

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: Bavarian Trucking Company, Inc. Owner
 Address: 12764 McCoys Fork Road Agent
Walton, Kentucky 41094 Telephone: 485-4416

Location: McCoys Fork Road

Name of Property Owner: Bavarian Trucking Company, Inc.

Address of Property Owner: 12764 McCoys Fork Road

Zoning District: Agriculture One Area in Acres: 276.846

Deed Book: 272 Page Number: 278 Group Number: 2076

Description of Request: Expansion of a pre-existing nonconforming use; i.e., expansion of storage and maintenance facilities of vehicles upon site.

Applicant's Signature: *Bernard Sieggemann*
 Bavarian Trucking Company, Inc.
 Property Owner's Signature: BY: *Bernard Sieggemann*, President

FOR PLANNING COMMISSION USE ONLY
 Application Fee: _____ Date Received: _____ By: _____

Referred To: _____ Meeting Date: _____

Action Taken: _____ Date of Action: _____

CHANGE OF NON-CONFORMING USE

June 12, 1985

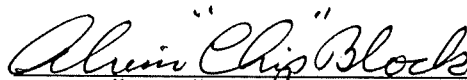
APPLICANT: Bavarian Trucking Company, Inc.
LOCATION: McCoy's Fork Road
ZONED: Agriculture, A-1

REMARKS:

The applicant is requesting a Change of Non-Conforming Use to permit the construction of a building to house the maintenance and repair operations of their vehicles. The use is currently found on the property but is being requested to be permitted in this building.

I would direct the Board to review the enclosed plans (reduction) and copy of Section 284 referring to the criteria concerning this type of request.

My only recommendation would be that a condition be considered to any approval requiring the asphalt "hard surface" paving as proposed on the plans before occupancy of the building is granted by the Boone County Building Inspector.


Alvin "Chip" Block
Planner

under which preliminary plan approval was given. All other requirements of this order must be met.

Section 283

Non-Conforming Uses of Land

Where, at the time of adoption of this order uses of land exist which would not be permitted by the 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.

Section 284

Change from One Nonconforming Use to Another

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 241-246, inclusive, of this order.

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, the Board may require appropriate conditions and safeguards in accord with other provisions of this order.

Section 285

Non-Conforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this order that could not be built under the terms of this order by reason of restrictions on intensity or size or lot coverage or height or bulk or setback, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity;
2. Should such non-conforming structure or non-conforming portion of structure be destroyed or damaged to more than 50 percent of its replacement value by any means, it shall not be reconstructed except in conformity with the provisions of this order;
3. Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

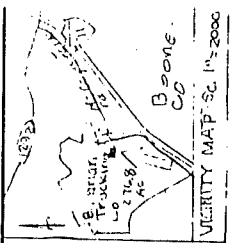
Section 287

Avoidance of Undue Hardship

To avoid undue hardship, nothing in this order shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this

order and upon which actual building construction has been carried on diligently; provided, however, such construction is not found to have been or be a purposely planned evasion of the intents of this

order. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried out diligently, but not in a manner which

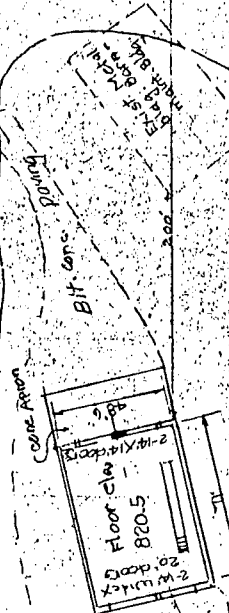


Lawrence Wilbers
Margaret Wilbers, wf.
59 Oakwood Ct
Cincinnati, Ohio 45246

Bavarian Trucking Co.

Bavarian Trucking Co. 276.94
acres parcel.

Zoning - A-1



Larry Stephenson
Patricia Stephenson, wf.
12750 McCays Fork Rd.
Walton, Kentucky 41094

Bernard Stephenson
Julius Stephenson, wf.
12750 McCays Fork Rd.
Walton, Kentucky 41094



See attached sheet for plat of
entire 276.9 acres.

Site plan for extension of existing 4.8 acre property
used for Bavarian Trucking Co. 276.94 acres,
Boone Co., Ky.

