

APPLICATION FOR ZONING ACTION

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277

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: James and Jerry Stephens Owner Agent
 Address: 2989 Washington St, Burlington

Telephone: 586-7573

Location: Old County jail (2989 Wash St)

Name of Property Owner: James and Jerry Stephens

Address of Property Owner: 5850 Woolper Rd, Petersburg, Ky.

Zoning District: SR-2/SC Area in Acres: _____

Deed Book: 319 Page Number: 47 Group Number: 193

Description of Request: Converting County jail into office's

Applicant's Signature: _____

Property Owner's Signature: James Stephens Jerry Stephens

Application Fee: \$277 FOR PLANNING COMMISSION USE ONLY Date Received: 1-22-88 By: TWB

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

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

STAFF REPORT

APPLICANT: James and Jerry Stephens
DEVELOPMENT: Conversion of old jail into offices
LOCATION: 2987 Washington Street, Burlington
ZONE: Suburban Residential Two/Small Community Overlay
(SR-2/SC)
DATE: February 10, 1988

REMARKS:

The applicants are requesting 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.

Surrounding Land Uses and Zoning

Since the subject property is located in the heart of Burlington, all adjoining properties are zoned SR-2/SC. Uses of these properties include:

North: Boone County Courthouse and Administration Building
South: Boone County Recorder and Boone County ADAPT senior citizens center
East: Little Place restaurant
West: Huntington Bank

The applicants intend to divide the old jail into three independent office units, each with two smaller connecting offices and a separate bathroom. The approximate square footage of new office space is 1,200 square feet.

The United States Department of the Interior lists the old jail as an inventory item on the National Register of Historic Places. Although not architecturally or historically significant on its own, the old jail house contributes to the overall historic value of Burlington. The following statement is made by the Department of the Interior:

"The Boone County jail has always been located on the southeast quarter of the public ground, next to the site of the original clerk's office and across from the courthouse. The present jail, built in 1928, is an undistinguished brick structure of a domestic rather than institutional character."

The following reviews the seven general standards that apply to all Conditional Use in the county:

1. The 1986 Boone County Comprehensive Plan Future Land Use map indicates the future use of this property to be commercial, a classification which includes most office uses. The Land Use Element of the Plan makes no specific reference to the old jail. However, it does make the following general statements about the center of Burlington:

"Burlington proper will see numerous changes to its center. The influences of residential subdivisions in every direction and the associated traffic will necessitate better traffic controls and management at the intersection of KY 338 and KY 18. Historically significant structures will need protection from the increased pressures to develop the county seat. As the growth of the county continues so will the administration needs. An additional government center should develop in the close proximity to the existing one; however, placement needs to occur so as to not further fragment the town's residents." (p. L-13)

2. The design of the old jail (which was built in 1928) is harmonious and appropriate in appearance with the existing character of Burlington. Special care must be taken in terms of factors, such as signage and paving, so that the heart of Burlington is not drastically altered.
3. Office uses will not be hazardous to neighboring uses.
4. The site is adequately served by essential public facilities.
5. Excessive requirements for public improvements at public cost will not be created.
6. Offices typically do not involve activities, materials, or conditions of operation that will be detrimental to any persons, property, or the general welfare.
7. The site is surrounded on three sides by publicly dedicated roadways - KY 28 to the north and Union Square to the east and south. The Boone County Zoning Regulations require a 1,200 square foot office to have five off-street parking spaces. Parking for the structure consists of seven spaces to the rear of the old jail. Drivers visiting the site pull directly into the spaces from Union Square and back directly onto the street when leaving. Although this arrangement is not typically allowed by the Boone County Zoning Regulations, staff feels that since Union Square is not a heavily traveled through street, and since parking in front of the building would be a detriment to the Small Community, the arrangement should continue.

