

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: J.H. Fedders, Inc.  Owner

Address: 16<sup>th</sup> + Russell Street, Covington, Ky 41014  Agent

Richard or Mike Fedders Telephone: 431-2622

Location: 1723 Burlington Pike, Burlington, Ky.

Name of Property Owner: Patrick + Arlene Jones

Address of Property Owner: 1785 Burlington Pike, Burlington

Zoning District: C-2 PD Area in Acres: 50.16

Deed Book: 126 Page Number: 1 Group Number: 2031

Description of Request: To have retail sales of large and small animal feeds and supplies. There will be no outside storage. Use will be less intense than present pre-existing non-conforming use.

Applicant's Signature: J.H. Fedders

Property Owner's Signature: Patrick Jones

FOR PLANNING COMMISSION USE ONLY

Application Fee: \$173 Date Received: 1-21-88 By: TWP

Referred To: TWP Meeting Date: 2-10-88

Action Taken: approved Date of Action: 2-10-88

## STAFF REPORT

APPLICANT: J.H. Fedders, Inc.  
DEVELOPMENT: Animal Feed Store  
LOCATION: 1723 Burlington Pike, Boone County  
ZONE: Commercial Two/Planned Development (C-2/PD)  
DATE: February 10, 1988

REMARKS:

The applicant is requesting a Change in Non-Conforming Use to allow the replacement of a farm implement sales establishment with an animal feed store. The +50 acre site, located on the south side of KY 18 west of the newly extended Limaburg Road, is zoned Commercial Two/Planned Development (C-2/PD) and is owned by Patrick and Arlene Jones.

History

According to the applicant, the farm equipment sales began in 1963. Four affidavits have been submitted attesting to this claim. In 1980, when the current zoning system was established, the applicant's property was zoned Suburban Residential Two (SR-2), creating the pre-existing, non-conforming use.

In October, 1986, the Boone County Planning Commission and the Boone County Fiscal Court approved a zone change of the applicant's property from SR-2 to C-2/PD along KY 18 and to UR-1/PD in the rear. The Drees Company, acting as applicant for the zone change, have since begun construction of the commercial strip center on the east side of new Limaburg Road, as well as a condominium/apartment complex south of the farm implement sales. The Concept Development Plan for the zone change indicates that the proposed use of the area of the implement sales to be "those commercial retail and service establishments requiring small individual free-standing sites. The remaining commercial area, fronting Burlington Pike, is planned for those commercial uses serving an acre-wide market and requiring larger sites to provide greater floor space, parking needs, and ancillary services." At the Public Hearing for the zone change, a representative of Drees explained that the subject property would eventually be developed with such commercial uses as financial institutions and day care centers. Also at the Public Hearing, the following discussion of the current use of the property occurred:

"Mr. Davis inquired if it was his understanding that both the Jones' houses would be removed because of the proposed project. Mr. Schottelkotte stated yes. Mr. Davis inquired of the time frame to complete the proposed project. Mr. Schottelkotte stated, if approved, Drees anticipated by next spring to construct the road and immediately begin with the commercial development on the left hand side of the road and

the other stages will follow depending on the market. Mr. Davis inquired how long it would take to eliminate the current equipment sale on the Jones' property. Mr. Schottelkotte responded by saying that the intent of the zone change was not to make the sale of farm implements a conforming use. Mr. Schottelkotte understood that the existing use would be taken down and the applicant was currently looking at sites to relocate the business." (Public Hearing #3, 9-24-86)

### Proposal

On January 30, 1988, the property owner auctioned off all farm equipment owned by J & M Implement, Inc., a partnership which has been dissolved. It is the intent of the property owner to discontinue the use should the change to a feed store be allowed. Should the change be disallowed, the applicant intends to again begin the sale of farm implements from 1723 Burlington Pike.

Article 2 of the Boone County Zoning Regulations states:

"The Board shall not allow any changes non-conforming use to be increased or enlarged, nor extended to occupy a greater area of land than was occupied by the original non-conforming use. In permitting such change, the Board may require appropriate conditions and safeguards in accord with other provisions of this order." (p. 2-9)

The applicant's have indicated that they will utilize existing structures and gravel parking and will make no substantial changes to the site.