SCALE: 1" = 40'

DATE: 5/21/85

APPROVED BY: [Signature]

DESIGNED BY: [Signature]

DRAWING NUMBER: [Blank]

Walton & Walton - Civil Engineers - Surveyors
Burlington, KY 41021 - Phone 266-0317

BOONE BOARD OF ADJUSTMENTS

MAY 8, 1985

Chairman Whitton called the Boone Board of Adjustment Meeting to order.

The roll call was taken by staff member Jeanne Huddleson. Five members present: Messrs. Ryan, Nevel, Archambault, Houston and Chairman Whitton. Counselor Wilson was also present.

The Board deferred action on the Minutes of previous meetings of the Boone Board of Adjustments until later in the meeting.

Chairman Whitton proceeded to the Agenda items.

Conditional Use Permit

A request of Edward H. Russell for a Conditional Use Permit to place a mobile home on a five (5) acre tract located at 127 (4080) Hathaway Road. This property is currently zoned Agriculture, A-1.

Staff member Chip Block presented the staff report which stated the applicant is requesting approval of a Conditional Use Permit for the placement of a mobile home on the subject property. Mr. Block noted a site plan drawn by the applicant on a surveyors drawing was attached to the staff report which indicated the proposed location of the mobile home on the tract. Mr. Block related that the proposed location of the mobile home had in past years previously been a mobile home site and that since the mobile home had been off of the property for some time the permit application was thus required. Mr. Block stated that, according to the plan, the applicant proposed to place the mobile home about 135 feet from the front property line along Hathaway Road, and that Mr. Block's inspection of the site had found the proposed location to be generally correct with the lay of the land. Mr. Block noted the side property lines would be 50 feet away on the west side and around 66 feet away on the east side. Mr. Block suggested that should the Board decide to approve the application he would recommend the following condition to the permit:

1. That a copy of the approval of the sanitary sewage disposal system (septic tank) issued by the Northern Kentucky District Health Dept. be recieved by the Board prior to the Permit becoming valid.

Mr. Block related that from the proposed site it is approximately 1 mile to Riddle's Run Road and that within that 1 mile area there are 4 mobile homes, and that from the site back into Union in the 4-5 mile range there are only 2 mobile homes approximately 2 miles away and on the opposite side of the road and on farms. Mr. Block closed by noting that approval could be based upon Article 6, Section 613 permitting mobile homes as Conditional Uses. Mr. Block then presented a slide presentation of the subject and surrounding area.

Mr. Edward H. Russell, applicant, urged the Board to approve the Conditional Use Permit and noted the site had previously been used for a mobile home. Mr. Russell also noted there is a septic tank and sistern on the site and that up until a recent time the site also had service boxes (for utilities) as well.

Mr. Jeff Flannery, homeowner on Riddle's Run Road, inquired of the law on mobile homes in agricultural areas. Mr. Flannery, on behalf of a group of homeowners present, expressed concern of the placement of mobile homes and of the effect on property values. Mr. Flannery related that the previous mobile home on the site had caught on fire and the former owner of the property (Mr. Dick Neal) had to personally pay to have the fire debris removed from the site.

Mr. Larry Warner, a member of the homeowners group present, stated the residents concern of the abundance of mobile homes was not just on the subject property but rather concern of the abundance of mobile homes throughout the entire county. Mr. Warner stated "there are mobile home parks" and alleged that in 90% of mobile home locales that property values have been depreciated because of the mobile homes.

Counselor Wilson explained that under Kentucky Revised Statutes (KRS) Sect. 100 a land use regulation was established which permitted agricultural farms to have mobiles homes outright regardless of zoning.

Mr. Flannery inquired of what constituted a "bonafide farm". Mr. Wilson explained the factors which determine a "farm" are the actual uses on the land. Mr. Block noted that in the subject instance mobile home placement is permitted with a conditional use permit in the Agricultural (A-1) zone. Mr. Wilson went on to explain that the Planning Commission and Board of Adjustment rely on the planning tools such as the Comprehensive Plan for the area, the presentations of the existing uses in the area, and compare the compatibility of the existing uses with the proposed mobile home use to see if it appropriate for mobile home placement on a specific site.

