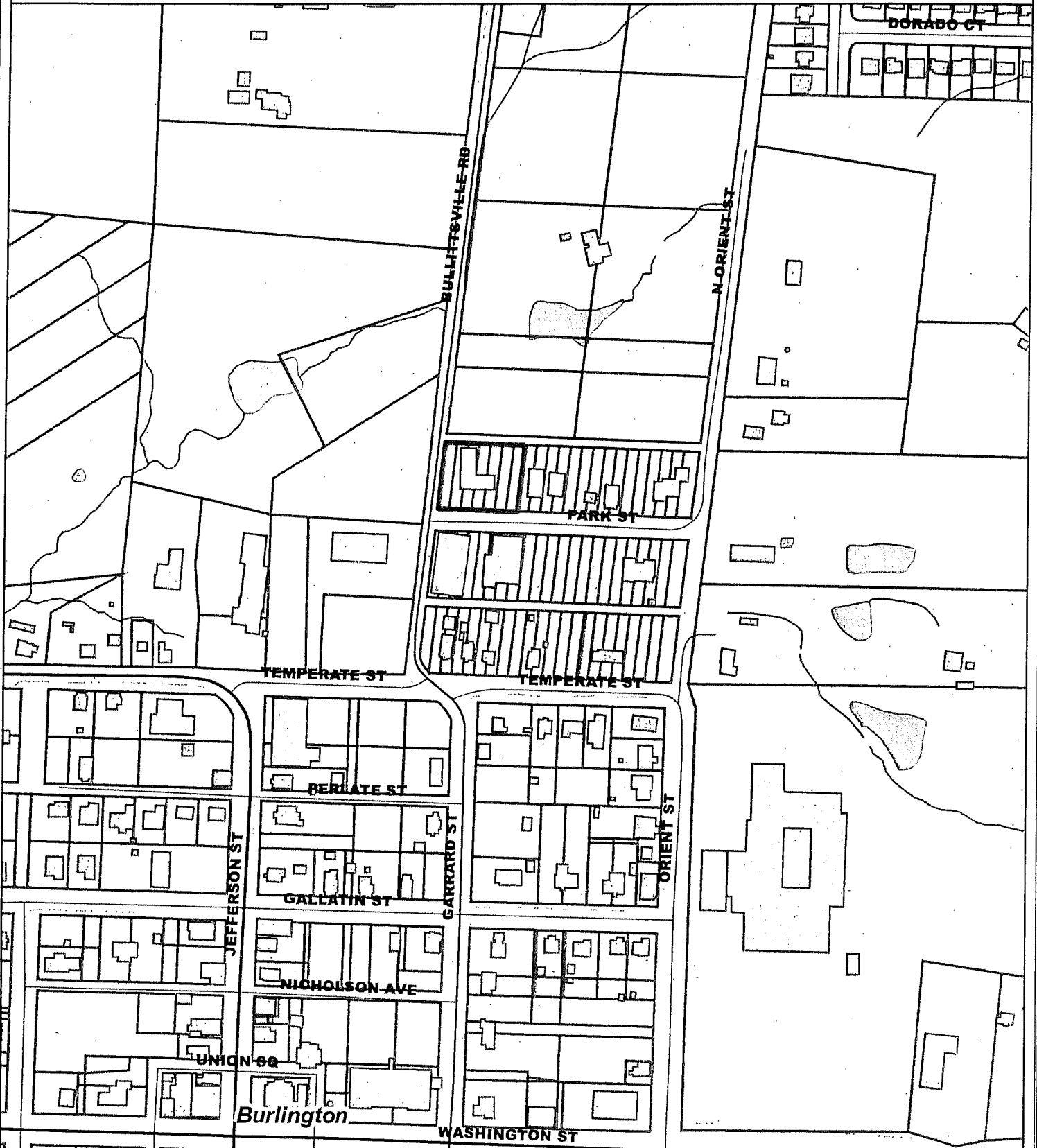
TKM/pr

Attachments

- \*Site Vicinity Map
- \*Letter From the Applicant
- \*350 Square Foot Leased Space
- \*2007 Aerial Map
- \*Zoning Map
- \*Application

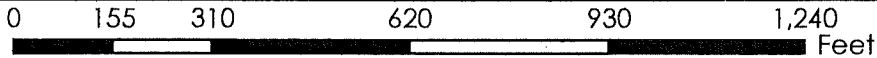
# SITE VICINITY MAP

www.boonecountygis.com



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**Boone County GIS - Putting Northern Kentucky on the Map**

9/17/2009

Mr. Kevin Wall,

The intent of this letter is to communicate the current use of the building located at 2942 Park Street in Burlington, KY. The building is currently owned by Holland Roofing Group, LLC. GSC Management LLC currently leases the front half of the building. More specifically, the half of the building facing Park Street. The remaining half, facing Bullittsville Road, is used as document storage for Holland Roofing.

