

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: Russell K Hays Owner Agent
 Address: 6767 Hopeful Rd

Telephone: 371-9720

Location: 6767 Hopeful Rd Florence

Name of Property Owner: Florence First Church of God

Address of Property Owner: 6767 Hopeful Rd

Zoning District: SR-1 Area in Acres: 4.2

Deed Book: (3) 272 Page Number: (3) 99 Group Number: 2039

Description of Request: Variance on sign on property

Applicant's Signature: Russell K Hays

Property Owner's Signature: _____

FOR PLANNING COMMISSION USE ONLY
 Application Fee: \$185 Date Received: 3-27-88 By: TSB

Referred To: _____ Meeting Date: _____

Action Taken: _____ Date of Action: _____

STAFF REPORT

APPLICANT: Russell K. Hays
DEVELOPMENT: Florence First Church of God
LOCATION: 6767 Hopeful Road
ZONING: Suburban Residential One (SR-1)
DATE: April 13, 1988; 6:30 p.m.
PLACE: Due to construction, meeting will be held in the Fiscal Court Room, 2nd floor.

REMARKS:

The applicant is requesting a Variance in the location of a sign or bulletin board of a church. The 4.2 acre site, which is located on the west side of Hopeful Road approximately one mile south of KY 18, is zoned Suburban Residential One (SR-1) and is owned by the Florence First Church of God.

History

In May, 1987, this Board granted a Conditional Use Permit and Site Plan approval to the applicant to allow the construction of the church. After the church was constructed, the church came back to this Board for permission for a sign larger than 16 square feet. A Variance was granted on September 19, 1987 to allow a 50 square foot sign. However, an expressed condition of approval was that the sign be "located approximately 10 feet off the right-of-way as directed by staff" (see attached minutes). This condition of approval echoed Article 19, Section 1905 of the Boone County Zoning Regulations which reads:

"Setbacks for Public and Quasipublic Signs

Real estate signs and bulletin boards for a church, school or any other public, religious or educational institution may be erected not less than ten (10) feet from the established right-of-way line of any street or highway provided such sign or bulletin board does not obstruct traffic visibility at street or highway intersections."

Earlier this year, the Planning Commission staff received a complaint that the sign in question was shining too brightly onto Hopeful Road, and thus creating a traffic nuisance. A site check by staff proved this problem to be true. The applicant has since indicated that a dimmer switch will be installed to reduce the light's intensity. However, during the check, it was discovered that the sign is 10 feet from the edge of the pavement and not 10 feet from the right-of-way. In fact, the sign is located within the road right-of-way. When asked to move the sign to satisfy the requirements of the previous approval, the applicant indicated that the sign would not be effective 10 feet from the right-of-way. Therefore, in order to maintain the sign as close to Hopeful Road as possible, the Variance is being sought.

According to the site plan presented at the May, 1987 meeting, Hopeful Road has a 42 foot right-of-way, meaning that the sign must be located 31 feet from the centerline to satisfy the condition of the previous approval. The applicant is requesting a Variance of the full 10 feet so that the sign can be located directly outside the right-of-way (as would be permitted for most sign users). It is important to remember that since the sign is located on the state's property, it will have to be moved at least some distance.

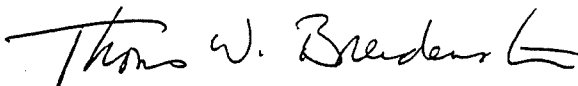
The following reviews the four standards with which the Board judges each Variance request.

1. Currently, the sign is at eye level to drivers along Hopeful Road. Since the church property slopes down from Hopeful Road, an increased setback would lower the level of the sign. This special circumstance does not generally apply to property in this area.
2. Strict application of the Zoning Regulations (and of the condition of the previous Variance) could limit the legibility of the message portion of the sign. However, the main identification purpose of the sign would not be altered.
3. The special circumstance of slope is not the result of the actions of the applicant. However, the Board should keep in mind that the current location of the sign represents a violation of not only the Zoning Regulations, but also state law governing highway use.
4. Should the dimmer switch be installed, staff can find no reason why the sign would adversely affect the public health, safety or welfare. The Board should consider, however, that this area of the county is residential in character and that such large, encroaching signs are more typical of commercial or employment districts.

Should the Board grant this Variance, staff would recommend as a condition of approval that the applicant landscape the base of the sign to "soften" its impact on the neighborhood. This improvement can be constructed of brick to tie in architecturally with the building. This suggestion may be withdrawn should staff find that such landscaping would block traffic visibility.

(A copy of this report will be sent to the Kentucky Transportation Cabinet, District 6 Office, as a means of informing them that the sign is within the right-of-way for Hopeful Road.)

Respectfully submitted,



Thomas W. Breidenstein,
Zoning Enforcement Officer

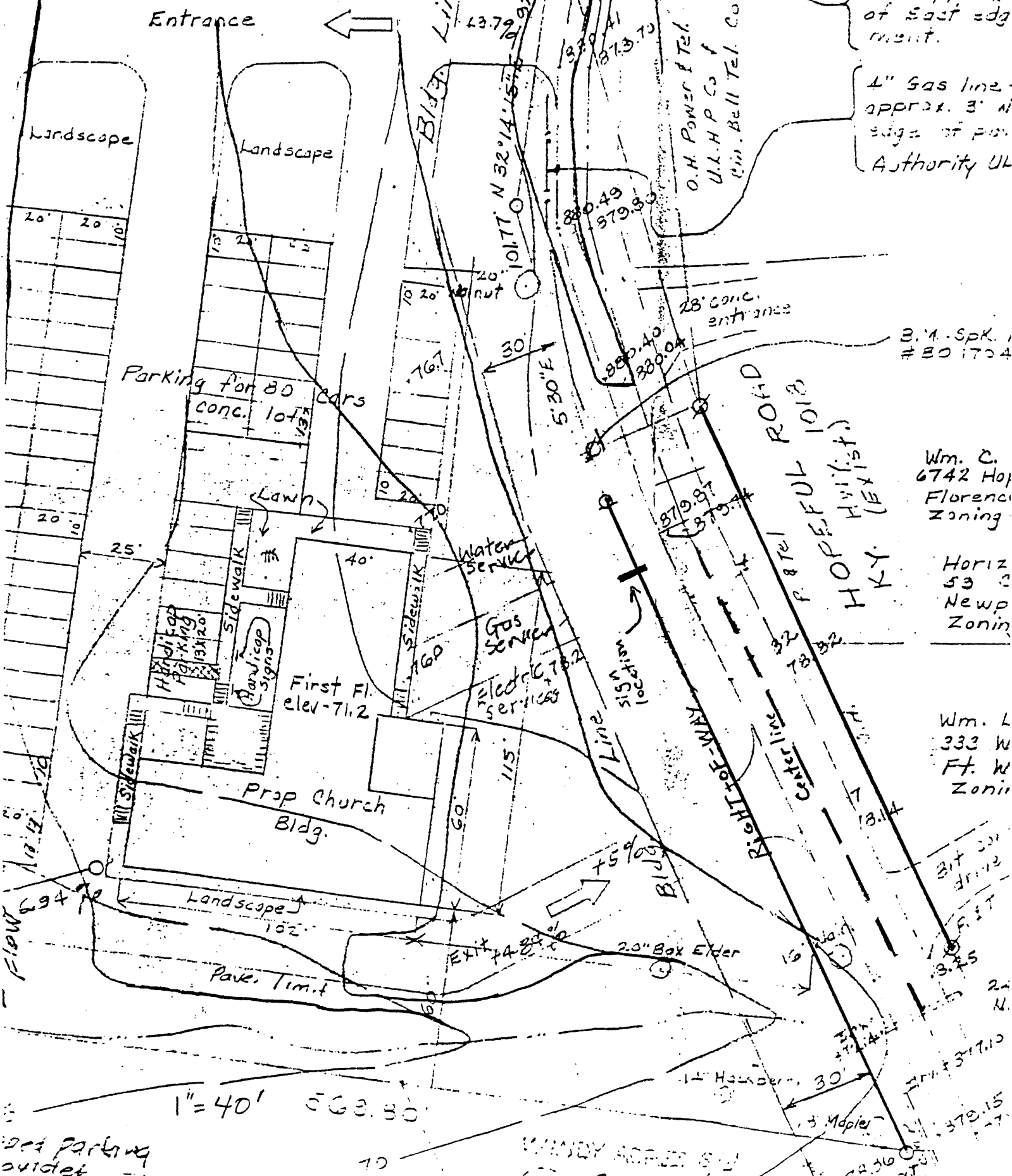
TWB:mcb

Attachments

497.04 4-13-88

2040 S. Hamilton Rd
Columbus Ohio 43232
Zone J. SR-1

Florence First Church of God

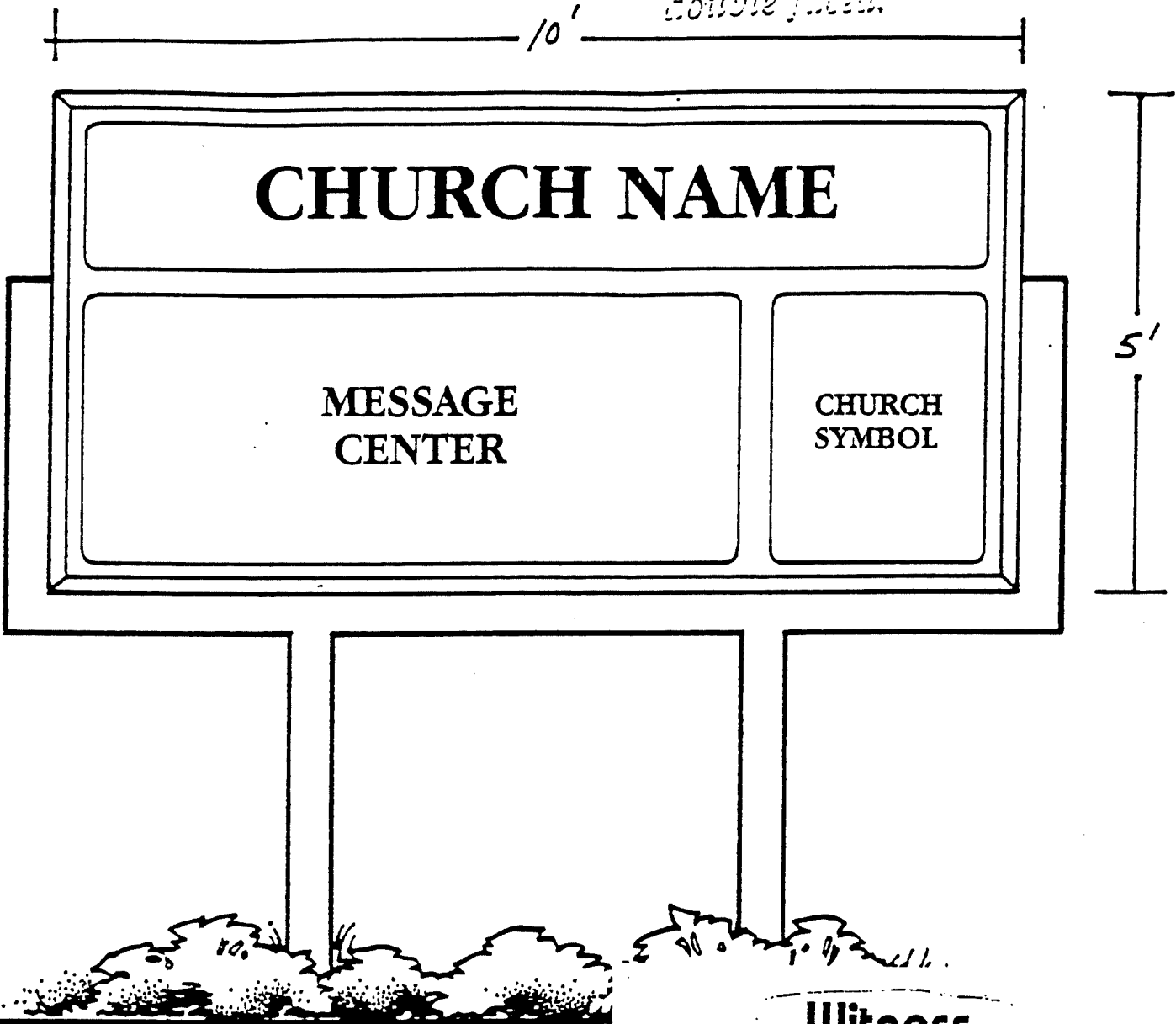


used parking outside

WANDA ROBERTSON

Witness

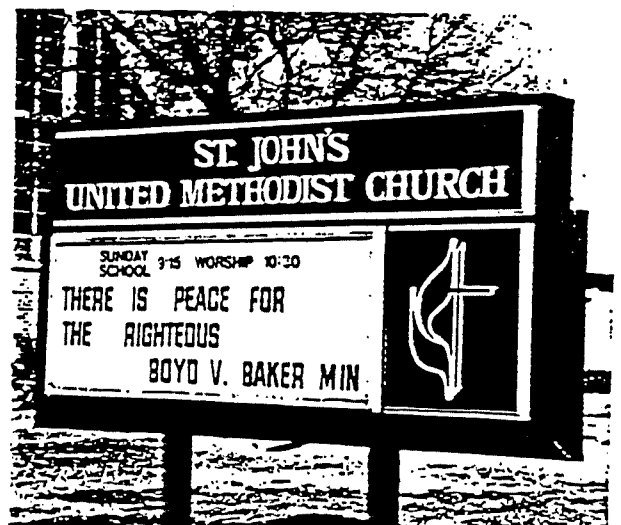
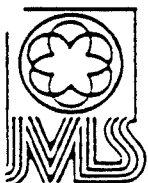
*All signs are quoted
double faced.*



Pleasingly arranged within the traditional rectangle are your church's name, your choice of emblems, panel providing four lines of four-inch changeable text. These three areas are clearly and colorfully visible in all directions. WITNESS conveys provocative and lively messages to viewers to read.

The J.M. STEWART

P.O. Box 2668, Sarasota, Fla.
5454 East Sussex, Fresno, Cal



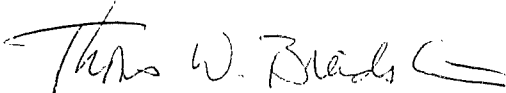
STAFF REPORT

APPLICANT: Florence First Church of God
DEVELOPMENT: church sign
LOCATION: 6767 Hopeful Road
ZONE: Suburban Residential One (SR-1)
DATE: May 11, 1988

REMARKS:

Rev. Hays has informed our office that the dimmer switch has been installed on the church's sign. Therefore, Board members can drive by at night and witness first hand the impact of the sign on Hopeful Road traffic. This deferred item will be discussed first.

Respectfully submitted,



Thomas W. Breidenstein,
Zoning Enforcement Officer

TWB:mcb

BOONE COUNTY
BOARD OF ADJUSTMENT

May 11, 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 called the meeting to order at 6:30 P.M. and noted that each member had received a copy of the Minutes of the Boone County Board of Adjustment Meeting of April 13, 1988 and asked if there were any comments or corrections.

Chairman Whitton advised that under Item #3, Tack and Dirr Properties should be Tacket Durr Properties.

Mr. Ryan moved that the Minutes be approved as amended. Mr. Archambault seconded the motion and it carried unanimously.

AGENDA ITEMS;

1. The request of Russell K. Hays for Florence First Church of God for a Variance in the location of a sign or bulletin board of a church. The 4.2-acre site, which is located on the west side of Hopeful Road approximately one mile south of KY 18, is zoned Suburban Residential One (SR-1) and is owned by the Florence First Church of God. (Deferred from the last meeting.)

Chairman Whitton advised that the Staff Report indicates that the sign has been dimmed.

Rev. Hays stated that they were not able to get a dimmer for the sign as the lights are fluorescent. However, they have dimmed the lighting by at least fifty percent by decreasing the wattage or the number of bulbs.

In response to a question from Chairman Whitton, Mr. Breidenstein advised that he had not seen the sign since it was dimmed, but no further complaints have been received.

There being no further discussion, Mr. Archambault moved that the request now be granted based on the dimming of the sign. Mr. Houston seconded the motion and it carried unanimously.

2. The request of Gary Neal for a front yard Variance of 10 feet in order to place a mobile home 70 feet from the roadway. The 36.25-acre site, located just north of 11511 Big Bone Church Road, is zoned Agriculture (A-1) and is owned by Gary Neal.

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

Chairman Whitton asked Mr. Neal for his comments.

Mr. Neal stated that all the information he wished to submit was contained in his letter attached to the Staff Report.

Chairman Whitton asked if there was anyone present who wished to speak for or against this request or if there were any questions. There being no response, he asked if there were any comments from the Board.

Mr. Ryan asked if Mr. Neal owned the house indicated in the slide presentation. Mr. Neal advised that he did not own the house. He stated that it was on a tenure until the residents leave or until their death. He stated that the land is on a land contract.

In response to a question from Mr. Ryan, Mr. Neal advised that the mobile home will be set back further than the house.

There being no further discussion, Mr. Ryan moved that the request be granted based on the Staff Report and the topography of the property. Mr. Archambault seconded the motion and it carried unanimously.

3. The request of David Trapp for a front yard Variance of 40 feet to allow the construction of a single-family house 40 feet from the road. The 1.736-acre tract, located just west of 10717 East Bend Road, is zoned Agriculture (A-1) and is owned by August and Marion Trapp.

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

Chairman Whitton asked if the applicant wished to comment.

Mr. Trapp stated that he had nothing to add.

Chairman Whitton asked if there was anyone else present who wished to speak in regard to this request. There being no one, he asked if there were any comments from the Board.

In response to a question from Mr. Ryan, Mr. Breidenstein advised that this house would be approximately even with the adjacent house.

There being no further discussion, Mr. Ryan moved that the request be granted based on the Staff Report and the Special Circumstances of the topography and the power line. Mr. Houston seconded the motion and it carried unanimously.

4. The request of Raymond Erpenbeck (agent for IPM, Inc.) for a Conditional Use Permit and Site Plan Review to allow the construction of a two-story office building. The 0.49-acre site, located on the eastern side of Rogers Lane, across from Torrid Street, is zoned Suburban Residential Two with a Small Community Overlay (SR-2/SC). The property is owned by IPM, Inc. (by option).

Staff Member, Tom Breidenstein, presented the Staff Report which included a slide presentation (see Staff Report). He noted that Staff had requested revisions to the Site Plan and with those revisions, Staff would be able to recommend approval of the Site Plan if the Conditional Use Permit is approved by the Board.

Mr. Ray Erpenbeck presented a copy of the basic plans for the proposed building. He noted that the first floor will be brick and the upper story will be frame. The building will be in keeping with the residential appearance of the neighborhood. There will be 2,400 square feet per floor.

Following review of the parking, Staff advised that a four-foot buffer would be the minimum requirement. Mr. Erpenbeck advised that the buffer will be a combination of the plantings and the berm.

Mr. Erpenbeck advised that they are in the process of leasing the building, pending financing. Their prospective tenants are primarily lawyers.

Following review of the revised Site Plan, Staff advised that their concern regarding sidewalks has been addressed on the Plan. Staff was also concerned about the landscaping, but advised that a detailed landscaping plan will be submitted to the Staff for approval.

Mr. Erpenbeck stated that they are agreeable to the condition that the Staff approve the landscaping plan.

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

Elizabeth Curtley, who resides at the corner of Torrid & Rogers Lane, stated that she is concerned about the drainage. She asked if the drain under Rogers Lane was adequate. She questioned how the sewage would be handled.

Mr. Erpenbeck stated that the drainage under Rogers Lane goes into this site. They will pick up that drainage and pipe it down into the ravine. He noted that in regard to sewage, manholes would be installed and the sewage would be disposed of in the creek at the rear of the property line.

Chairman Whitton advised that these concerns will be addressed by the Staff's engineer.

Mr. Roy Cantrell, an adjoining property owner, questioned what type of septic system will be used.

Mr. Erpenbeck advised that they are working with the Health Department in this regard and the system will be in accordance with the regulations.

There being no further discussion, Mr. Houston moved that the request be approved subject to the Staff completing its review of the Site Plan, the Staff's approval of the landscaping plan, and approval by the necessary governmental agency of the sanitary sewer system. Mr. Ryan seconded the motion and it carried unanimously.

5. The request of Gladys Mann Wagner for an Appeal of the Zoning Administrator's decision regarding the subdivision of property. The applicant wishes to divide a 0.9-acre buildable lot in a zoning district which requires buildable lots of 1.84 acres. The subject property, located at 3457 Idlewild Road, is zoned Agriculture Estates (A-2), and is owned by Austin Mann.

Counselor Wilson advised that under state statute, the Board has sixty days from this evening to make a decision on this matter.

Mr. Gerald Newton, Director, stated that his decision is not in error and that the Staff Report, with its attachments, is a compilation of the available information (see Staff Report). He stated that the property in question is less than one acre and if it had been sold prior to 1980, it may have been a lot of record and been pre-existing, non-conforming. However, under current regulations and the regulations in place since 1980, he cannot allow a Convenience Plat to be reviewed and approved for this to be a buildable lot. He suggested that a possible solution may be to change the zoning of a larger area, or a text amendment -- which would affect all properties zoned A-2. He stated that he does not believe the appeal to be a viable option as he has not exercised any discretion in his decision.

Mr. Mann stated that they had erred through lack of knowledge. He noted that the double-wide was erected in 1985. He stated that they have adjacent acreage, but it would be injurious to the parent tract to transfer a larger parcel. He stated that they had subdivided lots for two of their other children and they were not aware that this tract could not be subdivided.

Chairman Whitton stated that the Board cannot grant a density variance.

Counselor Wilson stated that this was correct and quoted the statute. He noted that the participants have each outlined their position and there is a dispute as to what the regulations say. He noted that the request does not meet the requirements and stated that he believes the only way the Board can find against the Zoning Administrator is to determine that this is a lot of record and a pre-existing situation.

In response to questions from Chairman Whitton, Mr. Mann advised that the trailer has been occupied since 1985. He presented a drawing of the parent tract and indicated those parcels transferred to his children.

Chairman Whitton noted that the other parcels were transferred prior to the rezoning in 1980.

Mr. Mann stated that this parcel was inadvertently left out in 1980 and would have been transferred from the parent tract at that time.

Mr. Archambault noted that the land was subdivided before 1980, but was not described properly. Mr. Mann agreed and added that a deed was not drawn up until recently which is when the problems began.

Mr. Newton questioned why the plot plan was prepared and Mr. Mann stated that it was prepared in connection with financing. He stated that all the property was used as collateral for the double-wide.

Mr. Newton stated that he did not believe that an error or omission had occurred. He stated that there was no information to prove that the one-acre parcel was a lot of record prior to the current zoning regulations or the 1980 regulations.

Chairman Whitton noted that a lot of people come to the Board to be granted relief from distress situations and the Board has granted such relief after determining that the request was reasonable. He stated that this request is reasonable, but the Board does not have the legal authority to overturn the Zoning Administrator's decision in this case.

In response to questions from Mr. Archambault, Mr. Mann stated that taking an additional acre from the parent tract would ruin the sale of the parent tract.

Mr. Archambault advised Mr. Mann that the Board cannot increase the density. He questioned the possibility of Mr. Mann purchasing additional adjacent acreage.

Mr. Mann stated that there was no additional property available. He questioned why the Health Department or the Building Department did not stop them in 1985 from erecting the double-wide.

Chairman Whitton stated that at that time, they had a combined tract of land. Mr. Mann agreed, but stated that there was an imaginary line which was pointed out to the Health Department and the Building Department.

Mr. Newton stated that Mr. Taberke was the Zoning Administrator and the Building Inspector at that time. He stated that if there was an imaginary line but the allowable density for the two sites could be preserved, then the situation was possible, but not wise in terms of marketability. He noted that at that time, the applicant was the owner of the home and the parcel for the double-wide.


In response to questions from Mr. Ryan, Mr. Mann advised that at this time, the parcel cannot be deeded to his daughter, but she can continue to live in it. He stated that it is very important to him to be able to transfer the parcel to his daughter.

Mr. Newton advised that an option would be to make application to rezone his property and adjacent property to create a five-acre parcel.

Counselor Wilson noted that prior to 1980, the parcel would have met the requirements.

There being no further discussion, Mr. Ryan moved that the Board uphold the Zoning Administrator's decision. Mr. Archambault seconded the motion and it carried unanimously.

APPROVED:



George D. Whitton, Chairman

ATTEST:



Jan Hancock, Recording Secretary