Mr. Warner inquired of the meaning and the time length of a conditional use permit. Counselor Wilson explained the conditional use permit does not have an actual time limitation. Counselor Wilson noted that if the Board grants a conditional use permit they may put reasonable conditions within it and if the facts of a given case justify putting in a time frame the Board may do so if reasonable.

Mr. Dick Neal, former owner of the proposed mobile home site, explained that when he sold the property the current owner stated the former mobile home placement would only be temporary. Mr. Neal also noted he paid to have the burned trailer towed off the property.

Mr. Archambault inquired if Mr. Neal was selling the property to the applicant. Mr. Neal responded he sold the property to the current owner who in turn is subsequently selling the property to the applicant. Mr. Neal expressed concern of a shrinking property tax base from the placement of mobile homes on property as opposed to homes. Chairman Whitton explained the function of the Board.

Mrs. Elizabeth Guy, adjacent property owner, inquired of the setbacks of the mobile home from the road. Mr. Block responded in the A-1 district the minimum front yard requirement is 80 feet, side yard 10 feet, and rear yard 25 feet.

Mr. Warner presented a petition of signatures who object to mobile homes, and also presented pictures of area mobile homes and contended mobile homes are not compatible with homes.

Mr. Ron Reeser, area property owner, inquired of what the residents need do to change the legalities of the matter or slow the process.

Counselor Wilson noted the residents were doing correctly in the subject permit application in trying to relate the facts of what the existing uses are in the area and whether or not it is compatible with the existing uses of the area. Discussion followed.

Mrs. Sue Kidwell, 4194 Hathaway Road, stated she was opposed to the proposed placement of the mobile home on the subject site.

Mr. Neal stated he does have two other lots to sell along Hathaway Road but that he will not allow mobile homes. Chairman Whitton suggested deed restriction as a possibility.

Mr. Warner related the dilemma does not only exist in the Hathaway Road but is county-wide in the abundance of mobile homes.

Mr. Archambault moved that the Board defer action until the next Board of Adjustment meeting to allow Board members to physically view the subject and surrounding area.

Mr. Flannery and others expressed continued concern of mobile homes and their placement in the area.

Chairman Whitton noted that what he sensed the residents were inquiring is what they could do to prohibit mobile homes from their area. Counselor Wilson noted that since the area is zoned for that particular conditional use then the public has the right to request the permit. Counselor Wilson explained that the only procedure that would disallow the applicant from applying would be a zoning map amendment which also requires fact-finding procedures to determine the appropriateness of a new zone.

Mr. Flannery inquired as to the procedure to begin a zone change. Counselor Wilson explained the residents would begin at the Planning Commission staff office. Counselor Wilson explained after the update of the Comprehensive Plan there is an update of the zoning map. Mr. Wilson noted if the area were requested to be looked at the staff would study and review the area for suggested change.

The motion was seconded by Mr. Ryan. After discussion, the motion carried unanimously.

Chairman Whitton explained his empathy with the residents and explained the authority of the Board as defined by function and regulation. Chairman Whitton suggested the residents focus their energy toward the direction that would offer some results.

Chairman Whitton noted the conditional use permit would be acted upon June 12, 1985.

Zoning Appeal

A request of Edward G. Drennen for an Appeal of an Enforcement Officer's decision of finding that the use of the property at 1528 Dublin Place and an adjoining 30 acre tract for a "trucking and excavating company" is a Pre-existing and Non-Conforming Use. This property is currently zoned Rural Suburban, RS and Suburban Residential One, SR-1.

Atty. Edward G. Drennen, representative of residents on Dublin Place, summarized the residents' position that the property in question is not a pre-existing, non-conforming use and that it does fall under the zoning laws of Boone County and therefore the building structure as it currently exists is not an acceptable use and should be removed. Mr. Drennen stated the findings of the Board with regard to the road are correct in that the road does not meet the standards of the community and County,

and the property should be solely used for residential purposes. Mr. Drennen noted that Mr. Foltz never has obtained any building permits whatsoever from the County neither for the building nor for the operation of his residence nor the road. Mr. Drennen emphasized the residents feeling that the building nor the operation should be allowed in the Dublin Place residential area. Mr. Drennen also noted that the Foltz's use of the property was contrary to the deed restrictions on the property.