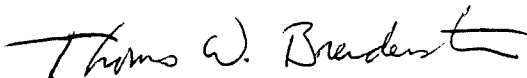
The Board must consider more specific criteria which apply to Conditional Uses in Small Communities:

- a) Office uses (typically lawyers, doctors, insurance agents, etc.) are an integral part of Burlington function as not only a small community, but also as the county seat. An office will not detract from or conflict with the principal purpose and continued well-being of Burlington.
- b) The existing arrangement of the structure is compatible with the arrangement of other uses to be protected in the district. However, at this writing, the applicant is proposing to pave the front and side yards for two additional parking spaces. Staff feels that this loss of greenery will be a detriment to the heart of Burlington.

In reviewing Conditional Uses in Small Communities, the Board of Adjustment has the authority to exempt the new development of certain portions of the Zoning Regulations "when literal conformance to such Regulations would be to the detriment of the district." Therefore, should the Board grant this request, staff would recommend that the Board exempt the applicant of Article 18, Section 1823, so that drivers can continue to use the existing parking area to the rear of the building. Further, staff would recommend that the parking spaces and driveway aisles proposed for the front and rear yard not be permitted so as to protect the visual quality of Burlington.

Finally, staff would recommend a monument-type sign no larger than 25 square feet, which is larger than the 12 square feet typically allowed in a residential zone but less than would be allowed in commercial or office zones, no higher than 5 feet, and attractively landscaped.

Respectfully submitted,



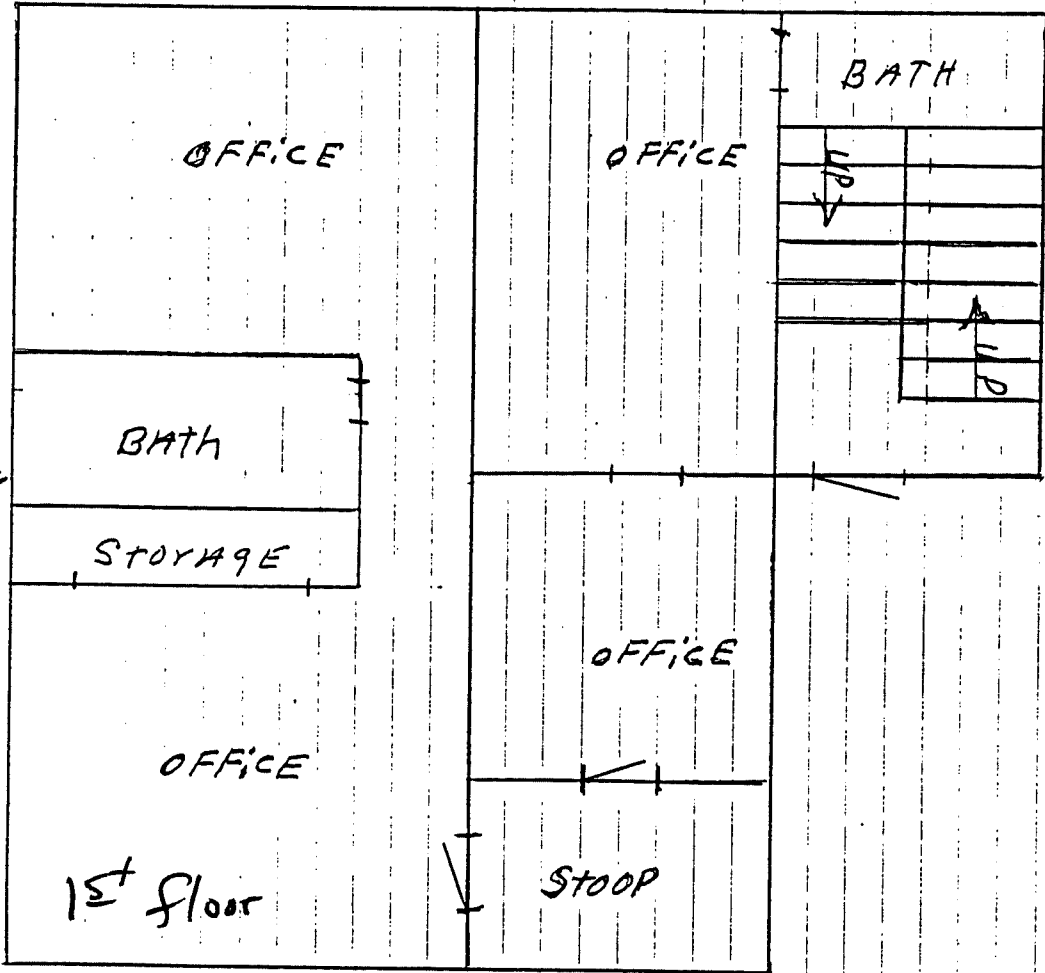
Thomas W. Breidenstein,
Zoning Enforcement Officer

