

APPLICATION FOR ZONING ACTION

TO:

- Boone County Planning Commission
- City of Florence Board of Adjustment
- Boone County Board of Adjustment
- City of Union Board of Adjustment
- City of Walton Board of Adjustment
- Zoning Enforcement Officer

FOR:

- Zoning Text Amendment
- Comprehensive Plan Change
- Preliminary Plat Review
- Conditional Use Permit
- Concept Development Plan Change
- Preliminary Development Plan
- Change of Non-Conforming Use
- Design Review Board and Certificate of Appropriateness
- Zoning Map Amendment
- Planned Development Overlay Change
- Improvement Plat Review
- Final or Deed Plat Review
- Site Plan Review
- Historic District Overlay
- Appeal or Variance
- Sign or Zoning Permit

Applicant: Lee A. Erb  Owner

Address: 144 Dueffel Lane, Walton  Agent

Telephone: 525-9215

Location: 144 Dueffel Lane, Walton

Name of Property Owner: Lee A. Erb

Address of Property Owner: 144 Dueffel Lane, Walton

Zoning District: C-3 Area in Acres: 9,000 square ft.

Deed Book: 236 Page Number: 101 Group Number: 2064

Description of Request: apply for a side yard variance from the Boone County Board of Adjustment;

Applicant's Signature: Lee A. Erb

Property Owner's Signature: Lee A. Erb

Application Fee: \$131.00 FOR PLANNING COMMISSION USE ONLY Date Received: 10/23/87 By: K. Costello

Referred To: Tom Meeting Date: 11/11/87 6:30 P.M.

Action Taken: \_\_\_\_\_ Date of Action: \_\_\_\_\_

BOONE CO. OF ADJ.

STAFF REPORT

APPLICANT: Lee A. Erb  
DEVELOPMENT: Aboveground swimming pool and attached deck  
LOCATION: 144 Dueffel Lane, Boone County  
ZONE: Commercial Services (C-3)  
DATE: November 11, 1987; 6:30 p.m.  
REMARKS:

The applicant is requesting a Variance in order to allow the encroachment of an aboveground swimming pool and deck into the required five foot side yard. The 0.22 acre site, which is located on the north side of Dueffel Lane near Interstate 75, is zoned Commercial Services and is owned by Lee Erb.

The pool and deck were constructed subsequent to March 10, 1985 (the day aerial photographs were taken). The applicant may have believed that they were an adequate distance from their side line. Since all structures are built perpendicular to the street, they may have assumed that the property line is also at 90 degrees to Dueffel Lane. The plat shows that the subject side line is at a slight angle (see attachment).

The following reviews the four criteria used when evaluating Variance requests:

- narrowness  
of lot*
1. The special circumstance involved could be the angle of the side property line as discussed above.
  2. Strict application of the Zoning Regulations would require that the applicant dismantle the pool and deck and move it five feet from the line.
  3. The shape of the lot is not the result of the applicant.
  4. If granted, the Variance will not adversely affect the public health, safety, or welfare and will not alter the essential character of the area.

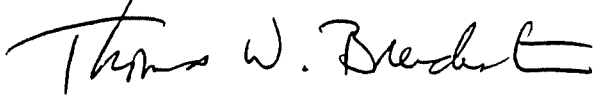
The applicant has supplied the Board with a review of these criteria (see attachment).

Should the Variance be granted, staff would suggest, as a condition of approval, that a six foot high privacy fence be constructed from the rear of the Erbs home to a point ten feet from the rear of the pool. This fence will soften the impact of the pool's activity on the neighbors. Also, staff would suggest,

Staff Report - Lee A. Erb  
November 11, 1987  
Page Two

as a condition, that access to the pool be controlled by means of a lockable gate on the steps to the deck. This barrier will bring the applicant into compliance with the building and zoning codes.

Respectfully submitted,

A handwritten signature in cursive script that reads "Thomas W. Breidenstein". The signature is written in dark ink and is positioned above the typed name.