Chairman Whitton noted that correspondence had been received by the Board from County Attorney Larry Crigler who clarified a "pivotal point" of the residents' argument with regard to the effective date of the zoning ordinance. Chairman Whitton quoted part of the letter of Mr. Crigler as follows: "I believe the effective date to be May 14, 1981."

Mr. Ryan moved that the Board affirm the ruling of Zoning Enforcement Officer and to adopt the recommendations of the Zoning Enforcement Officer's decision based on the findings of the informal public hearing held on the pre-existing non-conforming use issue and the effective date as presented by County Attorney Larry Crigler. The motion was seconded by Mr. Archambault.

Mr. Houston stated he would abstain on the issue.

Ayes: Messrs. Ryan, Nevel, Archambault and Chairman Whitton.

Mr. Drennen stated the finding was that the use was not a pre-existing non-conforming use but the finding did require that the Foltz's conform to the general requirements of Sect. 1800. Mr. Drennen stated the residents would then request Mr. Foltz be directed to remove it and if the Board is not inclined to direct Mr. Foltz to remove it the residents would request that some sort of restriction of the types of trucks travelling through the residential neighborhood.

Counselor Wilson noted that would be an area that the enforcement staff would have to address according to the regulations for conformity.

Mr. Ryan noted that Mr. Foltz would have to pave the road according to the recommendation of the zoning enforcement officer. Mr. Drennen then the issue comes around again that this is a residential neighborhood through which Mr. Foltz has trucks travelling. Mr. Ryan noted the roads are also county roads. Mr. Drennen agreed and requested that some restrictions be placed as to the number of vehicles and times of use in an attempt to control the situation.

Counselor Wilson noted the Board of Adjustment would not be permitted to enforce such restrictions.

Mr. Block noted that driveway entrances are approved by the County and through the Boone County Building Inspector.

Mr. Block also noted the only element the Board can enforce with regard to the driveway is the surfacing of the driveway.

Conditional Use Permit

A request of Judith A. Meyer for a Conditional Use Permit to operate a "Day Care or Nursery" at 837 Donaldson Road. This property is currently zoned Suburban Residential One, SR-1.

Staff member Chip Block stated that correspondence had been received from the applicant requesting withdrawal of the applicatoin for the conditional use permit for property at 837 Donaldson Road. Mr. Block related that Mrs. Meyer's in her correspondence had requested a refund of fees.

Chairman Whitton accepted, on behalf of the Board, the withdrawal of the conditional use permit.

Staff member Chip Block noted that the fee schedule clearly states the fees are paid at the time of application and that the fees are not refundable.

Change of Non-Conforming Use

A request of Bavarian Trucking Company, Inc. for a Change of Non-Conforming Use to permit the expansion of a pre-existing non-conforming use by expanding the existing storage and maintenance facilities of vehicles on the site. The property is located on McCoys Fork Road and is currently zoned Agriculture, A-1.

Staff member Chip Block stated a letter had been received from Atty. Freihofer (representative of Bavarian Trucking) which indicated that a site plan necessary according to Art. 14 of the Boone County Zoning Regulations would be submitted as soon as possible and the application is tendered with the understanding that if the site plan is not submitted before the Board of Adjustments May meeting action will be taken. Mr. Block related that the had talked with the attorney who indicated that he was not aware that any site plan had been completed at the present time.

Staff Member Ralph Hopper noted that it is his understanding from the building inspector that the building is under way and is under roof.

Mr. Block noted the applicant is increasing the non-conforming usage of maintenance and storage of vehicles on the site.

Counselor Wilson then noted the potentiality of a possible violation.

Mr. Ryan moved that the Board defer action on the change of non-conforming use for failure of the applicant to comply with the requirements. The motion was seconded by Mr. Nevel. After discussion, the motion carried unanimously.

Mr. Archambault expressed concern of plans being presented after a building is built.

Staff member Ralph Hopper explained that an in-house policy has in the past been that the violator is notified of the violation and notified that if they come in and make application the violation would be dropped.

Mr. Houston inquired if violation had been issued on the subject matter. Mr. Hopper stated he notified Bavarian that if they did not submit the plans they would be in violation which subsequently prompted the application.