TWB:mcb

Stephens
2-10-88

Union Square →

(existing)
PARKING



(Proposed)
ONE WAY DRIVE

(Proposed)
ONE WAY DRIVE

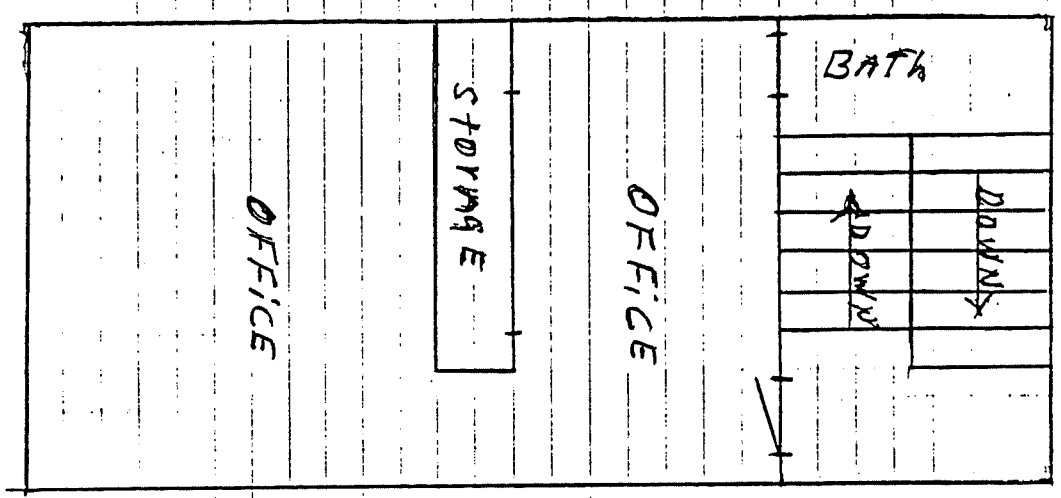
(Proposed)
PARKING

Front Yard

↓ KY 18

2nd floor

Stephens
2-10-88



2nd floor

KY 18

BOONE COUNTY
BOARD OF ADJUSTMENT

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

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 Fedders 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.

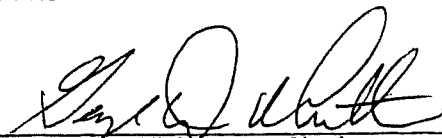
There being no further comments or questions, Mr. Ryan moved that the request be granted. Mr. Houston seconded the motion. Mr. Archambault stated that he would abstain from voting due to a personal interest in the matter.

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.

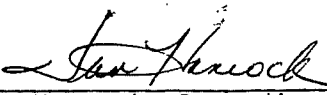
There being no further business to come before the Board, Mr. Ryan moved, seconded by Mr. Archambault, that the meeting be adjourned. The meeting was adjourned by unanimous consent at 7:45 P.M..

APPROVED:



George D. Whitton, Chairman

ATTEST:



Jan Hancock, Recording Secretary