GSC Management LLC owns and operates local Gold Star Chili restaurants in Northern KY, Cincinnati OH and Lawrenceburg IN. The rented space is for the sole purpose of office space for GSC Management LLC.

The space to be sublet to Scott Warnecke, is 290 square feet of barber shop area. Along with that space there is a 60 square foot restroom equipped with a toilet and hand sink.

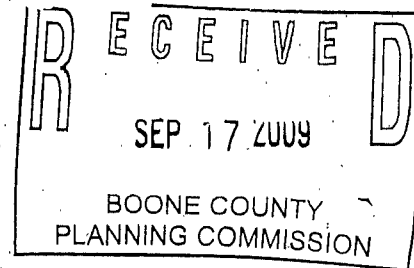
The intent of the sublet space is for an appointment only barber shop. There will be no exterior signage on the building or the property. With an appointment only barber shop, traffic will be minimal throughout the open hours of operation. The current proposed hours of operation are 40 hours per week.

In order to accomplish my objective of opening my barber shop, please provide me with the zoning process that will need to be followed.

Regards,

Scott Warnecke

859-801-7080



SR-1

BULLYVILLE RD

Barber Shop

PARK ST

I-1/CD

SR-2/SC

TEMPERATE ST

TEMPERATE ST



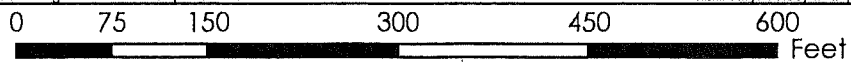
# 2007 AERIAL MAP

www.boonecountygis.com



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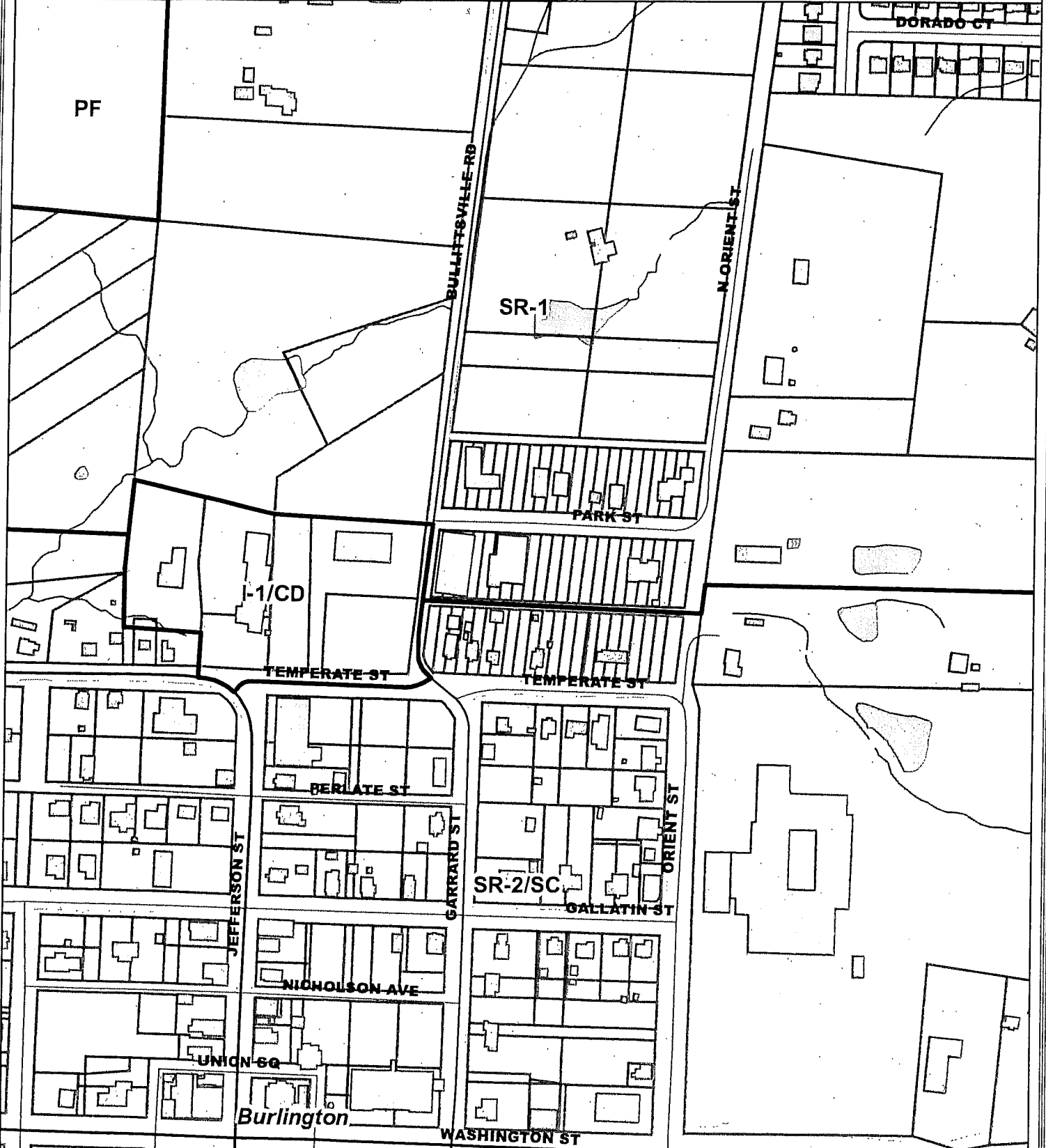