Administration

The Minutes of the Meetings of the Boone Board of Adjustment for March 6, 1985, March 12, 1985, and April 10, 1985 were considered.

Secretary Jeanne Huddleson noted that the Minutes for the March 6, 1985 meeting (taken by Personnel Pool) did not contain a maker of the motion nor a second on the Conditional Use Permit on page 2. After discussion, Counselor Wilson suggested the Minutes state "it was the general concensus of the Board to defer action."

Mr. Nevel moved that the Board approve the Minutes of the Meetings of March 6, 1985, March 12, 1985 and April 10, 1985 as reviewed and corrected. The motion was seconded by Mr. Houston. After discussion, the motion carried unanimously.

Area resident Bill Thompson (1502 Dublin Place) expressed extreme displeasure with the findings of the Board of Adjustment on the Zoning Appeal on the Foltz property, and continued to dispute the use as being non-conforming. Discussion followed. Mr. Thompson emphasized that he was there, he knows when it was built and contended the finding was incorrect. Mr. Thompson expressed concern of the total disregard of Mr. Foltz for the law and the people in the subdivision.

Chairman Whitton noted that civil recourse is available to the residents.

Mr. Ryan moved that the Commission adjourn. The motion was seconded by Mr. Archambault.

The meeting adjourned.

GEORGE D. WHITTON

Attest:

BOONE COUNTY BOARD OF ADJUSTMENTS

JUNE 12, 1985

6:30 P.M.

Chairman Pro Tem Walter Ryan called the meeting to order. The roll call was taken by Staff Member Jeanne Huddleson. Three members present: Messrs. Houston, Nevel, and Chairman Pro Tem Ryan. Counselor Dale Wilson was also present.

Chairman Pro Tem Ryan suggested the Board review and discuss the Minutes of the last Board of Adjustment Meeting of May 8, 1985 later in the Meeting.

Chairman Pro Tem Ryan proceeded to Item 1 of the Board's Agenda.

Conditional Use Permit

A request of Edward H. Russell for a Conditional Use Permit to place a mobile home on a five (5) acre tract located at 127 (now 4080) Hathaway Road. This property is currently zoned Agriculture, A-1.

Chairman Pro Tem Ryan noted that a letter had been received by the Planning Commission office from the applicant that the request had been withdrawn. Staff member Chip Block confirmed the receipt of the letter of withdrawal.

Mr. Larry Warner inquired if another application could be forthcoming for the site. Mr. Block stated the previous applicant or another applicant could apply but that the application would have to proceed through the procedural process.

Change of Non-Conforming Use

A request of Bavarian Trucking Company, Inc. for a Change of Non-Conforming Use for their property located on McCoys Fork Road, currently zoned Agriculture, A-1. This request is to permit the expansion of the existing storage and maintenance facilities for vehicles on this site.

Staff member Chip Block presented a slide presentation on the subject and surrounding area. Mr. Block also presented a staff report which stated the applicant is requesting the change to permit the construction of a building to house the maintenance and repair operations of their vehicles. Mr. Block noted the use is currently found on the property but is being requested to be permitted in this building. Mr. Block directed the Board to review the enclosed plans (reduction) and copy of Sect. 284 referring to the criteria for a change of non-conforming use. Mr. Block stated his only recommendation would be that a condition be considered to any approval requiring the asphalt

"hard surface" paving as proposed on the plan before occupancy of the building.

Atty. Carl Freihofer, representing Bavarian Trucking Company, related the events leading up to the placement of the current building and the subsequent application and difficulties in obtaining the required site plan and other information. Mr. Freihofer explained his client did not realize the necessity of a permit and also explained the need for the building to provide maintenance on Bavarian trucks. Mr. Freihofer stated the proposed change of non-conforming use will not increase the traffic on McCoy's Fork Road.

Mr. Nevel inquired if there was any problem with the entrance road to the site being blacktopped as shown on the site plan. Mr. Freihofer explained what ever is shown on the plan is what the applicant intends to provide. Mr. Block noted the plan does note concrete or blacktop surfacing. Mr. Block also noted the letter referred to by Mr. Freihofer was in the Commission's record file.

