

APPLICATION FOR ZONING ACTION

TO:

- | | |
|--|---|
| <input type="checkbox"/> Boone County Planning Commission | <input type="checkbox"/> City of Union Board of Adjustment |
| <input type="checkbox"/> City of Florence Board of Adjustment | <input type="checkbox"/> City of Walton Board of Adjustment |
| <input checked="" type="checkbox"/> Boone County Board of Adjustment | <input type="checkbox"/> Zoning Enforcement Officer |

FOR:

- | | |
|---|---|
| <input type="checkbox"/> Zoning Text Amendment | <input type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> Comprehensive Plan Change | <input type="checkbox"/> Planned Development Overlay Change |
| <input type="checkbox"/> Preliminary Plat Review | <input type="checkbox"/> Improvement Plat Review |
| <input checked="" type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Final or Deed Plat Review |
| <input type="checkbox"/> Concept Development Plan Change | <input type="checkbox"/> Site Plan Review |
| <input type="checkbox"/> Preliminary Development Plan | <input type="checkbox"/> Historic District Overlay |
| <input type="checkbox"/> Change of Non-Conforming Use | <input type="checkbox"/> Appeal or Variance |
| <input type="checkbox"/> Design Review Board and Certificate of Appropriateness | <input type="checkbox"/> Sign or Zoning Permit |

Applicant: Bruce Ferguson Owner Agent

Address: _____

Telephone: 334-2240 384-3539

Location: 5963 N. Jefferson, Burlington, Ky

Name of Property Owner: Bruce S. Ferguson, Elizabeth Ferguson

Address of Property Owner: 2150 Hathaway Rd., Union, Ky, 41091

Zoning District: SR-2/SC Area in Acres: .28

Deed Book: 357 Page Number: 11 Group Number: 195

Description of Request: Utilization of an underlying zone ~~to allow~~ for a conditional use to allow the conversion of the building to a mix of office and residential use

Applicant's Signature: Bruce Ferguson

Property Owner's Signature: _____

FOR PLANNING COMMISSION USE ONLY

Application Fee: _____ Date Received: _____ By: _____

Referred To: _____ Meeting Date: _____

Action Taken: _____ Date of Action: _____

STAFF REPORT

APPLICANT: Bruce Ferguson

DEVELOPMENT: Erastus Tousey House

LOCATION: 5963 North Jefferson Street, Burlington,
Boone County, Kentucky

ZONING: Suburban Residential Two/Small Community
Overlay (SR-2/SC)

DATE: August 12, 1987

REMARKS:

The applicant is requesting a Conditional Use Permit and Site Plan approval for a 0.28 acre site located at 5963 North Jefferson or within Washington Square of Burlington. The request is to seek a conditional use permit to allow the conversion of an existing building to a mixture of office and residential use as outlined in Section 1612 of the Boone County Zoning Regulations. The applicant is planning to restore the Erastus Tousey House to its original condition. The office area will consist of approximately 2,060 square feet and will be located on the first and second floor of the existing building. The attic will be used for storage purposes. The lower floor or basement will be used as an apartment or for residential purposes. A one-story addition with a basement is being planned on the west side of the existing building. Two porches will be rebuilt on the north and south sides of the existing building.

SURROUNDING LAND USE AND ZONING AND HISTORICAL SIGNIFICANCE

The surrounding land uses consist of residential in all four directions. There is a small autobody shop and two churches (Pure in the Heart Fellowship Church and Church of the Nazarene) located near the site. The surrounding zoning is Suburban Residential Two/Small Community Overlay (SR-2/SC) in all four directions.

According to the Survey of Historic Sites in Kentucky, Boone County, the Erastus Tousey House was built in the 1820's and represents a Federalist style of architecture. The house has several historical and architectural features which makes it unique to Boone County. The house was known as the Burlington Hotel from 1902 to 1908 and was later used as a grocery. The house is listed on the National Register of Historical Places (June 19, 1979) and is located in the only National Register District in Boone County (Burlington district).

RELATIONSHIP TO THE COMPREHENSIVE PLAN

The 1986 Boone County Comprehensive Plan Future Land Use Map indicates the future use of this property and some of the surrounding area to be commercial. Furthermore, the text of the Comprehensive Plan suggests the following.

Page L-13 discusses historically significant buildings.

"Burlington proper will see numerous changes to its center. Historically significant structures will need protection from the increased pressures to develop the county seat."

Page Env.-26 states the significance of public view of historical structures.

"Man-made features which merit the outstanding classification include the historic villages of Burlington and Petersburg."

Finally, the Goals and Objectives section of the Comprehensive Plan mentions the need to preserve natural features and historic sites.

"Historically and culturally significant sites and structures of the county shall be protected and preserved, where possible."

GENERAL APPLICABLE STANDARDS FOR A CONDITIONAL USE PERMIT

In order to determine whether a conditional use permit is appropriate, the Board may consider the following standards as outlined in Section 263 of the Boone County Zoning Regulations.

