

APPLICATION FOR ZONING ACTION

RECEIVED

AUG 12 1987

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: Walter Newberry Owner

Address: 10367 Garden Drive, Boone County Agent

Kentucky Telephone: 371-2008

Location: Mosby's Point Mobile Home Park

Name of Property Owner: R.O.C Properties

Address of Property Owner: 7395 East Orchard Rd., Suite 100 Englewood, Co 80111

Zoning District: MHP Area in Acres: 1.5981

Deed Book: 363 Page Number: 303 Group Number: 2058

Description of Request: A request for variance to allow a minimum frontage of 25 feet and a minimum building setback of 20 feet, for an addition to a mobile home park, to conform with existing facilities.

The number of existing mobile home units is 150, the addition will include 11 units.

Applicant's Signature: Walter Newberry

Property Owner's Signature: James B. Grange MOSBY'S POINT LIMITED

BY: ROC Properties, Inc.
James B. Grange / VP Managing General Partner
FOR PLANNING COMMISSION USE ONLY

Application Fee: _____ Date Received: _____ By: _____

Referred To: _____ Meeting Date: _____

Action Taken: _____ Date of Action: _____

STAFF REPORT

APPLICANT: Walter Newberry
DEVELOPMENT: Mosby's Point Mobile Home Park
LOCATION: West side of U.S. 25 between Mt. Zion Road
and Frogtown Road
ZONING: Mobile Home Park (MHP)
DATE: August 12, 1987
REMARKS:

The applicant is requesting 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).

The existing mobile home park contains 150 units, and is fully developed except for the 1.6 acre site currently under review. The applicant's intent is to develop this site in the same manner as the existing trailer park. Because the existing trailer park contains pre-existing, non-conforming lot frontages and front yard set back dimensions, the applicant is seeking Variances in these required dimensions for the site under review.

The applicant is requesting a Variance from the required front yard setback of 30 feet in the MHP zone to 20 feet. The applicant is also requesting a Variance from the required lot frontage of 40 feet in the MHP zone to the frontages indicated on the site plan submitted (7/24/87). The minimum frontage indicated is 25 feet at the requested 20 foot setback line. Other lots would undergo frontage Variances to 28, 29, 35, and 38 feet. Five of the 11 lots, as shown on the site plan, meet the minimum 40 foot frontage required by the Zoning Regulations. The 11 units planned for the site result in similar density as the existing Mosby's Point Mobile Home Park. As the submitted site plan indicates, the proposed lots all meet the minimum required size for the MHP zoning district.

The following passages examine the four criteria that the Board must use to reach a decision on Variance requests:

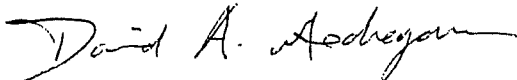
1. The adjacent portion of the mobile home park that is already developed, contains similar lot frontages and setbacks to these being applied for. The existing trailer park contains a density that is comparable to the proposed section under review.
2. The applicant maintains that to develop the site under the current zoning regulations would reduce the number of mobile homes that could be placed on the site and, therefore, would deprive the applicant of reasonable use of his land.

3. The existing mobile home park was built prior to the adoption of the present zoning requirements. The Variance is requested by the applicant to make an addition which will conform with existing facilities.
4. Staff can find no reason that the granting of the requested Variance would adversely affect the public health, safety, or welfare of the general area. The granting of the Variance would allow this site to be consistent with the essential character of the adjacent mobile home park development.

Staff would like to emphasize that the submitted Site Plan indicates a continuation of the existing sidewalk system onto this site under review, and that the submitted Site Plan indicates a 10 foot buffer area along the north property line and a 40 foot buffer area adjacent to U.S. 25.

Staff would also like to point out that should these Variances be granted, formal Site Plan Review by the Boone County Planning Commission would be required.

Respectfully submitted,



David A. Geohegan,
Planner/Plans Examiner

DAG:mcb

BOONE COUNTY BOARD OF ADJUSTMENT

Re: Mosby's Point Mobile Home Park
8828 Dixie Highway
Boone County, Kentucky

The following information is supplied with the application for variance, in accordance with KRS 100.243.

1. Existing conditions prohibit the addition to the mobile home park to meet minimum Dimensional Standards for Frontage of forty(40) feet, and for Front Yard (or Building Setback) of thirty (30) feet. The requested variance is for allowing a minimum frontage of twenty-five (25) feet and a minimum building setback of twenty (20) feet.
2. The provisions of the regulation are stricter than those used for the existing mobile home park. The existing mobile home park complies more with the requested standards. Complying with the provisions of the regulations will reduce the number of mobile home units planned and thus deprive the applicant of reasonable land use.
3. The existing mobile home park was built prior to the adoption of the present zoning requirements. The variance is requested by the applicant to make an addition which will conform with existing facilities.
4. The granting of the requested variance will not adversely effect the public safety , welfare, or character of the neighborhood. The granting of the variance will allow the existing character to remain, while still maintaining the level of public safety and welfare.