Mr. Nevel moved that the Board grant the change of non-conforming use for property located on McCoy's Ford Road in the Agriculture, A-1 zone, and subject property also known as the Bavarian Trucking Company site, and with the condition that the paving of the entrance drive be provided prior to occupancy of the building is permitted. The motion was seconded by Mr. Houston. After discussion, the motion carried unanimously.

Conditional Use Permit

A request of Betty Jo Scudder for a Conditional Use Permit for property located at 8525 Dixie Highway, currently zoned Industrial One, I-1. The purpose of this request is to permit the use of this property as a "Day Care Center".

Staff member Chip Block presented a slide presentation on the subject and surrounding area. Mr. Block also presented the staff report which stated the only proposed change to the existing site is to provide a fenced in play area to the south of the building (formerly known as Howell's Carryout). Mr. Block stated the adjoining property to the south and west is undeveloped while to the north is residential and to the east is industrial. Mr. Block stated he would direct the Board to review Section 1033 which provides the criteria for the review of Conditional Use Permits.

Mrs. Betty Jo Scudder, applicant, stated she was present to answer any of the Board's questions.

Chairman Pro Tem Ryan asked if the subject property was adjacent to the Plymouth Steel site. Mrs. Scudder noted there is a house in between the subject property and Plymouth Steel.

There was no other audience support or opposition expressed.

Mr. Houston moved that the Board approve the Conditional Use Permit for property located at 8525 Dixie Highway and currently zoned A-1. The motion was seconded by Mr. Nevel. After discussion, the motion carried unanimously.

Setback Variance

The request of D. Bringham Roberts, Architects & Associates, Inc. (agents) for Nor-Com, Inc. (owner) for a Variance on property located a 2126 Petersburg Road, currently zoned Commercial Two, C-2. The purpose of this request is to permit a variance in the required rear yard setback of 50 feet to a requested 40 feet for a building addition and a variance in the required parking of 12 off-street spaces (after the construction of the addition) to a requested 8 spaces.

Staff member Chip Block presented a staff report and slide presentation on the subject agenda item. Mr. Block noted from the staff report that review of the area indicated the building maintains a 40 foot setback and the applicant has not caused this due to the building existing prior to the current regulations. Mr. Block aslo noted that by strict application the whole building addition would be rquired to be moved 10 feet closer to the front which would necessitate removing an existing air conditioner. Mr. Block also noted that he could fin no reasons concerning the preservation of the public safety or welfare in this instance but that the essential character of the neighborhood would not be changed since the setback is existing. Mr. Block stated that applicant identifies the addition is for storage and thus would not require additional parking because of the definition of gross floor area. Mr. Block explained a letter which described the specific unique site conditions and circumstances (not cuased by the applicant) of the site and the reasons strict application woudl deprive the applicant of reasonable use of the land, and for Board members' reference had been included in the Board of Adjustment information.

Mr. Dan Van Meter, owner of the subject property, stated he was present to answer Board questions. Mr. Van Meter also noted intentions to landscape the whole side when the addition is completed.

There was no other audience support or opposition expressed.

Mr. Nevel moved that the Board grant the variance in the required rear yard setback of 50 feet to a requested 40 feet for a building addition and a variance in the required number of off-street parking spaces. The motion was seconded by Mr. Houston. After discussion, the motion carried unanimously.

Conditional Use Permit

The request of Thomas and Robin Medlock for a Conditional Use Permit for a 8.299 acre tract located on the north side of Dale Williamson Road off of Ky. 536, Hathaway Road, currently zoned Agriculture, A-1. The purpose of the request is to permit the placement of a mobile home on this property.

Staff member Chip Block presented a slide presentation and staff report. Mr. Block stated the applicant has supplied a plan showing a proposed 12 foot by 70 foot mobile home with a front yard of 250 feet and side yards of 150 and 130 feet and Mr. Block noted the adjoining property to the subject property is undeveloped to the east and west while to the north and south the land is currently Agricultural and Residential. Mr. Block noted that additionally several mobile homes exist in the area of Hathaway, Riddles Run and Sullivan Roads. Mr. Block stated the Boone County Comprehensive Plan indicates a planned future land use of Agriculture and Environmentally Sensitive for the subject and adjoining sites to the north, east and west while to the south, toward Gunpowder Creek Road, is planned Recreation. Mr. Block directed the Board to review the qualifications and criteria of Section 613 which provides for the review and approval of permits under the A-1 zoning district. Mr. Block noted that should the Board decide to recommend approval of the request, he would recommend the following condition that the permit not be valid until a copy of the approval for the on-site sewage treatment system by the Northern Kentucky District Health Department be provided for the Board's records.

