

RECEIVED FEB 05 1988

\$209⁰⁰

APPLICATION FOR ZONING ACTION

S-mail

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: PILOT OIL CORPORATION (MR. JAMES HASELM) Owner
 Agent
 Address: 7401 KINGSTON PIKE P.O. BOX 10146
KNOXVILLE, TENN. 37939 Telephone: 615 588-7488
 Location: N.W. CORNER of Ky 338 (Richwood Road) & U.S. 25 118 Richwood R.D.
 Name of Property Owner: SAME AS APPLICANT
 Address of Property Owner: SAME AS APPLICANT
 Zoning District: C-3 Area in Acres: 4.5183
 Deed Book: 370 Page Number: 54 Group Number: 2072
 Description of Request: VARIANCE IN REAR of LANDSCAPE BUFFER AREA
PER PLAT

Applicant's Signature: [Signature] Att. Zoning attorney for PILOT OIL 3716220
 Property Owner's Signature: [Signature]

FOR PLANNING COMMISSION USE ONLY

RECEIVED

Date Received: FEB 8 1988 By: _____

Meeting Date: _____

Date of Action: 2-10-88

Application Fee: _____

Referred To: _____

Action Taken: approved w/conditions

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Applicant: PILOT OIL CORPORATION (MR. JAMES HASLAM) Owner \$100 Bur 1
 Address: 7401 KINGSTON PIKE P.O. BOX 1014 Agent Site 400
KNOXVILLE, TENN. 37939 Telephone: 615 588-7488 RD. 576

Location: N.W. CORNER of Ky 338 (Richwood Road) & U.S. 25

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PER PLAT

Applicant's Signature: [Signature] 371 6220

Property Owner's Signature: original returned for signature

Application Fee: \$209 FOR PLANNING COMMISSION USE ONLY Date Received: 1/22/88 By: [Signature]

Referred To: for Meeting Date: Feb. 10, 88

Action Taken: _____ Date of Action: _____

MOST RECENT
VARIANCE
STAFF REPORT

STAFF REPORT

(The 2.0 acre site report simply became full of formal)

APPLICANT: Pilot Oil Corporation
DEVELOPMENT: Truck Stop
LOCATION: Northwest corner KY Hwy. 338 and U.S. Hwy. 25
ZONE: Commercial Services (C-3) and Rural Suburban (RS)
DATE: February 10, 1988
REMARKS:

Applicant is requesting a Variance in the width of the landscaped buffer yard required when a commercial zone abuts a residential zone (see Section 1782, Boone County Zoning Regulations attached). The 4.52 acre site is located at the northwest corner of Richwood Road and Dixie Highway (see attached plan). 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.

History of the Site

On July 1, 1987, the Planning Commission approved a Site Plan for construction of the truck stop facility on the 3.8 acre site. Previously, the applicant had filed for a zone change for the 0.69 acre parcel (from RS to C-3) which was withdrawn June 6, 1987. On October 14, 1987, the Board of Adjustment granted a Variance for the 3.8 acre site permitting a second free-standing sign within the dimensional standards of the current Regulations.

On December 16, 1987, the applicant applied for Site Plan Review for approval of changes that had been made to the site which were not in conformance with the original Site Plan. One of the changes that had been made to the site includes the construction of a truck scale facility; other changes are that the building was moved approximately 10 feet closer to the residentially zoned portion of the site; some of the required parking spaces were moved from another part of the site to the north (rear) portion of the building; and the paving of a portion of the required landscaped buffer area for which the applicant is now requesting a Variance. The Planning Commission has deferred action on the revised Site Plan until its February 17, 1988, Business Meeting. The truck stop opened for business January 12, 1988. The establishment has until July 12 to meet all of the requirements of the approved Site Plan.

Review of Criteria or Standards for Variances

The applicant has been made aware of the four findings of fact the Board must consider when reviewing requests for Variances, and should be prepared to address them at the meeting. The following is staff's review of these criteria:

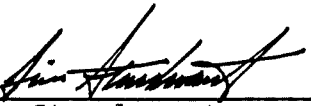
1. Special Circumstances:

- a) Location of building and parking area - the present location of the building, and the parking spaces to the rear of it, limit the driveway width to 38 feet at this point.
 - b) Shape of the Site - the shape of the site is unique in comparison to other sites in the vicinity and same zone. The 0.69 acre corner of the site, which is zoned residential, may create a slight physical barrier which would force large trucks to negotiate a 90 degree turn at the rear of the truck stop facility.
 - c) Ownership - the residential property adjacent to which the applicant is requesting the Variance is presently owned by the applicant.
2. Strict application of the Regulations would not deprive the applicant of a reasonable use of his commercially zoned property. However, the Board should also determine if requiring the 25 foot wide landscaped buffer at that corner of the commercial property does create an unnecessary hardship on the applicant.
3. The Special Circumstances listed above are partially the result of action by the applicant subsequent to adoption of the Zoning Regulations. Relocation of the building and parking lot closer to the residentially zoned property was a direct result of action by the applicant. However, the shape of the site and ownership of the abutting residential lot are not the result of other actions by the applicant. As noted above, the applicant was unsuccessful in his attempt to rezone the residential portion of his property.
4. Staff does not believe that the Variance, if granted, will adversely affect the public health, safety, or welfare, will not alter the essential character of the general vicinity, and will not cause a hazard or nuisance. The reasons for staff's opinion are:
- a) the applicant is only requesting a reduction in the buffer yard width for approximately 70 lineal feet of over 595 total lineal feet of landscaped buffer yard;
 - b) the area for which the buffer is being requested abuts property which is also owned by the applicant;
 - c) if the Variance is granted, it will promote safer traffic circulation on the site and reduce the likelihood of backing up traffic onto Richwood Road.

Staff Report - Pilot Oil Corporation
February 10, 1988
Page Three

Suggested Condition:

If the Board approves this request, staff suggests that the applicant be required to maintain the existing wood privacy fence along the commercial-residential boundary. This would help create some buffering along the line in question.



Jim Sturdevant,
Plans Examiner/Planner

JS:mcb

Attachment

Section 1782

Landscaping, Screening, and Buffer Yards

Each site plan and preliminary development plan must contain information pertaining to existing proposed landscaping, screening, and buffer yards. This information must include detailed plans surrounding the site (lot) and building(s). These plans will include any of the following: fences, earth berms, shrubs, and trees. As part of each site plan and preliminary development plan, the applicant will be required to show the location, type, number, canopy cover, and expected height (at time of planting and at maturity) of any vegetation. *Unless specifically listed the quantity and types of trees and vegetation for a buffer shall consist of eight foot white pines on six foot centers with immediate replacement of any that die and there shall be one row per ten full feet of buffer width. (See Status of Amendments). As a general rule, the Planning Commission will use the following table to determine minimal landscaping requirements.

		<u>Minimum Landscape Area</u>
1.	When any residential zone (RSE, RS, SR-1, SR-2, UR-1, UR-2, UR-3, R1F) except an MHP	Adjoins a: MHP zone 10 feet
2.	When any residential zone (RSE, <u>RS</u> , SR-1, SR-2, UR-1, UR-2, UR-3, R1F)	Adjoins a: C-1 zone C-2 zone <u>C-3 zone</u> C-4 zone 20 feet 25 feet <u>25 feet</u> 30 feet
3.	When any residential zone (RSE, RS, SR-1, SR-2, UR-1, UR-2, R1F)	Adjoins a: O-1 zone O-2 zone 15 feet 15 feet
4.	When any residential zone (RSE, RS, SR-1, SR-2, UR-1, UR-2, UR-3, R1F)	Adjoins a: I-1 zone I-2 zone I-3 zone 25 feet 50 feet 50 feet
5.	When any office (O-1, O-2) or Commercial zone (C-1, C-2, C-3, C-4)	Adjoins a: I-1 zone I-2 zone I-3 zone 15 feet 20 feet 20 feet
6.	When a proposed multi-family development	Adjoins a: single-family or group of single-family residences 15 feet

The Boone County Planning Commission may also require additional landscaping in order to improve the visual or aesthetic impact of conflicting land uses, reduce noise levels and to add to the existing buffer area. The landscaping, screening, and buffer area may be located within the setback. Buffer areas of this order must be maintained. Each applicant should identify wildlife habitat, existing vegetation, health of tree cover, and certain species that are more suitable than others. This information should be included in Preliminary Plat and Improvement Plan Review.

Section 1783

Home Owner Association

When Home Owner Associations or similar associations are to be employed for a development, the association documents shall be included with the plans and application for the development.

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 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.

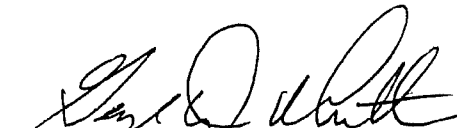
There being no further comments or questions, Mr. Ryan moved that the request be granted. Mr. Houston seconded the motion. Mr. Archambault stated that he would abstain from voting due to a personal interest in the matter.

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:



George D. Whitton, Chairman

ATTEST:



Jan Hancock, Recording Secretary