**Boone County GIS - Putting Northern Kentucky on the Map**



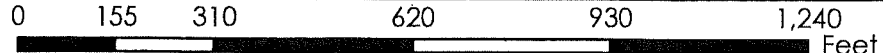
# ZONING MAP

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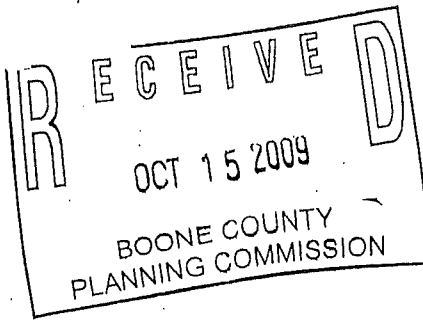
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1 inch = 300 feet.



**Boone County GIS - Putting Northern Kentucky on the Map**



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BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

- (Check One) 1. Boone [checked] Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_ (Check One) 2. Conditional Use Permit \_\_\_\_\_ Variance \_\_\_\_\_ Appeal [checked] Change in Non-Conforming Use \_\_\_\_\_ 3. Applicant's Name Scott K. Warnecke Phone Number (859) 801-7080 Fax No. \_\_\_\_\_ Applicant's Address 2060 W. Horizon Dr. Hebron, KY 41048 City State Zip 4. Description of Request: Appointment only Barber Shop. 5. Name of Development L.B.'s Barbershop 6. Location of Development 2942 Park St. Burlington, KY 7. Acreage Under Review \_\_\_\_\_ 8. Lot Number and Name of Subdivision (if part of a subdivision) \_\_\_\_\_ 9. Owner of Property Hans Philippo Address of Property Owner 7450 Industrial Rd Phone No. (859) 525-0887 10. Florence, KY 41042 City State Zip 11. Proposed Use(s) on Site Appointment only Barber shop 12. Total Square Footage of Existing and/or Proposed Buildings 350 sq feet 13. Current Zoning on Property SR-1 14. Deed Book 537 Page No. 109 Group No. 2025 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.

ORIGINAL Property Owner's Signature: [Signature] (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: [Signature] (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

COPY

CLUR #09-BCBOA-012-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Hans Philippo  
7450 Industrial Road  
Florence, KY 41042

2. ADDRESS OF PROPERTY

2942 Park Street  
Burlington, KY 41005

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

L.B.'s Barbershop

4. DEED BOOK 537

PAGE NO. 109

GROUP NO. 2025

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: Change in Non-Conforming Use

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  
2950 WASHINGTON STREET, ROOM 317  
P.O. BOX 958  
BURLINGTON, KENTUCKY 41005

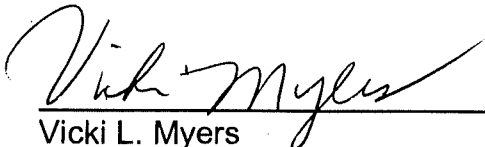
Todd K. Morgan  
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

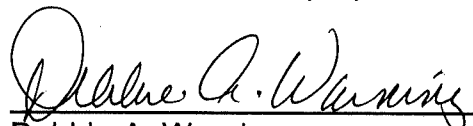
COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 17 day of November, 2009.

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

My commission Expires:  
April 17, 2011

This instrument was prepared for recording purposes only by:

  
\_\_\_\_\_  
Debbie A. Warning  
Boone County Planning Commission  
2950 Washington Street, Room 317  
P.O. Box 958  
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 Change in Non-Conforming Use approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of November 16, 2009 Certificate of Land Use Restriction (#09-BCBOA-012-A), for Hans Philippo, Property Owner(s).

The following conditions will apply:

No conditions.

The approved Change in Non-Conforming Use as well as the preceding conditions apply to the property described in:

DEED BOOK 537 PAGE NO. 109 GROUP NO. 2025