1. It appears that the proposed uses and building restoration would be in accordance with the Comprehensive Plan as discussed previously.
2. The planned use and building restoration will be harmonious in appearance with the existing or intended character of the general vicinity and will not change the essential character of the same area.
3. Both office and residential uses will not be hazardous to the existing or future neighboring uses.
4. The site is adequately served by essential public facilities and services.

5. The proposed use will not create additional requirements at public cost for public facilities and will not be detrimental to the economic welfare of the community.
6. The proposed use will not involve activities, processes or materials that will be detrimental to any persons, property or the general welfare.
7. The applicant has proposed no changes to the vehicular approaches to the property. The primary access to the building will be from North Alley (Alley #4) on the south side.

The Board must also consider specific criteria, which apply to Conditional Uses in districts with a Small Community Overlay.

1. An office and a residential use is an integral part of Burlington's function as a small community center and it is not of a scale, nature, or character which will detract from or conflict with the principal purpose and continued well being of Burlington.
2. The arrangement and use of the building is compatible with the arrangement or organization of permitted uses to be protected in the district.

ERASTUS TOUSEY HOUSE SITE PLAN

The applicant has submitted a Site Plan showing the existing conditions of the 0.28 acre parcel and proposed changes (see attached reduced copy). As indicated on the Site Plan, the applicant will repair or replace the existing walks and stairs in front of the building. Two porches will be rebuilt and a wooden deck will be constructed which will serve the one-story frame addition. No changes will be made to the existing water line. Both telephone and electric are overhead and the applicant will install a new septic tank system in the vicinity of the present one. Storm water runoff will consist of surface drainage. Six new parking spaces (including one handicapped space) are being planned near the existing alley and a sidewalk will be constructed for pedestrian access. The existing out building or smoke house will be preserved because of its historical significance. Landscaping features include plantings near the office/residential building and two large trees exist on the property. Signage plans for the proposed uses and the existing building have not been submitted and are not part of this application.

STAFF CONCERNS

1. Parking - Parking areas should be designed in a manner that would allow any vehicle leaving or entering the parking area from or into a public or private street to be traveling in a forward motion. The proposed parking area is located adjacent to the public alley and automobiles would be "backing-up" in order to leave each parking space. The applicant is requesting a deviation or waiver of this normal requirement because of the following reasons.
 - a. The public alley does not generate a significant amount of traffic.
 - b. It is difficult to relocate the parking area because of the normal driveway aisle requirements, the existing conditions of the site (septic tank system and existing trees), the need to protect the integrity of the open space area adjacent to the historically and architecturally significant building, and it would alter the natural storm water drainage.

Also, the Staff would recommend that the applicant seek an agreement with any of the surrounding land owners to seek permission for additional parking spaces if needed in the future.

Under Section 1615 of the Boone County Zoning Regulations, the Board has the authority to make exceptions when literal conformance to such regulations would be to the detriment of the area and zoning district.