Thomas W. Breidenstein,  
Zoning Enforcement Officer

TWB:mcb

Attachments



## Board of Adjustment and Zoning Appeals

- (1) We have an exceptionally narrow lot.
- (2) Our deck is cemented in the ground and there is not enough land to move it over without creating the same problem on the other side. We were led to believe by the Purchase Contract that our lot is 35 ft. wide.
- (3) We fully believed that we were abiding by the zoning laws. The Purchase Contract in which I signed stated that the land I bought was approximately 35x276 ft. After having had someone look at my deed it was discovered that at the back of our lot it is only 28 ft. wide. In further study we also came across an error in the closure. In the first survey our lot would be 30 ft. across the back. After the second survey our lot lost 2 ft.
- (4) We have complied with all the necessary regulations required for pool safety including a locking gate to the pool access.

STAFF REPORT

APPLICANT: James Ruh  
DEVELOPMENT: Mobile Home Sales  
LOCATION: Lakewood Mobile Home Park  
ZONE: Mobile Home Park (MHP)  
DATE: November 11, 1987; 6:30 p.m.

REMARKS:

The applicant is requesting a Conditional Use Permit to allow the sale of new mobile homes from a mobile home park. The 10.0 acre site, located on the east side of Dixie Highway south of Mt. Zion Road, is zoned Mobile Home Park (MHP) and is owned by Willis and Sylvia Ruh.

On November 11, 1986, the applicant was issued a Notice of Violation for selling mobile homes from the Lakewood Mobile Home Park. In order to allow the use, Mr. Ruh petitioned the Planning Commission for a Zoning Text Amendment to allow the sale of mobile homes as a Conditional Use in Mobile Home Park zoning districts. The amendment became an official part of the Zoning Regulations with a Fiscal Court ordinance passed on August 18, 1987. For those whose Zoning Regulations do not include this amendment, it reads as follows:

- Summarize intent*
4. \*The display of mobile homes for sale from individual mobile home lots (Site Plan Review required). (Each lot shall meet the minimum size requirements as indicated in Table 1 of Article 17 [unless a pre-existing lot of record] and shall meet the minimum parking requirements for a Mobile Home Park district. Such use shall be allowed only in a previously approved Mobile Home Park. An area for mobile home sales and display shall be designated on the Site Plan with only one mobile home allowed to be displayed on each lot. Provisions for adequate pedestrian access, landscaping, and unit skirting shall be required to protect the residential intent of the district. No unit displayed for sale shall be used for residential purposes.)

Surrounding land uses and zoning include:

North: I-1 - Carter Lumber  
South: I-1 - single-family residence  
East: I-2 - Southern Railroad; vacant land  
West: C-1 - Stop-n-Go; Convenient Food Mart; Ronatos  
Pizza; Greenlawn Mobile Home Park

In addition to the Greenlawn Mobile Home Park, Mosby's Point, Kentucky Aire, and the developing White Pine Village Mobile Home Parks are located within one mile south of Lakewood along Dixie Highway.

The following reviews the general standards applicable to all Conditional Uses:

1. The 1986 Boone County Comprehensive Plan Future Land Use Map indicates the future use of this property to be High Density Residential (greater than eight dwelling units per acre). Property to the north and south of Lakewood is forecasted to be Commercial. Two objectives of the Business Activity element of the Plan read:

*Other references supporting the commercial use are found in the text of the Plan and are listed in the staff report*

1. Commercial uses shall be developed at strategic locations relative to their trade areas with direct access and ample parking space.

2. The mixing of commercial and non-commercial uses shall occur only in planned developments and replanned older areas where consideration can be given to minimizing harmful environmental influences.

2. The purpose and language of the amendment was to allow sales of mobile homes as long as the physical layout appeared residential rather than commercial. Staff believes that with some minor modifications, the site plan has been designed so that the use will be harmonious and appropriate in appearance with the character of the vicinity.

3. Mobile home sales will not be hazardous to neighboring uses or to the mobile home park itself.

4. The site is adequately served by essential public facilities.

5. Excessive additional requirements at public cost for public services will not be required.

6. Mobile home sales does not involve activities or conditions of operation which will be detrimental to any persons, property, or the general welfare.