The extent and coverage of a non-conforming use, however, are not the only factors the Board must consider when reviewing applications for changes in use. The Board must also evaluate the new use in terms of its impact on permitted uses:

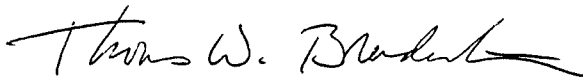
"The Board shall not permit such a change unless the new non-conforming use is as equally or more compatible with permitted uses in the district in which it is located as the existing non-conforming use." (p. 2-9)

As described above, the Concept Development Plan, approved in conjunction with the zone change, describes future commercial area of convenience goods on the east side of new Limaburg Road (a United Dairy Farmers and a dry cleaner have already been approved) and a commercial area of more independent uses on the west side of the new road (a list of permitted uses in the C-2 is attached). The Board must consider whether or not an animal feed store is appropriate in an area developing with typical C-2 uses and whether the proposed use meets the requirements of the new zoning classification of C-2/PD and the objectives of Planned Development.

Staff Concerns

1. Staff has requested that the property owner supply information pertaining to traffic counts of both uses. Without these estimates, staff feels that a feed store would generate much more traffic (both deliveries and customers) than would implement sales. A comparison can be made between a family visiting a convenience store for everyday needs and a farmer frequenting the feed store to supply his livestock. To further the comparison, a family is expected to visit a used car dealership only when considering major purchases as would a farmer visit an implement store when a purchase of major equipment is needed. The applicant's traffic information should be presented at the meeting.
2. As discussed above, the Board must compare the proposed use with other uses in the same zone. Farm implement sales and animal feed stores are permitted uses in the Commercial Services (C-3) zoning district, a zone in which uses require large areas of outside storage and generate much traffic. Staff is concerned about encouraging C-3 uses in a C-2/PD zone.
3. Another concern of the staff is the visual appearance of the existing and proposed uses. Ky 18 is an important corridor and it is critical that the surrounding commercial uses be protected in terms of visual appearance. Currently, neither the existing or proposed use came through the Boone County Planning Commission for Site Plan Review. Outside storage and landscaping the site are critical factors in this concern.

Respectfully submitted,



Thomas W. Breidenstein,  
Zoning Enforcement Officer

TWB:mcb

COMMITTEE REPORT

(outlines conditions  
of zone change)

TO: Boone County Planning Commission

FROM: Larry Barnett, Chairman

RE: Request of the Drees Company (agent) for Pat and Arlene Jones (owners) for a Zoning Map Amendment to rezone a 37.3 acre tract of land located at 1785 Burlington Pike, Boone County, Kentucky. The current zoning is Suburban Residential Two (SR-2) and is being proposed to be rezoned to Commercial Two/Planned Development Overlay (C-2/PD) for approximately 15.7 acres and Urban Residential One/Planned Development Overlay (UR-1/PD) for the remaining 21.6 acres.

DATE: October 1, 1986

REMARKS:

We, the Committee, recommend approval based upon the following findings of fact and subject to the following conditions.

Findings of Fact

- 1) The proposed zoning map amendment is in agreement with the 1980 Boone County Comprehensive Plan and the 1986 Boone County Comprehensive Plan.

Reference to the 1980 and the 1986 Comprehensive Plan are made in the staff report. Both plans recommend that the area be developed for commercial and residential purposes with careful attention given to the actual layout and design of the proposed development due to the topography of the site.

\* Conditions

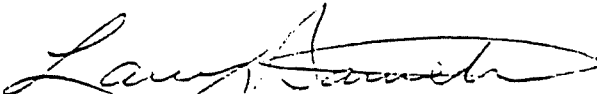
- 1) The applicant shall be required to develop the 37.3 acre site according to the submitted Concept Development Plan. The maximum square footage of the commercial area shall be 132,300 square feet and 260 apartments or condominiums will be provided.
- 2) The applicant shall be required to submit an application before the Boone Board of Adjustment for any of the conditional uses in Section 923 of the Boone County Zoning Regulations. The application for a Conditional Use Permit will be evaluated on a case by case basis.
- 3) The Committee recommends that the applicant evaluate the need to provide some type of recreational facilities in the residential portion of the site. These facilities can be determined at subsequent reviews before the Planning Commission.
- 4) The applicant shall be required to provide some type of frontage

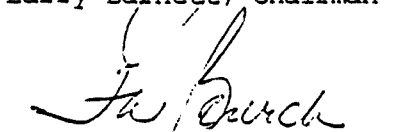
road, which would run parallel to KY 18 in front of the commercial portion of the site in order to provide proper access management controls. This proposed frontage road would connect into the property to the west and could be similar to the type submitted at the Committee meeting.