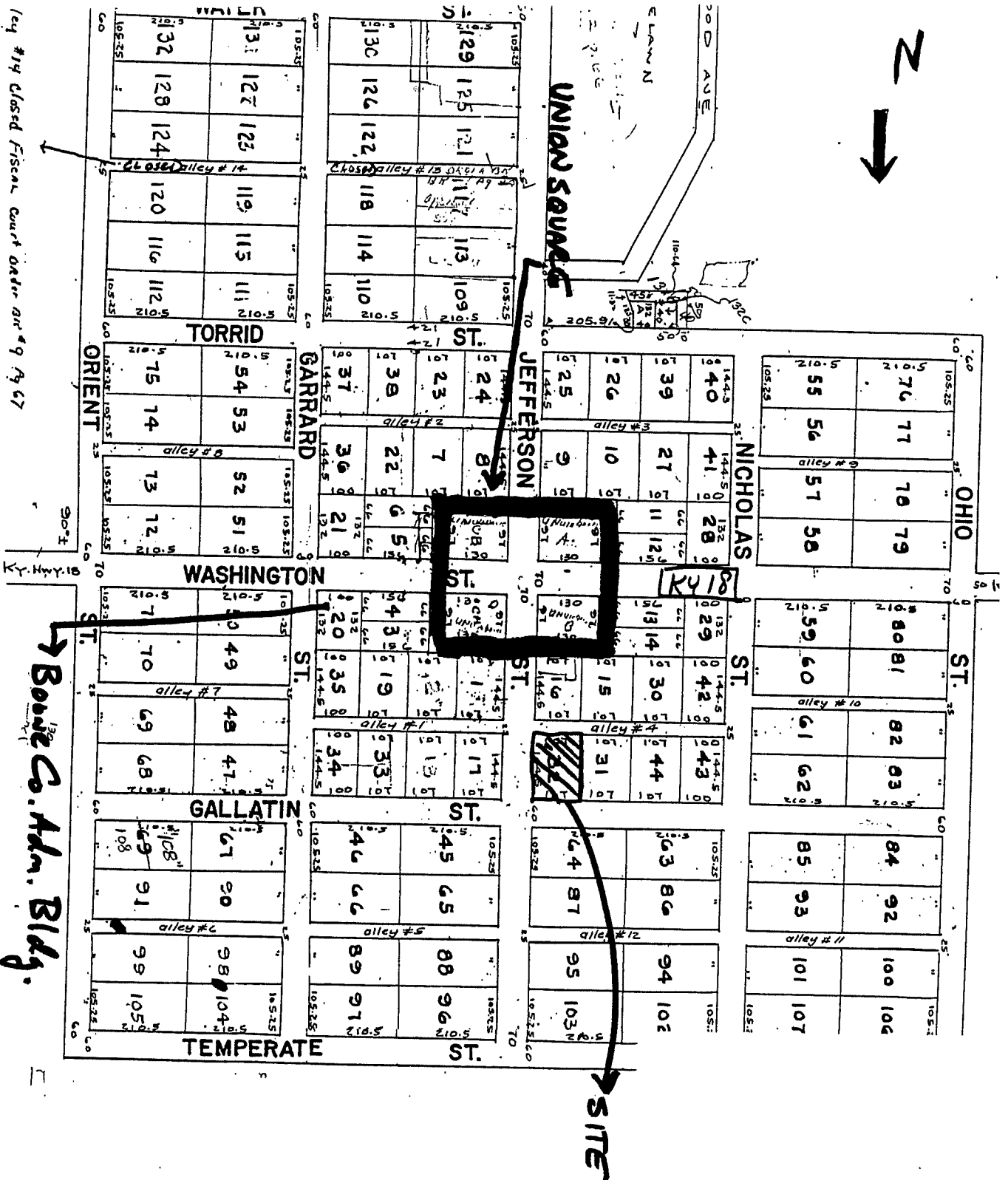
CONCLUSION

In conclusion, the Board should examine this request and determine if it meets the requirements of Articles 2 and 16 before granting a Conditional Use Permit for the 0.28 acre site. If the Board should grant the Conditional Use Permit and exempt the applicant from Section 1823 of the Boone County Zoning Regulations, staff would like to advise the Board that all other requirements for Site Plan Review have been met.

Respectfully submitted,



Kevin P. Costello
Asst. Director/Sr. Planner



leg #14 closed Fiscal Court order on 9/9/97
 Alley #14 in Court #200

leg #13 closed Fiscal Court order on 9/9/97
 Alley #13 in Court #200

Boise Co. Adm. Bldg.

BURLINGTON PLAT,

SCALE 1" = 200'

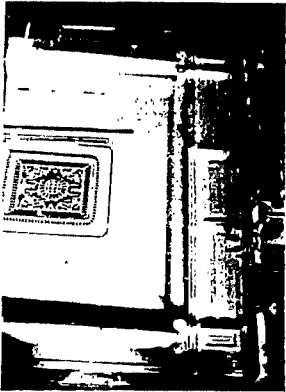
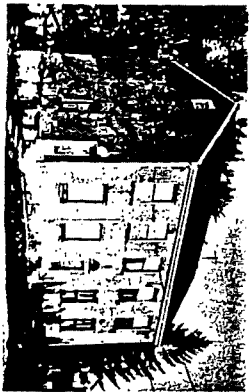
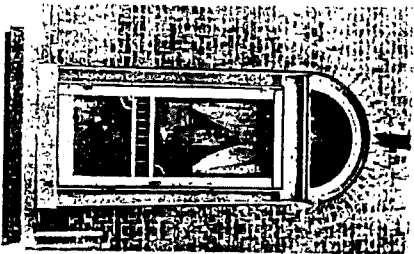
windows and tin pilasters; an emphatic tin cornice was added; and a square, pilastered bell tower with open grillwork was installed.

house
Be-135



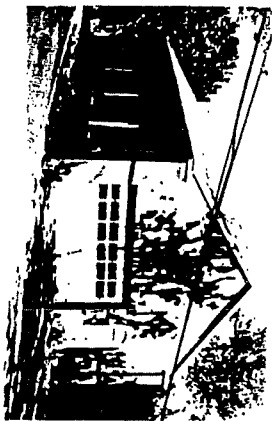
This small Greek Revival house was built in 1857 of brickwork with stone lintels and sills. Nothing is known of its early occupants. It has been used by the adjacent Burlington Methodist Church since about 1880.