Signed: _____

Walter Newberry

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.)

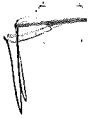
Chairman Whitton asked if it was the applicant's preference to keep the Industrial road frontage.

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.


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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.

5. A request of Charles Sassin for a side yard variance and a Variance in the required landscaped buffer area. The 0.25-acre site is located across from Turfway Road on Donaldson Highway and was recently rezoned from Suburban Residential One (SR-1) to Commercial One (C-1).

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

Mr. Rick Meyer, attorney for Mr. Charles Sassin and Sassin Realty Company, stated that the applicant is in complete agreement with the conditions outlined by the Staff regarding the parking lot, joint access, and buffering. They have obtained permission from the Highway Department to have access off the new connector road. He stated that the side yard set back is necessitated by the fact that the building is already there. The adjoining property owner is satisfied with the privacy fence to be constructed, which will be six feet high and made of wood slats, and will extend from the right-of-way line in the front to the garage.

Chairman Whitton asked the applicant if he would have any objection to having the parking in the rear when the new connector road goes through.

Mr. Meyer stated that he would have no objection.

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

Counselor Wilson asked the applicant if he found the condition regarding the fence to be reasonable. Mr. Meyer stated that he found that condition to be reasonable.

There being no further discussion, Mr. Nevel moved that the request be granted subject to the condition that a 6-foot high cedar fence be constructed as indicated on the Site Plan. Mr. Houston seconded the motion and it carried unanimously.

6. A request of All-Rite Ready Mix, Inc. for a Change in Non-Conforming Use to allow the conversion of property from a heavy construction facility to the storage and repair of concrete trucks. The 0.892-acre site, located at 8149 Hopeful Road, Boone County, is zoned Commercial Services (C-3) and is owned by All-Rite Ready Mix, Inc..

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

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

Mr. Jerry Dusing, attorney, introduced the principals of All-Rite Ready Mix, Inc. who were present. He noted Counselor Wilson's comments and stated that they do not really agree that this request represents a change in use. The function is the same; and this use does not deviate any more from the allowable C-3 uses than the prior use. He referred to the Plan and distributed copies of the survey to the Commission, noting the location of the buildings on the site.

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

Mr. Dusing noted that the Staff Report indicates that this request was prompted by a complaint from a County Commissioner. He noted that a neighbor was concerned about expansion of the concrete company and brought this to the attention of Mr. Rob Robinson. Mr. Dusing referred to Page 2 of the Staff Report and noted that the First Church of God, adjacent to the site, had been recently purchased by First Federal Savings and Loan and the parsonage has been razed. Mr. Dusing referred to the history of the site indicated on Page 2 of the Staff Report and noted that Mr. Taylor had used this site for the repair and storage of road graders, cranes, tractor trailers, dump truck, etc. and had stored materials used in the business, such as sand and gravel. He added that they do not believe this request to be a change in use and, if it is, it is not different in kind or intensity. He stated that they entered into a lease agreement with Mr. Taylor for a year and then exercised their option to purchase the property. At that time, they disclosed their plans to the Staff and Mr. Block, who was Zoning Enforcement Officer at that time. Mr. Block agreed to their plans and they proceeded on his information. Mr. Dusing stated that the proposed non-conforming use is equally compatible, or more compatible, with the C-3 uses in the district, than the pre-existing non-conforming use. He added that most of the asphalt paving on the site was in disrepair. They have repaved those areas with concrete and put in a 50' x 80' concrete pad between the house and the existing pavement -- without submitting a Site Plan. This pad was installed to help control dust. He noted that they do not have any problem with the condition that they landscape a strip with evergreens and noted that they intend to install a fence.

Chairman Whitton asked if the additional paved area would be for parking of 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.

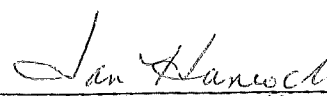
There being no further business to come before the Board, Mr. Nevel moved, seconded by Mr. Archambault, that the meeting be adjourned. The meeting was adjourned by unanimous consent at 7:40 P.M..

APPROVED:



George D. Whitton, Chairman

ATTEST:



Jan Hancock, Recording Secretary