- 5) The applicant shall be required to make the appropriate transportation improvements on KY 18 in order to insure safe turning movements into the proposed development (e.g. lefthand turn lane on KY 18 from the westbound lane at Limaburg Road and a storage or deceleration lane on the eastbound lane into the development). The proper number of lanes at each entrance should be evaluated at subsequent reviews of this project.
- 6) The applicant shall be required to have appropriate type buffering and buffering sufficient in size at the southeast side of the site to screen the single-family residence from the proposed multi-family housing development.
- 7) The applicant shall be required to provide a traffic signal, which would face the proposed road.
- 8) The middle access drive shall be limited to right turn in and right turn out of the proposed development. This limitation shall go into effect when the existing residence along KY 18 is removed and plans are submitted for the individual free standing commercial sites.

#### Conclusion

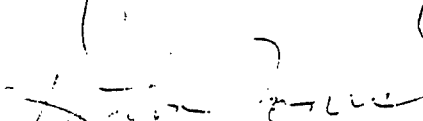
The submitted Concept Development Plan exemplifies an imaginative design to provide key neighborhood type commercial services and other types of commercial services to the Oakbrook Subdivision and neighboring residents. The proposed multi-family residential use would be similar to the type of development, which already exists in the Oakbrook Subdivision, a planned residential community.

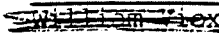
  
Larry Barnett, Chairman

  
Fred Burch

  
Donald Davis

  
Melvin DeLong

  
Rector Jones

  
~~William Fox~~





AFFIDAVIT

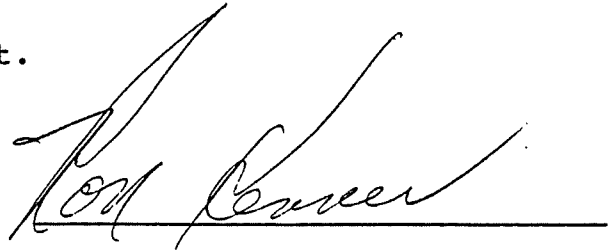
Comes the affiant, Ron Kenner, who, having first been duly cautioned and sworn, deposes and state as follows:

1. That, since 1963, this affiant has known Pat Jones and has been familiar and is familiar with the various business dealing of said Pat Jones

2. That since 1963, of this affiant's personal knowledge, the said Pat Jones has been actively engaged in the business of buying and selling cars, trucks and used farm equipment, livestock, livestock feed, straw and hay.

3. That the said Pat Jones has been continuously engaged in such business activity at the same location of 1723 Burlington Pike, Burlington, Kentucky, since 1963 and that said business has not been operated at any other location.

Further affiant sayeth naught.

  
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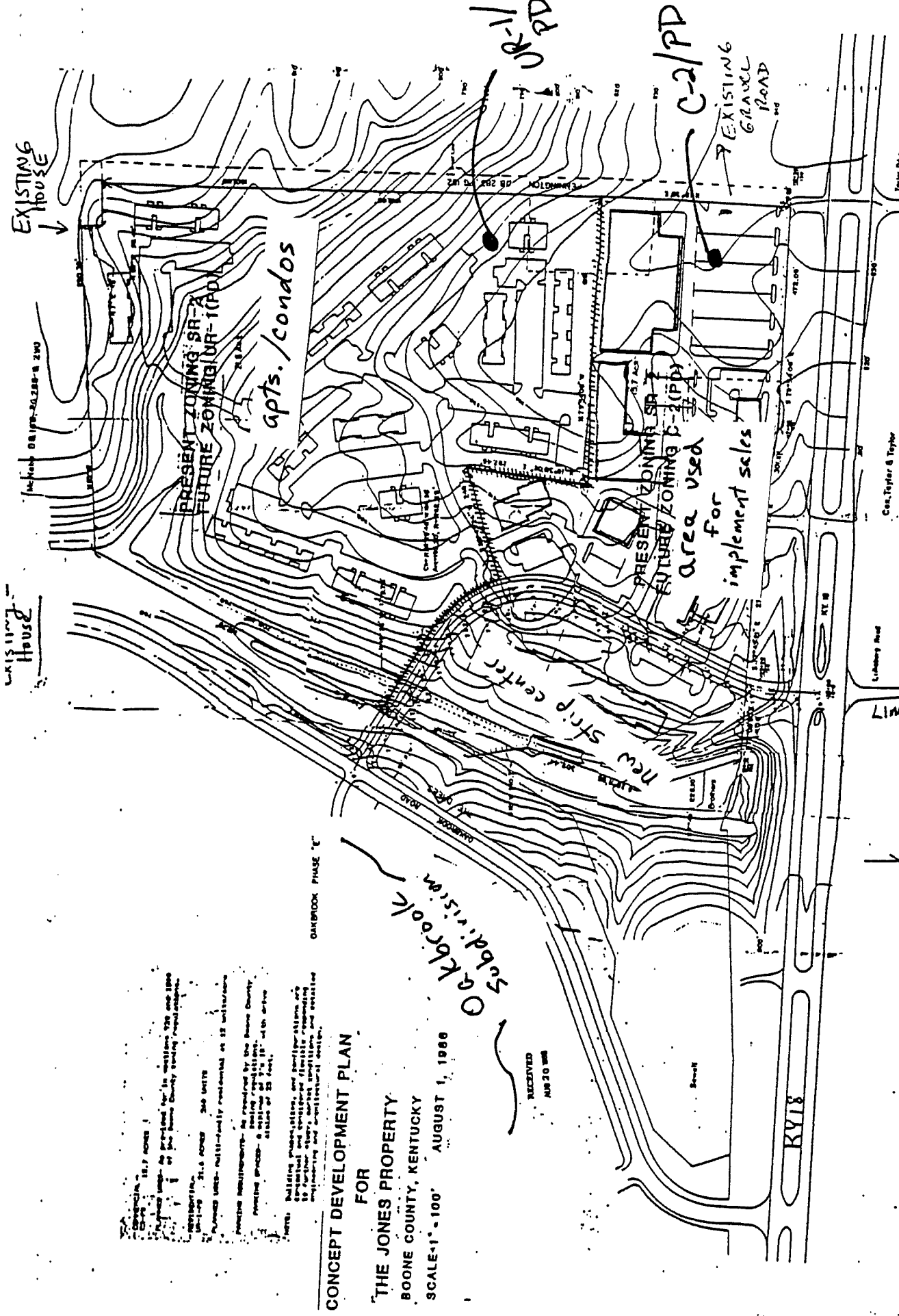
STATE OF KENTUCKY.....)  
: sct.  
COUNTY OF BOONE.....)

Subscribed, sworn to and acknowledged before me this 29<sup>th</sup> day of January, 1988, by RON KENNER, to be his free and act and deed.

My Commission Expires: October 17, 1988

  
\_\_\_\_\_  
Notary Public  
State at Large





EXISTING HOUSE

EXISTING HOUSE

PRESENT ZONING SR-A  
FUTURE ZONING UR-1(PD)

apts./condos

PRESENT ZONING SR-A  
FUTURE ZONING C-2(PD)

Area used  
for  
implement sales

EXISTING  
GRAVEL  
ROAD

LIMABURG  
RD.

RY18

OAKBROOK PHASE "C"

CONCEPT DEVELOPMENT PLAN

FOR  
THE JONES PROPERTY  
BOONE COUNTY, KENTUCKY  
SCALE-1" = 100' AUGUST 1, 1988

Oakbrook  
Subdivision

RECEIVED  
AUG 20 1988

VLOX & VLOX P.S.C.  
CIVIL ENGINEERS & LAND SURVEYORS  
BERLANGER, KENTUCKY

J.H. Fedders - Change in Non-Conforming Use - 2/10-88

Section 920

COMMERCIAL TWO (C-2)

The purpose of the commercial two district is to provide comparable shopping goods, personal and professional services, and some convenience goods required for normal living needs as well as major purchase opportunities. Districts will be located on suitable lands central to community or regional trade areas and provided direct access from expressways or arterial roads. District facilities and plans will be organized to provide central and convenient collection of vehicles and pedestrians with in the district's facilities and major shopping spaces.

Section 921

Principally Permitted Uses

The following uses are permitted:

1. All principally permitted uses of a Commercial One (C-1) district;

C-1  
Uses  
↓

1. Hardware stores;
2. Eating and drinking places including alcoholic beverages, but excluding drive-in and franchise food chains;
3. Grocery stores and supermarkets;
4. Stores with retail sales of meat, fish, seafood, dairy and poultry products;
5. Fruit and vegetable stores;
6. Bakeries, candy, nut and confectionery stores;
7. Convenience stores;
8. Liquor, beverage, drug and proprietary stores;
9. Banking services (including drive-thru facilities) savings and loan associations, credit unions and other credit services;
10. Insurance carriers and agents;
11. Real estate operators, agents, lessors and real estate sub-dividing and developing services, operative builders and related services;
12. Accounting, auditing and bookkeeping services;
13. Postal services;
14. Physician, dental, optical goods and services;
15. Veterinary services and pet grooming services but not including the boarding of animals.
16. Beauty and barber services and tanning salons;
17. Nursery and child care centers;

18. Laundering, dry cleaning and dyeing services including self-service;
19. Pressing, alteration, garment repair and custom tailoring;
20. Shoe repair, shoe shining and hat cleaning services;
21. Family clothing, shoe stores, specialty clothing or boutiques and other apparel retail trade;
22. Jewelry;
23. Radio, t.v., music supplies, cameras, photographic supplies and specialty household appliances;
24. Art, craft and hobby supplies and products, gifts and novelties;
25. Antiques and used merchandise;
26. Books, stationery, newspapers and magazines;
27. Cigars and cigarettes;
28. Florists excluding greenhouses;
29. Sporting goods including bicycles;
30. Draperies, curtains, upholstery and floor coverings;
31. Paint, glass and wallpaper stores;
32. Painting, paper hanging and decorative services;
33. Photo finishing services;

C-1  
USES

2. All the principally permitted uses in an Office One (O-1) district;

1. Bank related services (including drive-thru facilities)
2. Agricultural, business and personal credit services;
3. Security brokers, dealers and flotation services;
4. Commodity contracts, brokers and dealers services including security and commodity exchanges;
5. Insurance agents, brokers and services;
6. Real estate agents, brokers and management services;
7. Title abstracting services;
8. Real estate subdividing and development services;
9. Real estate operating builders offices excluding any outside storage equipment and the like;

O-1  
USES

(0-1 cont.)

10. Holding and investment services;
11. Photographic services;
12. Advertising services;
13. Consumer and mercantile credit reporting services, adjustment and collection services;
14. Direct mail advertising services;
15. Stenographic services and other duplicating and mailing services;
16. News syndicate services;
17. Employment services;
18. Research, development and testing services of an office nature;
19. Business and management consulting services;
20. Motion picture, audio-visual and similar media production and distribution services;
21. Physician and dental services including medical, dental laboratories;
22. Legal, engineering, architectural, education and scientific research services;
23. Accounting, auditing and bookkeeping services;
24. Welfare and charitable administration offices;
25. Business associations;
26. Professional membership organizations;
27. Labor unions and similar labor organizations;
28. Civic associations;
29. Telephone exchange stations, telegraph message centers, radio broadcasting studios, television broadcasting studios and other communication centers and offices excluding any relay, transmitting or receiving towers or similar unattached, erected equipment;
30. The administration, management and any related office use or activity of commercial, business, service, professional, industrial, religious, private institutional, or similar organization, incorporation, companies, associations and such

↑  
O-1  
uses

uses. Includes all integral stenographic reproduction, mailing, research, sales and similar office functions, as determined by the Zoning Administrator;

31. Finance companies;
32. Veterinary services not including the boarding of animals.
33. Business colleges or schools.

C-2  
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3. Eating and drinking places including alcoholic beverages and entertainment, but excluding drive-in and franchise fast food chains;
4. Limited price variety or discount stores, toy stores;
5. General dry goods and merchandise stores;
6. Department stores, mail order houses, direct retail selling organizations of general merchandise;
7. Furniture, home furnishings including specialty and floor coverings;
8. Specialized upholstery and furniture repair or refinishing services;
9. Apparel, including furriers;
10. Household appliances, china, glassware and metal ware;
11. Radio, t.v., watch, clock, and jewelry repair;
12. Drive-thru photographic, stenographic and other duplicating and mailing services;
13. Legal services, engineering and architectural services;
14. Security brokers, dealers and flotation services;
15. Commodity contracts, bankers and dealer services;
16. Security and commodity exchanges;
17. Title abstracting services;
18. Holding and investment services;
19. Advertising services including direct mail;
20. Business and management consulting services;
21. Employment services;
22. Consumer and mercantile credit reporting, adjustment and collection services;