Erastus Tousey house
Be-136†

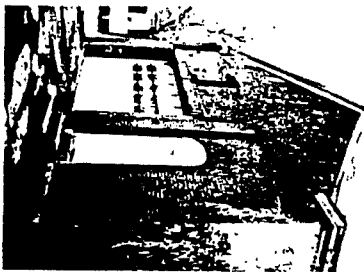


Built in the 1820s for Erastus Tousey, this house is the least altered of the three brick Federal houses in Burlington (see Be-138 and

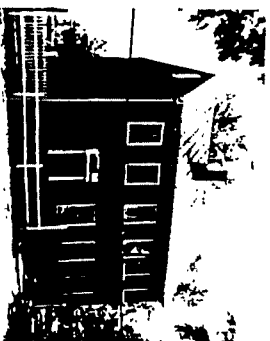
-140). In 1817 Tousey bought the lot on which the house stands for twenty-five dollars. The house is double-pile in plan with a central passage, and the openings in the main facade are topped with finely constructed flat and semicircular arches of gauged brick. Interior remodeling around the 1830s produced three double parlors in the Greek Revival style. The house was used as the Burlington Hotel from about 1902 to 1908 and as a grocery after about 1918.



Burlington Presbyterian Church
Be-137

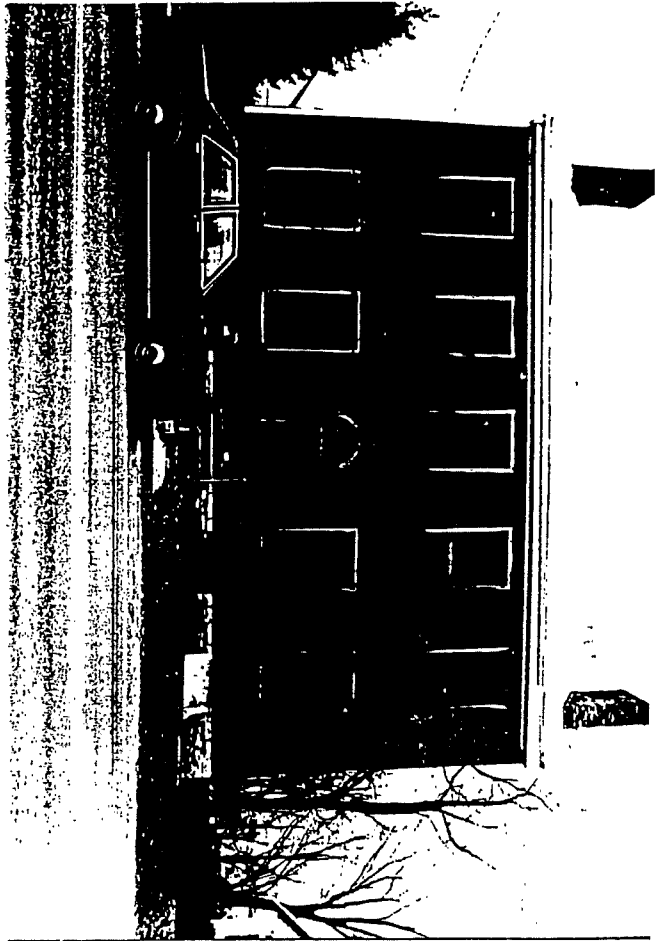


The former Burlington Presbyterian Church was built in the 1830s in the Greek Revival style. The three-bay entrance front was articulated with brick pilasters. Two of the front bays were destroyed by the addition of an overhead door—a reminder of the building's use as a fire station—but one of the two original doors with elliptical fanlights survives in an outer bay. It appears that the cornice originally continued across the front of the building above the capitals of the four pilasters.

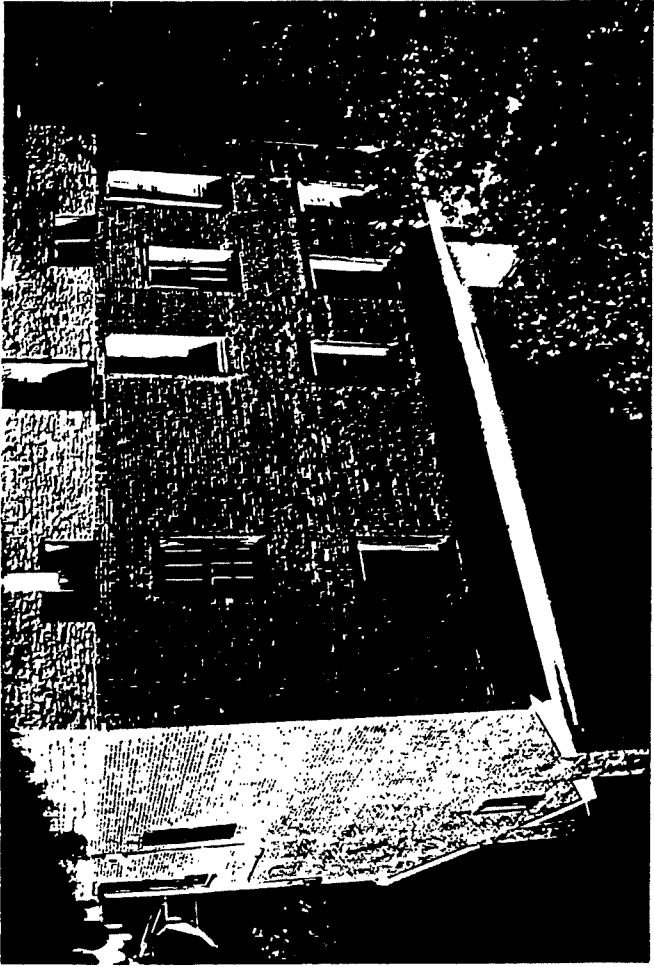


house
Be-138†

From: Survey of Historic Sites in Kentucky, Row 1



Front (from Jefferson Street)