Mr. Thomas Medlock, applicant, noted his presence to answer Board members questions. Mr. Bob Porter, current owner, explained the site includes 139 acres and related that he owns the 90 acres on the opposite side of the road. Mr. Porter stated the site itself is set up ideally for the placement of a mobile home and that the site is not visible from the road and will be in a somewhat isolated site.

Mr. Larry Warner, speaking for a group of area homeowners who had recently objected at prior meetings to the zoning regulations in its address of mobile home placement, requested the Board to defer action on the subject request until the Planning Commission studies and reviews the regulations regarding the placement of mobile homes county-wide.

Mr. Block referred to Section 613 of the zoning regulations for uses in the A-1 zoning district.

Mr. Warner again noted the Planning Commission is reviewing the issue of mobile home placement. Mr. Reiser stated the residents were merely asking for the Board to hold applications until a Commission decision is made.

Counselor Wilson noted the Board is under time limitations and accordingly must act on the request within a certain time requirement. Mr. Block noted the application must be acted upon in 60 days from the date of May 21, 1985.

Mr. Bob Porter, owner, noted the Planning Commission is taking it under study and inquired if the study and review would even be completed and enforceable within the applicant's action time.

Mr. Block stated the residents had asked the Planning Commission and the Technical Committee (subcommittee of the Planning Commission) to study and review and to "where necessary change the legislation as the Planning Commission feels is appropriate" to address the residents' expressed concerns or to modify the regulations in the Planning Commission's review of the Comprehensive Plan Update.

Mr. Bob Porter, current owner of the subject property, expressed concern that the applicant has conformed to the current legislation and regulation as it exists and also Mr. Porter expressed concern of the residents request to alter current procedures. Mr. Porter contended that to hold the request would cause undue hardship to himself as well as Mr. and Mrs. Medlock and that no one has any idea "when" the Commission would recommend on the issue of mobile home placement. Mr. Porter also noted the property is not contiguous to those present speaking in opposition to mobile home placement. Mr. Porter contended the site is 139 acre site and is an agricultural zone which does permit mobile homes as a conditional use and Mr. Porter implored the Board not to delay action on the "if come" premise as proposed by the residents of opposition to mobile homes.

Chairman Pro Tem clarified the subject property is one-half mile back off Hathaway Road. Mr. Block affirmed. Chairman Pro Tem noted 130 feet off of Dale Williamson Road.

Mr. Warner inquired if the mobile home would be clearly visible from the road. Mr. Medlock responded it would not be visible. Mr. Porter stated the question of visibility should not be the issue.

Mr. Jeff Flannery, another resident of the group, invited the Board members to tour the entire general area and expressed continuing concern of mobile home placement causing decreased property values. Mr. Flannery referred to previous legislation (1972) which suggested the front setback be 500 feet. Mr. Block explained there was no setback previously and explained the old legislation in this regard.

Asst. Director Newton, speaking on behalf of the Planning Commission subcommittee (Technical Committee) stated that in all fairness to the applicant, the Technical Committee

would not have any firm action recommendation within the statutory time limitation requirement.

Mr. Nevel inquired if there were mobile homes in the area prior to Mr. Warner's purchase or placement of his home. Mr. Warner responded that "Yes, there were" and that it was a mistake on his part.

Mr. Reiser, another resident of the homeowners group, stated the group is seeking to restrict the area.

Chairman Pro Tem Ryan inquired how far the residents were from the subject site. Mr. Warner, on behalf of the group, stated the group lives approximately one mile away.

Counselor Wilson noted the criteria for the granting of a conditional use permit, and the consideration of existing and planned uses for an area, and the conditional use compatibility with existing area uses.