23. Travel arranging, transportation ticket and public event or promotional booking agencies;
24. Radio and television broadcasting studios excluding transmitting stations and towers;
25. Art, music and dancing schools;
26. Medical and dental laboratory services;
27. Medical clinics - out-patient services;
28. Welfare and charitable services;
29. Business associations and professional membership organizations;
30. Civic, social and fraternal organizations;
31. Attached upper story dwelling units of up to three stories provided the building was originally designed for residential use and existing at the time of adoption of this ordinance, including:
  - a. Private garage and parking;
  - b. Structures such as fences and walls;
  - c. Buildings such as storage sheds;
  - d. The keeping an use of appropriate household pets;
32. Art and craft galleries and similar exhibit space;
33. Aquariums, botanical gardens and other natural exhibitions;
34. Arcades and other amusement centers;
35. Motion picture theaters (indoor);
36. Bowling alley;
37. Recreation centers, gymnasiums, clubs and similar athletic uses.
38. Motorcycles sales or bike shops excluding outside storage.

BOONE COUNTY  
BOARD OF ADJUSTMENT

February 10, 1988 - 6:30 P.M.

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BOARD MEMBERS PRESENT:

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

BOARD MEMBERS NOT PRESENT:

Mr. Fred Nevel

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 January 13, 1988 and asked if there were any comments or corrections.

There being no comments or changes, Mr. Ryan moved that the Minutes be approved as written. Mr. Houston seconded the motion and it carried unanimously.

AGENDA ITEMS:

1. The request of Ray Meyer Sign Company, agent for Miller-Valentine Development, Inc., for a Variance in the size of a sign advertising the sale, lease, or rental of property. The 28.78-acre site, which is located off the north side of I-275, east of Mineola Pike and south of Dolwick Drive, is zoned Industrial One (I-1) and is owned by Miller-Valentine Development, Inc.. (Deferred from the January 13 meeting.)

Staff Member, Tom Breidenstein, advised that the applicant has requested deferral of this request until the March, 1988 meeting in order to allow additional time to acquire sign permits from the state.

Chairman Whitton asked if there were any comments or questions.

There being no discussion, Mr. Ryan moved that the request be deferred until the March, 1988 meeting. Mr. Archambault seconded the motion and it carried unanimously.

2. The request of Pilot Oil Corporation for a Variance in the width of the landscaped buffer yard required when a commercial zone abuts a residential zone. The 4.52-acre site is located at the northwest corner of Richwood Road and Dixie Highway. Approximately 3.8 acres of the site is zoned C-3, and contains the truck stop development. The remaining 0.69 acre is zoned RS and contains a single-family residence.

Staff Member, Tom Breidenstein, presented the Staff Report which included a slide presentation. Mr. Breidenstein advised that the Staff Report was prepared by Mr. Jim Sturdevant who was not present. (See Staff Report)

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

Mr. Jerry Dusing, attorney, presented large copies of the Revised Site Plan for the Board members to review. A copy was also submitted for the file. Mr. Dusing indicated the property lines on the Plan and stated that the zoning line came through the corner of the property. Therefore, Pilot Oil Corporation applied for a zone change. The request for the zone change was withdrawn based on objections from the public. He stated that the house next to the site is vacant and is not intended for use as a residence. He stated that the truck stop was constructed in accordance with the approved Site Plan, except as noted in the Staff Report. The building was moved back approximately ten feet further from Richwood Road due to the topography and to improve the entryway for the trucks. Additional landscaping will be provided when the weather permits. The paving contractor cut off the corner of the pavement to allow the trucks to use the first two parking spots. As-Built Drawings were submitted to the Staff and the corner was determined to be a deviation from the approved Plan. Mr. Dusing added that they had been before the Planning Commission last month for Revised Site Plan approval due to the truck scales. The scales are not a structure and the Planning Commission determined that they did not require approval. During the Commission's review of the buffer zone encroachment, he had suggested that Pilot Oil designate 25 feet of their property to be used for the buffer zone. Mr. Dusing stated that Counselor Wilson had determined this was not acceptable as the buffer zone must be on the commercially zoned property. He added that he would agree that the 25-foot space would be used for buffer as a condition of the Variance.

In response to a question from Chairman Whitton, Mr. Dusing added that they had constructed the fence. Chairman Whitton questioned whether the fence could be moved back and the area landscaped.

Counselor Wilson stated that the Zoning Administrator had advised him that the buffer zone must be on the commercially zoned property and the Commission did not have the authority to grant the Variance.

Chairman Whitton asked Mr. Dusing if the applicant would be willing to plant trees on the corner which would be higher than the fence and provide a visual block of the fence. Mr. Dusing stated that they would be willing to do so.

Chairman Whitton asked if there was anyone present in opposition to the request.

Mr. Dennis Davis, 357 Richwood Road, stated that he is a member of the Richwood Action Committee and has talked with the owner of Pilot Oil. The owner advised him that he intended to comply with the rules and regulations of the county and wanted to be a good neighbor. Mr. Davis stated that he had attended six or seven meetings in regard to Pilot Oil and is tired of their requests for changes in approved layouts. He noted that their request for a sign variance was denied. He stated that Pilot Oil knew the adjoining property was zoned residential and exactly where the lines and fences were to go. He stated that Pilot Oil has enhanced their operation by what they have done. Mr. Davis questioned the planning and zoning process and the purpose of the Board of Adjustment. He stated that he was unaware of the meeting regarding the truck scales, which he noted are coin-operated, and not part of the original plans. He stated that Pilot Oil Company does whatever they want to do irregardless of what they are told by the Planning and Zoning Commission. He stated that there is a county ordinance which states that banners and flags must be removed after fourteen days, but they have been on the site since December. He added that Pilot Oil Company is a bad neighbor and is ignoring the rules and regulations.

Mrs. Thelma Castellini, 11303 Dixie Highway, stated that she lives 700 feet south of this site. She stated that Pilot Oil cheated on the buffer zone due to the truck scales and the ten-foot setback of the building. She stated that what is on the Plan should be absolute, noting that the truck scales were added without permission. She stated that the 8' high fence is 50 feet from peoples' doors and there is no buffer on their side. She added that the fence should protect the residents, not enhance the Pilot Oil site. Mrs. Castellini asked if there had been public notice regarding the Revised Site Plan.

Counselor Wilson advised that there is no requirement for public notice for a Revised Site Plan.

Mrs. Betty Huff stated that she lives behind the fence and it is very offensive. She stated that the residents cannot see over the fence, except for the fumes which rise above the fence, and that their rights have been violated.

Counselor Wilson advised that the Board is not being asked to approve the scales.

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

Mr. Ryan stated that he could sympathize with the problems of the residents, but noted that the cutting of the corner did not make those problems worse. Mr. Ryan added that he believed the cutting of the corner would facilitate the moving of the trucks.

Mr. Davis stated that Pilot Oil Company had created its own problems by moving the building. He stated that the adjoining land is for sale and its future use unknown. He stated that the county has an obligation to protect the future buyer.

Chairman Whitton stated that this Board regularly hears these types of requests from both commercial and residential uses. He emphasized the point made by Mr. Ryan that this request does not change the nature of what is on the site and may help to alleviate the truck traffic. He added that a purchaser of the adjoining property will be able to see the situation before purchasing the property.

Mr. Davis stated that the integrity of the Boone County Zoning Commission is at issue. He added that the Fiscal Court intends for the plans to be followed and not changed by this Board at every turn. He stated that Pilot Oil Company should not be on the site, but since they are, they should comply with the County's regulations and the engineering specifications.

Mr. Houston stated that he found Mr. Davis' remarks offensive and added that hearing variances is a function of this Board.

In response to questions from Mr. Archambault, Mr. Davis stated that he wants the fence removed, as well as the blacktop. He added that he wants Pilot Oil Company to comply with the approved Plan.

Mr. Ryan moved that the request be granted subject to the conditions that the buffer zone and the fence be moved back 25 feet from the corner and that landscaping and buffering be provided. Mr. Archambault seconded the motion and it carried unanimously.

Mr. Ryan asked that the Staff investigate the construction of the fence.

Mr. Archambault asked that the Zoning Enforcement Officer investigate the complaint in regard to the flags. Mr. Breidenstein indicated his agreement to do so.

3. The request of James and Jerry Stephens for a Conditional Use Permit to allow the conversion of the old Boone County jail to office uses. The 0.13-acre site, located on the south side of KY 18 east of its intersection with KY 338, is zoned Suburban Residential Two/Small Community Overlay (SR-2/SC) and is owned by James and Jerry Stephens.