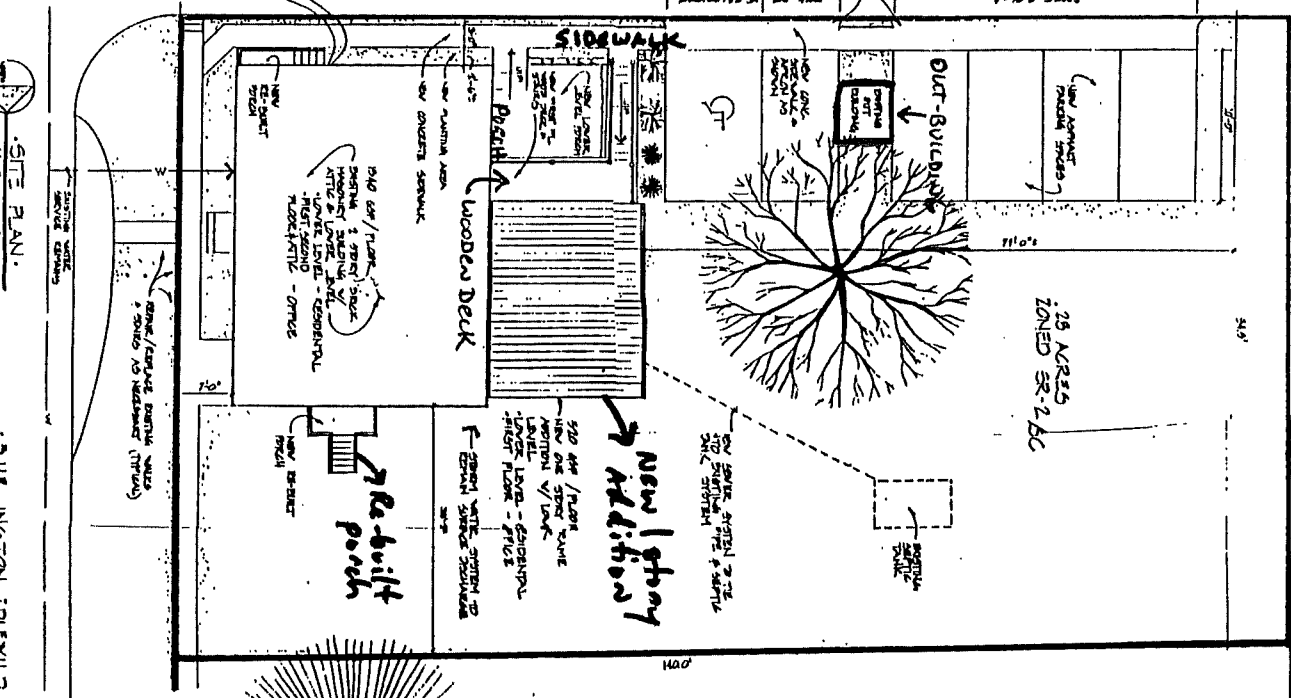


Rear (from North Alley - Alley #4)