Mr. Houston moved that the Board grant the conditional use permit for a 8.299 acre site located on Dale Williamson Road, off of Ky. 536 Hathaway Road based on the regulations as they currently exist. The motion was seconded by Mr. Nevel. After discussion, the motion carried unanimously.

Conditional Use Permit

The request of Robert E. Wesdorp for a Conditional Use Permit for an approximate 115 acre tract located at the corner of Camp Ernst Road and Camp Ernst Lane, currently zoned Agriculture, A-1. The purpose of the request is to permit the construction of and operation of a boarding stable and training ring on this property.

Staff member Chip Block presented a slide presentation and the staff report which stated the submitted plan shows the construction for a barn for stable with a training ring nearby with entrance and exist drives to be provided for one-way traffic along with a 150 foot by 100 foot parking area (20 to 30 parking spaces). Mr. Block noted the adjoining property to the north, across Gunpowder Creek, is currently used for the Y.M.C.A. Camp Ernst while the south and west is agricultural use and to the east is residential and agricultural use. Mr. Block stated the Boone County Comprehensive Plan indicates a planned future land use of Recreation in the floodplain area and adjoining areas of Gunpowder Creek and the outside of the subject land area planned for Agricultural use. Mr. Block referred the Board to Section 613 of the Zoning Regulations regarding qualifications for review of a Conditional Use Permit in the A-1 zone.

Mr. Bennet Wesdorp, noted his father, brother and himself as present and available for Board questions.

Mr. Nevel inquired if the drawing notations indicated plots. Mr. Wesdorp stated the square indications were anticipated horse stall locations.

Mr. Nevel moved that the Board approve the Conditional Use Permit for property located at the southwest corner of Camp Ernst Road and Camp Ernst Lane. The motion was seconded by Mr. Houston. After discussion, the motion carried unanimously.

Sign Variance

The request of the American Sign Service for Burlington Pentecostal Church for a variance for a one (1) acre tract located at 41 West Torried, currently zoned Suburban Residential Two/Small Community Overlay, SR-2/SC. This request is to permit a 32 square foot sign instead of the maximum permitted 16 square foot sign.

Staff member Chip Block presented a slide presentation and a staff report which presented a review of Sect. 244 on the standards for variances and in which Mr. Block stated in review of the site and proposed signage he could not find any specific conditions in detail that are unique to the site. Mr. Block also noted there have been no recent changes in the area or to the subject property that would require the need for the variance. Mr. Block also noted the essential character of the neighborhood would not be altered since the Small Community Overlay zone would allow a variety of uses with varying sign sizes permitted.

Mr. Tom Weikel, American Sign Service, explained the proposed signage in that the actual copy area would only be 2'x8' with the remainder of the 32 square foot area being used for the announcement of church activities.

Mr. Rick Zurick, representing the Burlington Pentecostal Church, explained the need for the larger sign is that Torried Street is a street that is basically not use much and from the closest primary street a smaller sign would not be visible.

There was no other audience support or opposition expressed.

Counselor Wilson asked if all residential properties are to the rear of the sign area. Mr. Block responded that the closest home would be the mobile home at least 200 feet away. Mr. Weikel, American Sign Service, also noted that the back of the sign visible from that property would be neutral color so as to blend into the environ.

Mr. Nevel moved that the Board approve the sign variance request for the Burlington Pentecostal Church located at 41 West

Torrid Street in Burlington, Kentucky. The motion was seconded by Mr. Houston. After disussion, the motion carried unanimously.

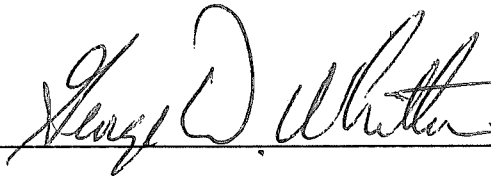
Administration

Counselor Wilson advised the a brief had been prepared for submission in the pending litigation involving the Loomis property.

Mr. Nevel moved that the Minutes of the Board of Adjustment Meeting of May 8, 1985 be approved as reviewed. The motion was seconded by Mr. Houston. After discussion, the motion carried unanimously.

Mr. Houston moved the meeting adjourn. The motion was seconded by Mr. Nevel. The motion carried unanimously.

The meeting adjourned.



Attest: