

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: Corporex Constructors, Inc.  Owner  Agent

Address: 1717 Dixie Highway

Ft. Wright, Kentucky 41011 Telephone: 331-5000 ext. 244

Location: Circleport I Lot No. 1A PLAT BOOK 19 - PAGE 14

Name of Property Owner: Corporex Developers, Inc.

Address of Property Owner: 1717 Dixie Highway

Zoning District: I-1 Area in Acres: 4.13

Deed Book: 280 Page Number: 85#93 Group Number: \_\_\_\_\_

Description of Request: Side Yard Setback Variance 20'-0" (50'-0" if adjacent residential)

30'-0" Side Yard Setback Requested. PLAT BOOK

Applicant's Signature: *Anthony J. Arpenter* 331-5000 EXT 244  
PROJECT ARCHITECT

Property Owner's Signature: *[Signature]*

FOR PLANNING COMMISSION USE ONLY

Application Fee: \_\_\_\_\_ Date Received: \_\_\_\_\_ By: \_\_\_\_\_

Referred To: \_\_\_\_\_ Meeting Date: \_\_\_\_\_

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

STAFF REPORT

APPLICANT: Corporex Constructors, Inc.  
LOCATION: Circleport I, Lot 1-A  
ZONE: Industrial One (I-1)  
DATE: May 14, 1986  
REMARKS:

The applicant is requesting a side yard setback Variance of 20 feet in order to build 30 feet from the property line. The zoning regulations require a side yard of 50 feet in an I-1 district when adjoining any residential district.

The following reviews the standards for variances in Article 2, Section 244 of the Boone county Zoning Regulations:

1. Corporex's application lists a number of specific conditions which are unique to their land. Circleport I has in their deed a 30 foot buffer requirement when development is adjacent to a residential district. This condition is not unique since all industrial property adjacent to residential districts are subject to a 50 foot requirement. Corporex argues that the adjoining residential area is unoccupied and densely wooded. This condition, although possibly unique now, may change in the future. Also listed is the fact that building excavation cannot occur too close to storm and sanitary sewers. Examination of submitted plans shows that these sewer lines are not within the boundaries of lot 1-A.
2. Corporex argues that reasonable use of their property is denied since their land has a value of \$60,000 to \$75,000 per acre. Strict application of the zoning provisions would not deprive the applicant of a reasonable use of their land when compared to other land owners in the same zone since all would enjoy an equivalent land value.
3. It can be argued that the unique conditions and circumstances are the result of the applicant since Corporex is the developer of the entire industrial complex.
4. The essential character of the neighborhood will not be altered should the variance be granted. However, special consideration must be given to the fact that if Delta Road is ever developed, the public safety and welfare could be affected.

Respectfully submitted,



Thomas W. Breidenstein  
Zoning Enforcement Officer



BOONE COUNTY BOARD OF ADJUSTMENT

MAY 14, 1986

6:30 P.M.

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Chairman Whitton called the meeting to order. Roll call was taken by Staff member Dee Ann Brewer. 3 members present. Absent: Messrs. Ryan and Houston. Staff members Tom Breidenstein and Dee Ann Brewer were present. Atty. Dale Wilson was also present.

The Minutes of the March 12, 1986 Boone County Board of Adjustment meeting were considered. Mr. Archambault moved the March 12, 1986 Boone County Board of Adjustment Minutes be approved as reviewed. The motion was seconded by Mr. Nevel. After further discussion, the motion carried unanimously.

Chairman Whitton proceeded to the items on the Agenda.

Conditional Use Permit

A request of Burlington Realty and Development Company for a Conditional Use Permit to allow gasoline pumps in connection with a proposed convenience store at the northwest intersection of KY 237 and KY 20. The area is zoned C-2.

Staff member Tom Breidenstein presented a slide presentation of the proposed request. Mr. Breidenstein presented Staff Report. (See Staff Report)

Mr. Robert Kirby, applicant for the request, stated he did not understand the significants of some of the conditions stated within the Staff Report. Mr. Kirby inquired why the Staff was recommending that there be no free-standing sign. Chairman Whitton inquired if Staff meant no free-standing sign at all. Mr. Breidenstein explained the intersection was very important and staff would like for the Board to set precedent for the area which they felt was a very attractive area and that would exclude the use of a free-standing sign. Mr. Breidenstein noted as a trade-off Mr. Kirby would be offered additional building mounted signs.

Mr. Nevel inquired if that would mean a sign for each business that would be located within the Center mounted on their particular business opposed to one big sign that would announce all the stores in the Center. Mr. Breidenstein stated the Staff's proposal was that there be no free-standing sign permitted at the site. Mr. Breidenstein stated it was Staff's understanding that there would only be one business at the site, a Convenient-type Store with gasoline pumps. Mr. Breidenstein stated under the current regulations two building mounted signs could be permitted because of the double frontage. Mr. Kirby

stated he felt that any time there was a consolidation of businesses there was a need for a free-standing sign to announce what was contained within the businesses. Mr. Kirby noted there would be more than one use within the building and he stated the Convenient-type store would just be, in part, adjacent to the gasoline pumps.

Chairman Whitton inquired if Mr. Kirby was allowed more signs he would prefer a free-standing sign. Mr. Kirby stated yes.

Mr. Nevel inquired into the purpose of eliminating the three parking spaces. Mr. Breidenstein explained there was a provision in the zoning regulations that prohibited anything on a corner to block sightlines of traffic, 50 feet from the corner in either direction and from 2 to 10 feet high and anything in that zone would be considered a free-zone so traffic would have a clear sight of traffic coming from the other direction. Mr. Breidenstein stated that particular provision would fall under Site Plan Review and noted the Staff just wanted to emphasize the conditions in the Staff Report.

Chairman Whitton inquired if Mr. Kirby had a problem with eliminating the three parking spaces. Mr. Kirby stated that was not a big problem but noted the right-of-way was so extensive that he did not see the parking spaces having any affect on the visibility of traffic at the intersection.

Chairman Whitton inquired if the distance was measured from the right-of-way. Mr. Breidenstein read Section 17, Article 1722. Mr. Breidenstein stressed that the elimination of the parking spaces would fall under Site Plan Review.

Chairman Whitton inquired if Mr. Kirby had a problem with going through Site Plan Review for the addition. Mr. Kirby stated he felt Site Plan might be a requirement that was over and above what was called for by the zoning ordinance. Mr. Breidenstein explained that any type of improvement to a C-2 zone would require Site Plan Review.

Mr. Kirby stated he had no problems with conditions #4 and #5 of the Staff Report. Mr. Kirby stated condition #6 requiring a deceleration lane was a good point and he had no problem with it.

Chairman Whitton inquired if Mr. Kirby's only real problem was with the Staff's recommendation that he give up his right to a free-standing sign for additional building mounted signage. Mr. Kirby stated yes that was correct. Mr. Kirby stated he felt it was his right to apply for a free-standing sign permit for the complex. Mr. Kirby stated if the three parking spaces were in the Site Plan Review he then had no problem with it. Mr. Kirby noted he felt he should not have to agree to anything additional.

Mr. Nevel inquired if Mr. Kirby's property ran all the way back (north) to where the little proposed street was cut in. Mr. Kirby stated yes. Mr. Nevel inquired if in the future would the complex tie into the street. Mr. Kirby stated yes for traffic flow, fire protection, police protection, etc.

Chairman Whitton inquired of opposition on the proposed request.

Mr. Archambault inquired if the signage would be discussed under Site Plan Review. Mr. Breidenstein stated the Planning Commission may possibly discuss the location of the signs but nothing more specific.

Mr. Nevel inquired if the Board was just concerned with the Conditional Use Permit to include the gasoline pumps. Atty. Dale Wilson stated yes.

Mr. Nevel moved to grant Burlington Realty and Development Company a Conditional Use Permit to allow gasoline pumps in connection with a proposed convenience store located at the northwest intersection of KY 237 and KY 20. Chairman Whitton inquired if any of the conditions of the Staff Report were included within the motion. Mr. Nevel stated no.

Atty. Wilson pointed out the deceleration lane seemed agreeable with Mr. Kirby. Mr. Kirby stated he would agree to the deceleration lane and noted that as the development stood that deceleration lane would be needed. Atty. Wilson stated that was a legitimate condition and should then be made a part of the motion.

Mr. Nevel amended his motion to include that the deceleration lane be added as needed. The motion was seconded by Mr. Archambault. After further discussion, the motion carried unanimously.

#### Variance

A request of Corporex Constructors, Inc. for a 20 foot side yard setback Variance in order to build 30 feet from their property line. Zoning regulations require a 50 foot side yard when an industrial development is adjacent to a residential district. The area is zoned I-1.

Staff member Tom Breidenstein presented a slide presentation of the proposed site. Mr. Breidenstein presented Staff Report. (See Staff Report)

Mr. Anthony Hochstra, Architect for the request, explained the project was called Tressa, Inc. which produced hair products, shampoos, etc. Mr. Hochstra submitted a drawing to the Board noting the need for a side yard setback Variance. Mr.

Hochstra described the architectural layout of the project.

Chairman Whitton inquired why the building couldn't be moved out 10 feet closer to the property line. Mr. Hochstra stated because he had the building set off at 30 feet and explained he not only had to deal with the zoning ordinance but also with the Kentucky Basic Building Code. Mr. Hochstra referred to the Site Plan the reasons why the Variance would preserve rather than harm the public safety and welfare nor to alter the essential character of the neighborhood.

Chairman Whitton inquired of opposition on the proposed request. Hearing no comments or questions, Chairman Whitton inquired if the residential lots were all wooded. Mr. Breidenstein stated yes.

Mr. Nevel noted there had previously been old abandoned houses torn down in the area and he inquired if the FAA was going to allow more houses built there. Mr. Nevel stated he thought no more houses could be built in the area because of it being in a traffic pattern of the Airport. Mr. Hap Walton stated he believed they were building houses there presently. Mr. Hochstra noted there was some houses under construction presently.

Mr. Archambault inquired how the public's safety and welfare could be affected by the proposed project. Mr. Breidenstein responded that the public's safety and welfare could be affected by whatever reason the original designers of the zoning code placed the 50 foot buffer.

Mr. Nevel inquired if there was a 50 foot requirement then why do they just require a 30 foot screening area, why didn't they make it a 50 foot screening area. Atty. Dale Wilson stated the increase setback was needed when building next to a residential zone. Further discussion followed on the footage of the screening area.

Mr. Hochstra inquired what the SR-1 rear-yard setback was. Mr. Breidenstein stated 30 foot.

Mr. Nevel moved to grant the request of Corporex Constructors, Inc. for a 20 foot side yard setback Variance in order to build 30 feet from their property line. The motion was seconded by Mr. Archambault. After further discussion, the motion carried unanimously.

#### Conditional Use Permit

A request of Jesse Baker for a Conditional Use Permit to convert the old Burlington Post Office to a retail store specializing in lawn and garden parts, service, related hardware, and satellite sales and service. The area is zoned SR-2/SC.

Staff member Tom Breidenstein presented a slide

presentation of the proposed request. Mr. Breidenstein presented Staff Report. (See Staff Report)

Mr. Jesse Baker, applicant, requested to be able to have an existing useable dish for advertising which would not be any different than in a residential yard. Mr. Baker noted the present parking spaces were more than adequate compared to other businesses within the area. Mr. Baker stated he could understand the concern of not having a free-standing sign by the road area but wanted the Board to consider the possibility of a sign that would hang from the building to get the public's attention. Mr. Baker stated he did not disagree with conditions #1 and #2 except to have a sign that hung from the building.

Mr. Archambault noted the parking lot was at an angle. Mr. Baker responded that was correct. Mr. Baker stated he did not plan on storage for the satellite dishes on the property for safety reasons. Mr. Baker stated he had no problem with condition #4 and noted the property presently had a septic tank and the only use he would have for the septic tank would be employee use. Mr. Baker stated if the system had been adequate for the Post Office it would be adequate for his store's use. Mr. Baker objected to condition #6 of the Staff Report stating he would not be doing any remodeling and he sure didn't want to do any landscaping.

Chairman Whitton inquired of comments or questions on the proposed request.

Mr. Carl Bell, adjoining property owner to the proposed site, stated he was not in opposition of the request but inquired if ownership changed would they have to come back before the Board. Atty. Wilson explained the use would have to come back before the Board if the use of the zone changed. Atty. Wilson stated if ownership changed and they continued the same type of business they could operate under the same use. Mr. Bell inquired if a liquor store would be permissible in the building. Chairman Whitton stated anyone who wanted a liquor store would have to come before the Board. Mr. Bell inquired if there would be any solvents that would be used for the satellites. Mr. Baker stated there was a company that would come around to gather up the parts cleaning solution due to a Federal Law that would prohibit anyone from dumping the solution into a public sewer system. Mr. Bell inquired how long Mr. Baker would be located in the building. Mr. Baker stated he had a year's lease with option to purchase.

Mr. Larry Burcham stated a satellite dish would not look any worse than one a resident would have in their yard and noted the traffic would be no worse than what the Post Office had created. Mr. Burcham inquired why would the applicant need a line of shrubbery between the store and residents when the Post Office had been there for twenty years without putting up shrubbery.

Mr. Bell stated it would not bother him to not have shrubbery.

Mr. Archambault inquired if Mr. Bell would like a provision attached to the request that if the shop's traffic and appearance did get out of hand there would have to be a barrier put up. Mr. Bell stated no.

Atty. Wilson stated that if the Board was to allow a satellite dish placed outside the store for advertising purposes they might want to place a condition as to where the dish would be located on the site.

Chairman Whitton inquired where Mr. Baker intended to place the dish. Mr. Baker stated without testing the area to see the best advantage point he could not really respond. Mr. Baker noted there was some consideration to get the dish elevated by going in the corner of the building or in the back where the grassy area was from the property line. Mr. Baker noted the dish would have to be limited to one of those two areas.

Mr. Nevel moved to grant a Conditional Use Permit to convert the old Burlington Post Office to a retail store specializing in lawn and garden parts, service, related hardware and satellite sales and service with the inclusion of Staff's recommendation #1.. The motion was seconded by Mr. Archambault. After further discussion, the motion carried unanimously.

Chairman Whitton moved to adjourn the meeting. The motion was seconded by Mr. Nevel. The motion carried unanimously.

Meeting adjourned.

APPROVED:

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GEORGE WHITTON, CHAIRMAN

ATTEST:

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DEE ANN BREWER, ADMINISTRATIVE ASST.