ERASTUS TOUSEY HOUSE

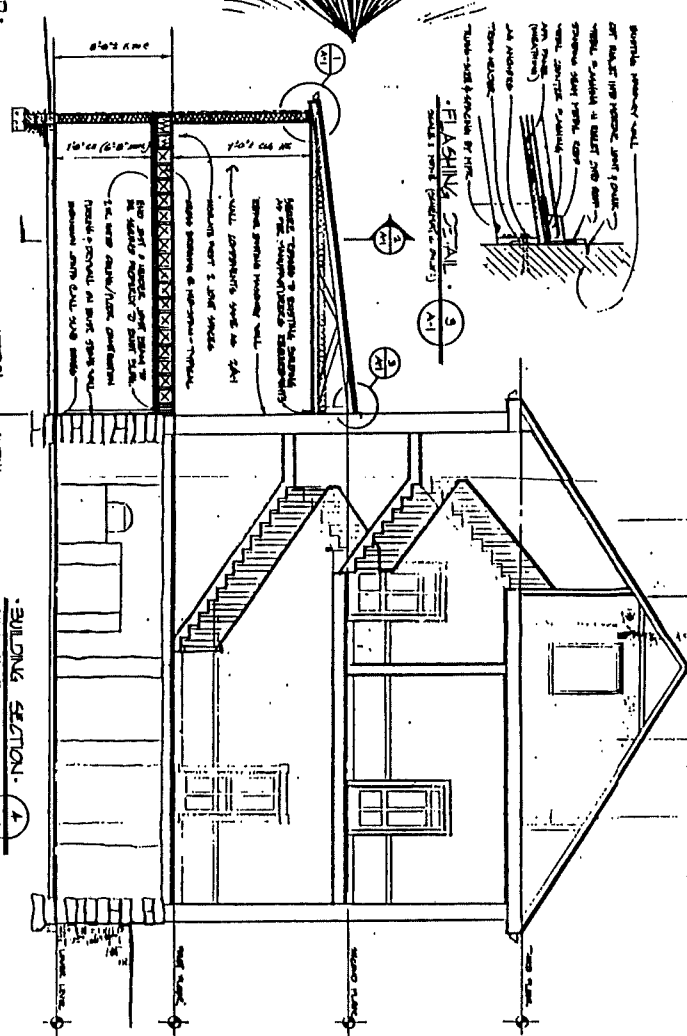
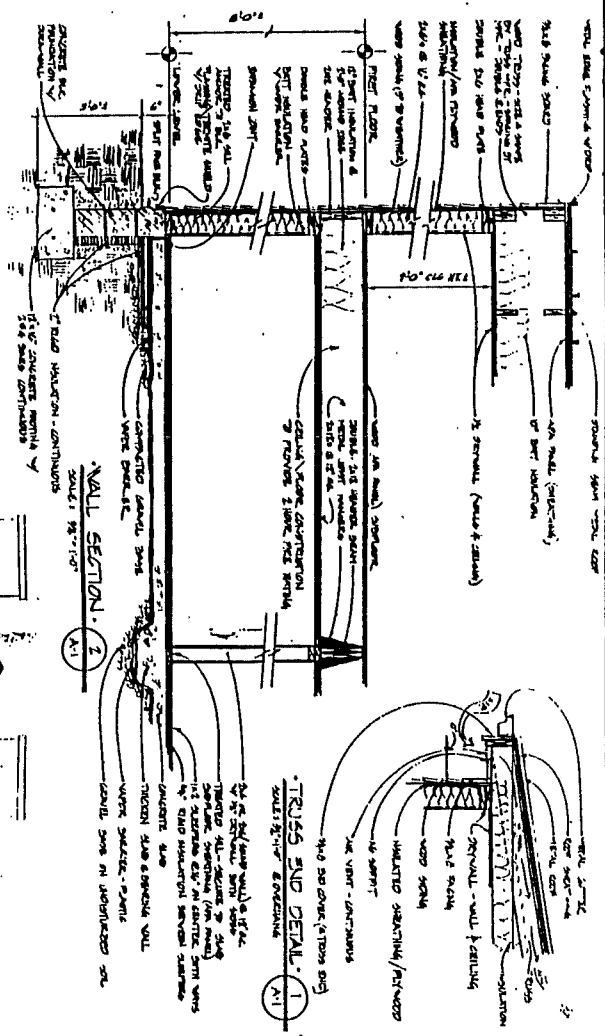
Site Plan
8/12/87

ALLEY #4 (NORTH ALLEY)



SITE PLAN
SCALE: 1/8" = 1'-0"

50' - JUNCTION: DEVILS ROAD
(Jefferson Street)



BUILDING SECTION
SCALE: 1/8" = 1'-0"

BOONE COUNTY
BOARD OF ADJUSTMENT

August 12, 1987 - 6:30 P.M.

Chairman Whitton called the meeting to order.

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 July 8, 1987 and asked if there were any comments or corrections.

There being no discussion, Mr. Ryan moved, seconded by Mr. Archambault, that the Minutes be approved as written. The motion carried unanimously.

AGENDA ITEMS:

2. A request of William C. Hub, P.S.C., Architects, for a Variance of 25 feet in the 100-foot minimum front yard setback required in the I-2 Zone. The purpose of the request is to permit construction of additional office space for an existing warehouse and office facility. The 3.877-acre site is located on the west side of U.S. Hwy. 25, immediately south of the Norfolk Southern Railway spur which serves the Northern Kentucky Industrial Park.

Staff Member, Jim Sturdevant, presented the Staff Report which included a slide presentation (see Staff Report).

Chairman Whitton asked the applicant for his comments at this time.

Mr. William C. Hub, P.S.C., Architects, addressed the four standards which must be considered by the Board regarding this request, as noted in the Staff Report. He stated that they are talking about an existing building, constructed prior to the current zoning requirements. The original building did not comply with the 100-foot setback requirements. He stated that this request represents a logical growth of the existing business, noting two previous expansions, including expansion of the warehouse in 1977 and the addition of office space in 1982. He stated that it is necessary to have additional office space that is contiguous to the existing office space. Mr. Hub commented on the adjacent land uses and stated that their plan involves expansion into the lot next door, which contains a major drainage swale. He added that a hardship is created if they are not permitted to expand their business. He added that this would be the third addition to a growing business and would be a temporary solution until a fourth expansion some time in the future. He noted that in the corner of the site, adjacent to the railroad tracks, there is an area that could be used for this expansion; however, it is necessary that this addition be in relation to the existing office.