*no response*

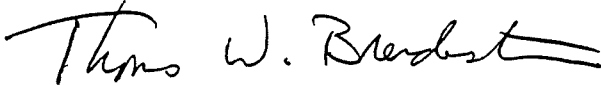
7. A copy of the site plan has been sent to the Kentucky Department of Transportation for their opinion of the expanded access to Dixie Highway on the south side of the site. Access to the sales portion of the lot will also be from the front portion of the residential section of the park.

The Board must also consider certain criteria specific to the MHP zoning district:

- a. Mobile home sales of the scale proposed (4 homes for sale in a park with over 35 mobile homes) will be subordinate to the main function of the park.
- b. The arrangement of mobile homes for sale will be compatible with the organization of the residential mobile homes.

As mentioned above, a site plan has been submitted with this request. At this writing, the review of this plan has not been completed. The main concern during this review will be the compatibility of the sales lot with the occupied mobile homes. Items such as trailer skirting, landscaping, signs, and parking will be evaluated. Staff will be able to more fully report on the plan at the meeting.

Respectfully submitted,



Thomas W. Breidenstein,  
Zoning Enforcement Officer

TWB:mcb

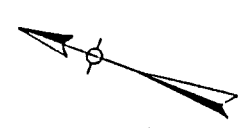
Attachments

Staff is not able to recommend action on the site plan since the KDOT has not reviewed the plans and the Commission's engineer has not completed his review. Therefore, staff would recommend as a condition, should the permit be granted, that the plan either meet the approval of staff or of the BCPC.

Signage

4 dispyky mobile homes (a, b, c, & d)