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

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

James and Jerry Stephens were present but indicated that they had no comments to make.

Mr. Archambault asked if a one-way drive was being proposed between the bank and this building.

Mr. Stephens advised that they are withdrawing that part of the request.

Chairman Whitton asked if there was anyone present in opposition to the request. There being no one, he asked if there were any comments or questions from the Board members.

Mr. Archambault noted that there is a proposal in the Staff Report to pave the front and side yards. Mr. Archambault would be opposed to this paving.

Mr. Stephens stated that the back of the building will be used for parking.

Mr. Houston moved that the request be granted subject to three conditions: (1) that parking spaces and driveway aisles proposed for the front and rear yard not be permitted; (2) that a monument-type sign no larger than 25 square feet be permitted; and (3) that attractive landscaping be provided. Mr. Houston added that the applicant should be exempted from complying with Article 18, Section 1823, of the Zoning Regulations with regard to the existing parking area to the rear of the building. Mr. Ryan seconded the motion.

Chairman Whitton asked the applicants if they were in agreement with the conditions and had heard and understood them.

The applicants stated that they had heard and understood the conditions and were in agreement with them.

There being no further discussion, Chairman Whitton asked for a vote on the motion made by Mr. Houston and it carried unanimously.

4. The request of J. A. Doepker and Associates, Inc. for a rear yard Variance in order to allow the construction of a 7,200 sq. ft. addition to an existing 4,500 sq. ft. industrial building. The 1.41-acre site, which is located at 1670 Distribution Drive, is zoned Industrial One (I-1) and is owned by Dallas Trinkle.

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

Chairman Whitton noted that the existing parking area is gravel and Mr. Breidenstein stated that this will be addressed during Site Plan Review.

Mr. Dallas Trinkle's representative stated that the nature of their business involves 15' to 20' machines and they need access for a forklift in the center.

Chairman Whitton asked if there were any comments or questions.

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

5. The request of J. H. Fedders, Inc. for a Change in Non-Conforming Use to allow the replacement of a farm implement sales establishment with an animal feed store. The 50-acre (approx.) site, located on the south side of KY 18 west of the newly extended Limaburg Road, is zoned Commercial Two/Planned Development (C-2/PD) and is owned by Patrick and Arlene Jones.

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

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

Mr. Mike Feders stated that the appearance of the building will not change, except for possibly a window. Feed will not be mixed or ground on site. They do not plan outside storage, except for bedding plants which would be for sale, and possibly some displays. They will sell animal feed, sanitation products, and things in regard to animals.

Mr. Pat Jones stated that this use will look better than the farm implement sales facility. Mr. Jones stated that he owns the building. He added that access at this time is off KY 18, but they will have a curb cut on the new street. He stated that he did not think this use would intensify the traffic. He added that they are waiting for the new road to dispose of the new lot.

Chairman Whitton questioned the paving of the site. Mr. Jones stated that they are currently using gravel and do not want to pave at this time as the paving may end up to be in the wrong place in consideration of the new roadway.

Mr. Breidenstein advised that the gravel is a pre-existing condition, as the use is.

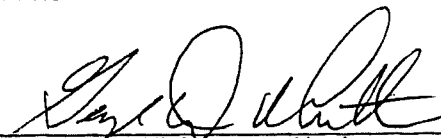
There being no further comments or questions, Mr. Ryan moved that the request be granted. Mr. Houston seconded the motion. Mr. Archambault stated that he would abstain from voting due to a personal interest in the matter.

Counselor Wilson advised that should this motion pass, the zone change and conditions on the Concept Development Plan will not be affected. The motion involves a change in one Non-Conforming Use to another Non-Conforming Use which is no more objectionable.

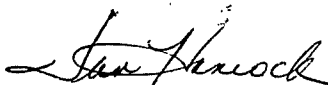
Chairman Whitton asked for a vote on the motion made by Mr. Ryan which found Mr. Houston, Mr. Ryan, and Chairman Whitton in favor. Mr. Archambault abstained. The motion carried.

There being no further business to come before the Board, Mr. Ryan moved, seconded by Mr. Archambault, that the meeting be adjourned. The meeting was adjourned by unanimous consent at 7:45 P.M..

APPROVED:

  
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George D. Whitton, Chairman

ATTEST:

  
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Jan Hancock, Recording Secretary