In response to a question from Mr. Ryan, Mr. Hill (owner of George W. Hill & Company, Inc.) stated that the majority of the area they are discussing to be used for the expansion is currently sidewalks and parking lot area.

Mr. Hub added that due to the railroad tracks on one side of the building and future expansion on the other side, they are limited to expansion in the front.

Mr. Archambault referred to the last sentence of Item #4 in the Staff Report, which states ". . . the proposed decrease in front yard setback may, in the long term future, affect the room necessary for possible improvements to U.S. Hwy. 25.", and asked the applicant for his comments.

Mr. Hub noted that the Staff's slide presentation clearly indicated that there will be an infringement on the front yard, but nothing to prevent the highway from going through.

Mr. Hill stated that they have gotten verbal approval from the Northern Kentucky Planning Area to go ahead. He noted that Levi Strauss is located within 65 feet of the highway.

Chairman Whitton asked if there was anyone present who wished to speak in opposition to this request. There was no one present in opposition.

There being no further discussion, Mr. Ryan moved that the request be granted. Mr. Nevel seconded the motion and it carried unanimously.

1. A request of Bruce Ferguson for a Conditional Use Permit and Site Plan approval for a 0.28-acre site located at 5963 North Jefferson, or within Washington Square of Burlington. The request is to seek a Conditional Use permit to allow the conversion of an existing building, the Erastus Tousey House, to a mixture of office and residential use as outlined in Section 1612 of the Boone County Zoning Regulations.

Mr. Bruce Ferguson stated that he has purchased the Tousey House, which has been in poor condition for many years. He intends to restore the property to its original condition --to be as it was in 1824 when it was first built. The house is one of the oldest properties in Burlington. He has made application through the Historic Preservation Committee to do this work, following the guidelines for the Investment Tax Credits, which are now 20%. To take advantage of these Investment Tax Credits, there has to be a commercial use of the property. He intends to convert the two upper floors to professional-type offices. The lower level will be used as an apartment. An addition will have to be built at the rear of the building for plumbing and a kitchen. Two rooms are being added to the back of the house. He discussed the parking situation and stated that it will be necessary to back out onto a seldom used alley containing only two residences. Mr. Ferguson noted that this is a restoration project.

Staff Member, Kevin Costello presented the Staff Report (see Staff Report).

Chairman Whitton asked if there were any comments or questions regarding this request, or if there was anyone present in opposition to the request. There was no further discussion.

Mr. Nevel moved that the request be granted. Mr. Houston seconded the motion and it carried unanimously.

3. A request of Helen M. Bilyea for a Variance of 50 feet in order to create a lot with 100 feet of road frontage instead of 150 feet normally required in the Industrial One Zoning district. The 17.06-acre site is located at 1770 Elijah Creek Road, Hebron, and owned by Helen M. Bilyea.

Staff Member, Tom Breidenstein, presented the Staff Report which included a slide presentation (see Staff Report).

Mr. Hugh Bilyea, speaking in behalf of the applicant, stated that the applicant had submitted a letter to the Board which contains the information they would like the Board to consider. (See letter to the Board of Adjustment from Mrs. Helen M. Bilyea, dated June 25, 1987, which is available in the Staff Office.)

Chairman Whitton asked if it was the applicant's preference to keep the Industrial road frontage.

Mr. Bilyea stated that they wish to keep the Industrial road frontage and sell a one acre parcel.

Counselor Wilson clarified that the request is to reduce the amount of road frontage required in the zone, it is not a request to permit a lot less than the required minimum lot size.

Chairman Whitton asked if there were any additional comments, or if anyone else wished to speak regarding this request.

There being no further discussion, Mr. Ryan moved, seconded by Mr. Nevel, that the request be granted. The motion carried unanimously.

4. A request of Walter Newberry for front yard setback and lot frontage Variances in order to allow the construction of the final phase of Mosby's Point Mobile Home Park. The 1.6-acre site is owned by R.O.C. Properties and is zoned Mobile Home Park (MHP).

Staff Member, Tom Breidenstein, presented the Staff Report which included a slide presentation. He noted a letter from Mr. Walter Newberry to the Boone County Board of Adjustment regarding Mosby's Point Mobile Home Park. A copy of Mr. Newberry's letter was attached to the Staff Report, and is available in the Staff Office.

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

Mr. Jay Bayer of Bayer-Becker Engineers, representing the owner, stated that he had no comments to add to the submitted letter at this time.

Chairman Whitton asked if there was anyone present who wished to speak in opposition to the request, or if there were any further comments.