↑ homes  
↑ Mobile

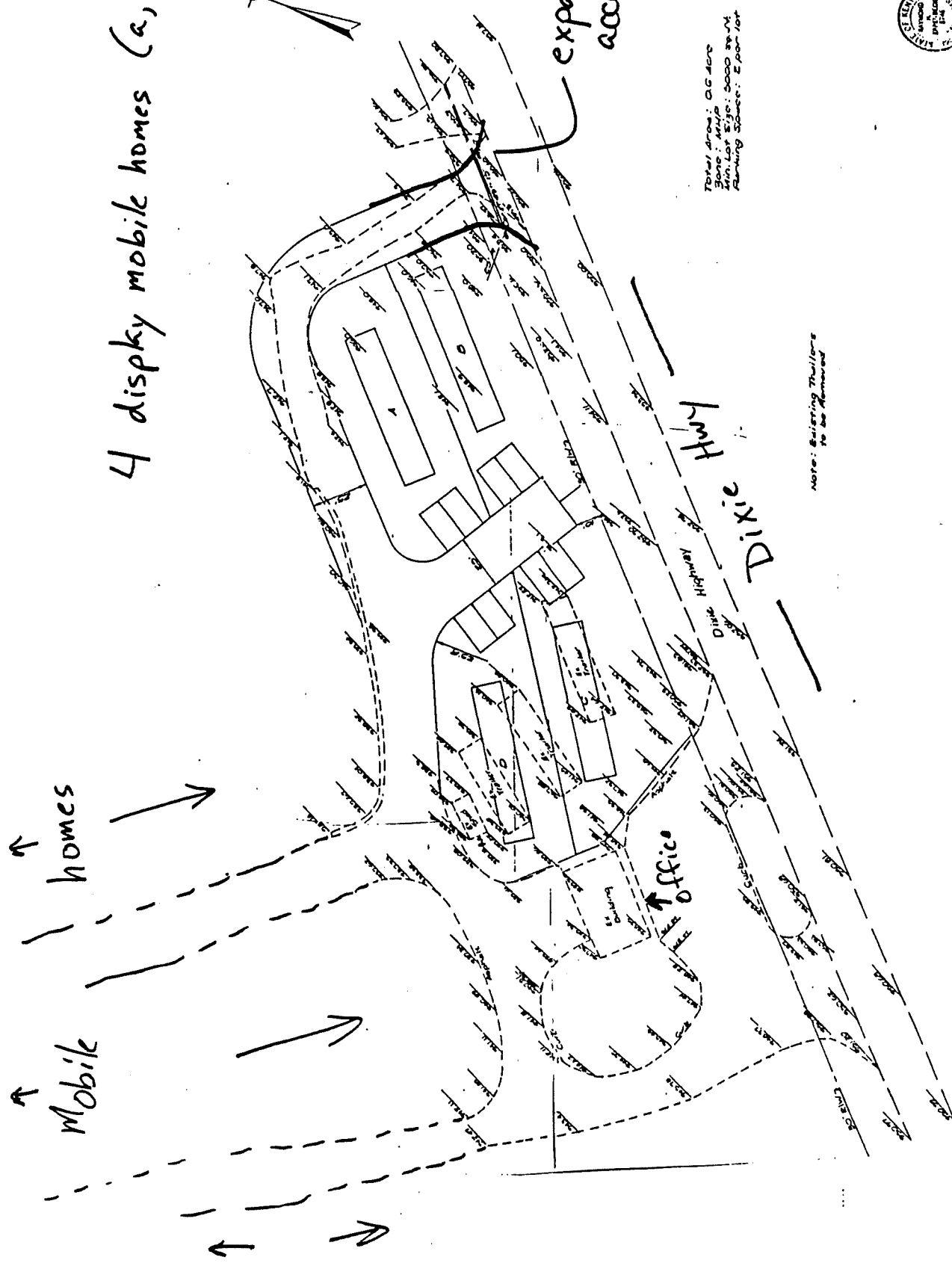


expand access

Total Area: 0.6405  
Site Area: 0.5000  
Remaining: 0.1405

Note: Existing Structures to be removed

Dixie Highway Hwy



SITE PLAN  
LAKWOOD MOBILE HOME PARK

DATE: 11-20	SCALE: 1" = 20'
DATE: 11-20	SCALE: 1" = 20'
DATE: 11-20	SCALE: 1" = 20'

James Ruh - Lakewood MHP 11-11-87

BOONE COUNTY  
BOARD OF ADJUSTMENT

November 11, 1987 - 6:30 P.M.

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BOARD MEMBERS PRESENT:

Mr. I. A. Archambault  
Mr. Dan Houston  
Mr. Fred Nevel  
Mr. Walt Ryan  
Mr. George Whitton, Chairman

BOARD MEMBERS NOT PRESENT:

None.

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Chairman Whitton stated that each member had received a copy of the Minutes of the Boone County Board of Adjustment Meeting of October 14, 1987 and asked if there were any comments or corrections.

Mr. Houston stated that on Page 3 of the Minutes, "Mr. Hollis Griffen" should be "Mr. Hollis Gritten". Mr. Houston moved that the Minutes be approved with this correction. Mr. Archambault seconded the motion and it carried unanimously.

AGENDA ITEMS:

1. A request of Lee A. Erb for a Variance in order to allow the encroachment of an aboveground swimming pool and deck into the required five-foot side yard. The 0.22-acre site, which is located on the north side of Dueffel Lane near Interstate 75, is zoned Commercial Services and is owned by Lee Erb.

Staff Member, Tom Breidenstein, presented the Staff Report which included a slide presentation (see Staff Report). Mr. Breidenstein noted that a lockable gate had been installed as recommended by Staff.

Chairman Whitton asked if there was anyone present who wished to speak in behalf of this request.

Mr. Lee Erb stated that he thought the pool was allowed when he built it. Mr. Erb stated that his father is an engineer and presented to the Chairman drawings done by his father in regard to surveying the property. The drawings indicated the property lines to be at an angle.

Chairman Whitton asked if there was anyone else present who wished to speak in behalf of this request. There being no one, the Chairman asked if there was anyone present in opposition to the request.

Nancy Kenner stated that Mr. Erb knew where the property line was when he began construction of the pool as she had had her property surveyed. She noted that the Erb's children had indicated that they had pulled up the survey stakes. She added that the Erbs had a grill and picnic table in the area of the deck and that she has to move their belongings in order to mow her grass.