There being no further discussion, Mr. Houston moved that the request be granted. Mr. Ryan seconded the motion and it carried unanimously.

Boone County Board of Adjustment
August 12, 1987

5. A request of Charles Sassin for a side yard variat the required landscaped buffer area. The 0.25-acre across from Turfway Road on Donaldson Highway and from Suburban Residential One (SR-1) to Commercial

Staff Member, Tom Breidenstein, presented the Sta a slide presentation (see Staff Report).

Mr. Rick Meyer, attorney for Mr. Charles Sassin a stated that the applicant is in complete agreemen outlined by the Staff regarding the parking lot, buffering. They have obtained permission from th have access off the new connector road. He state set back is necessitated by the fact that the bu The adjoining property owner is satisfied with th constructed, which will be six feet high and mad extend from the right-of-way line in the front t

Chairman Whitton asked the applicant if he would having the parking in the rear when the new conr

Mr. Meyer stated that he would have no objectior

Chairman Whitton asked if there were any further or if anyone wished to speak in opposition to tl

Counselor Wilson asked the applicant if he foun the fence to be reasonable. Mr. Meyer stated t to be reasonable.

There being no further discussion, Mr. Nevel mc granted subject to the condition that a 6-foot as indicated on the Site Plan. Mr. Houston see carried unanimously.

6. A request of All-Rite Ready Mix, Inc. for a Ch to allow the conversion of property from a hea the storage and repair of concrete trucks. Th at 8149 Hopeful Road, Boone County, is zoned C is owned by All-Rite Ready Mix, Inc..

Staff Member, Tom Breidenstein, presented the a slide presentation (see Staff Report).

Boone County Board of Adjustment
August 12, 1987

Counselor Wilson advised that the Board has heard similar cases where there has been a pre-existing non-conforming use of the land and another non-conforming use is requested to replace the existing one. He quoted from KRS 100, which indicated that the Board may allow one non-conforming use to replace another one, provided the replacement is in the same type of classification -- which involves the nature of the non-conforming use being requested.

Mr. Jerry Dusing, attorney, introduced the principals of Ready Mix, Inc. who were present. He noted Counselor Wilson stated that they do not really agree that this use is a change in use. The function is the same, and this use does not differ from the allowable C-3 uses than the prior use. He presented and distributed copies of the survey to the Commission and of the buildings on the site.

Mr. Snow, Vice President of All-Rite Ready Mix, Inc., stated that the land uses, including a Drug Emporium.

Mr. Dusing noted that the Staff Report indicates that the Board was prompted by a complaint from a County Commissioner. A neighbor was concerned about expansion of the concrete driveway on this site to the attention of Mr. Rob Robinson. Mr. Dusing discussed this to the attention of Mr. Rob Robinson. Mr. Dusing discussed the site, had been recently purchased by First Federal Bank and the parsonage has been razed. Mr. Dusing referred to the Staff Report and noted that the First Church on this site for the repair and storage of road graders, trailers, dump truck, etc. and had stored materials such as sand and gravel. He added that they do not see this as a change in use and, if it is, it is not different from the existing use. He stated that they entered into a lease agreement for one year and then exercised their option to purchase the property. They disclosed their plans to the Staff and Mr. Block, Enforcement Officer at that time. Mr. Block agreed to the proposed use based on his information. Mr. Dusing stated that the proposed conforming use is equally compatible, or more compatible, in the district, than the pre-existing non-conforming use. Most of the asphalt paving on the site was in disrepair and those areas with concrete and put in a 50' x 80' concrete pad house and the existing pavement -- without submitting a site plan pad was installed to help control dust. He noted a problem with the condition that they landscape a site and noted that they intend to install a fence.

Chairman Whitton asked if the additional paved areas are for concrete trucks.

Mr. Dusing stated that it would be used for employee parking. Mr. Snow added that it would not be used for concrete trucks.

Chairman Whitton asked if there were any further comments or if anyone wished to speak in opposition to the request.

Mr. Ed Shafer, representing First Federal Savings and Loan, stated that they had purchased the church property and intend to develop that site as an office building. He was present to see what was going on with the Ready-Mix site.

There being no further discussion, Mr. Houston moved that the request be approved with the condition that evergreens or fencing, at the discretion of the Staff, be a part of Site Plan Review.

Counselor Wilson advised that the motion is to approve the new non-conforming use as a substitute for the prior non-conforming use.

Chairman Whitton stated that the Board considers this to be a change and the motion is to grant the change.

Mr. Ryan seconded the motion and it carried unanimously.

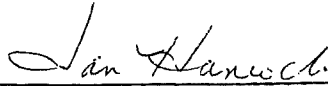
There being no further business to come before the Board, Mr. Nevel moved, seconded by Mr. Archambault, that the meeting be adjourned. The meeting was adjourned by unanimous consent at 7:40 P.M..

APPROVED:



George D. Whitton, Chairman

ATTEST:



Jan Hancock, Recording Secretary