Chairman Whitton asked Ms. Kenner if a privacy fence would help in regard to her complaints. Mrs. Kenner stated that it would.

Mr. Tom Ellis stated that he lives on the left side of the Erbs and that the pool is within two feet of his property line, and that a Variance is also needed on this side.

Mr. Breidenstein stated that he was not aware of the need for a Variance on Mr. Ellis' side. Chairman Whitton noted Mr. Ellis's comments but advised him that this hearing was in regard to the Kenner side of the property only.

Mr. Erb presented pictures of the pool and deck to the Chairman. Mr. Erb stated that he did not think there was room to construct a six-foot privacy fence since the deck is within one foot of the property line.

Mr. Breidenstein stated that he believes there is room to construct the fence and noted that it may be necessary to move the steps.

Chairman Whitton asked Mr. Erb whether the privacy fence would be a problem if the Variance was granted.

Mr. Erb stated that he would have to build the fence if required.

Mr. Ryan asked Ms. Kenner if she would be satisfied with this solution. Ms. Kenner stated that she would be.

Mr. Ryan moved that the Variance be granted subject to the condition that a six-foot high privacy fence be constructed in back of the deck within six months. Mr. Nevel seconded the motion and it carried unanimously.

2. A request of James Ruh for a Conditional Use Permit to allow the sale of new mobile homes from a mobile home park. The 10-acre site, located on the east side of Dixie Highway, south of Mt. Zion Road, is zoned Mobile Home Park (MHP) and is owned by Willis and Sylvia Ruh.

Staff Member, Tom Breidenstein, presented the Staff Report which included a slide presentation (see Staff Report). Mr. Breidenstein stated that the Staff cannot make a recommendation on the Site Plan at this time as they have not received necessary information from the Department of Transportation and the Staff's Engineer has not completed his review.

Chairman Whitton asked if there was anyone present who wished to speak in regard to this request.

Mr. Earl Jackson noted the location of a strip of land which belongs to him near the access to the mobile home park. He stated that the residents of the mobile home park sometimes use his driveway and asked what will be done regarding this access. Mr. Jackson indicated the property line to be in the center of the accessway.

Mr. Breidenstein corrected Mr. Jackson's statement regarding the location of the property line and noted the location of the State Highway.

Chairman Whitton asked Mr. Ruh for his comments at this time.

Mr. Ruh stated that they intend to improve the old driveway. He stated that the driveway was never intended to be an accessway to the mobile home park, but was used when the site was a fishing lake. He noted that the mobile home park appears residential in nature.

Chairman Whitton asked Mr. Ruh if it was correct that he would be displaying only four mobile homes at a time.

Mr. Ruh stated that it was correct that he would display only four mobile homes at a time and that they would be used as models. They will have skirting and will be landscaped. Mr. Ruh added that there is only enough room for four mobile homes.

Chairman Whitton asked if there were any questions from the Board members.

Mr. Archambault asked if this Conditional Use permit would be contingent upon the State's approval.

Mr. Breidenstein advised that Mr. Ruh cannot make improvements to the access without the State's approval. Mr. Breidenstein added that the Staff's Engineer has also not completed his review.

Mr. Houston moved that the request be granted subject to the approval of the Planning Commission's Engineer and the State's approval of the access. Mr. Archambault seconded the motion.

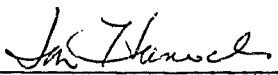
Counselor Wilson questioned whether Mr. Houston intended for the approval to be subject to the Staff's review or to review by the entire Planning Commission. Mr. Houston stated that he intended for the review to be by the Staff, and subject to approval by the State. Following this clarification, the motion carried unanimously.

There being no further business to come before the Board, Mr. Ryan moved, seconded by Mr. Nevel, that the meeting be adjourned. The meeting was adjourned by unanimous consent at 7:06 P.M..

APPROVED:

  
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George D. Whitton, Chairman

ATTEST:

  
\_\_\_\_\_  
Jan Hancock, Recording Secretary