

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: GARY A. NEAL Owner

Address: Box 11511 Big Bone Ch. Rd.
Union, KY 41091 Telephone: 384-3559 Agent

Location: _____

Name of Property Owner: SAME

Address of Property Owner: SAME

Zoning District: A1 Area in Acres: 36.25

Deed Book: 377 Page Number: 221 Group Number: 2061

Description of Request: request variance of 10 feet to
allow placement of MH 70 feet from
front property line

Applicant's Signature: Gary A. Neal

Property Owner's Signature: Gary A. Neal

FOR PLANNING COMMISSION USE ONLY
Application Fee: \$135 Date Received: 4-21-88 By: RB

Referred To: RB Meeting Date: _____

Action Taken: _____ Date of Action: _____

STAFF REPORT

APPLICANT: Gary Neal
DEVELOPMENT: mobile home
LOCATION: 11511 Big Bone Church Road
ZONE: Agriculture (A-1)
DATE: May 11, 1988

REMARKS:

The applicant is requesting a front yard Variance of ten (10) feet in order to place a mobile home seventy (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.

The following reviews the four criteria the Board must apply to Variance requests:

1. The special circumstance involved is the topography of the property. Although the applicant has 36.25 acres, most is too steep to build upon. The only good buildable area is a narrow strip of land between the road and a small creek.
2. Strict application of the Boone County Zoning Regulations would prohibit the applicant from placing a mobile home on an accessible part of the property.
3. The topography and the position of the creek are not the result of the actions of the applicant.
4. Staff can find no reason why, if granted, the Variance would adversely affect the public health, safety, and welfare, or would alter the essential character of the general vicinity.

The applicant's response to these criteria can be found in a letter received April 27, 1988. A plot plan submitted by the applicant is also attached.

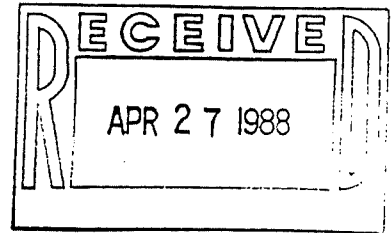
Respectfully submitted.

Thomas W. Breidenstein

Thomas W. Breidenstein,
Zoning Enforcement Officer

TWB:mcb

Attachments



11511 Big Bone Church Road
Union, KY 41091
April 22, 1988

Boone County Board of Adjustment
Boone County Courthouse
Burlington, KY 41005

Dear Board Members:

This is a request for a 10 ft. variance (to the 80 ft. zoning regulation) to be issued at the above address. The zoning permit is for the installation of a mobile home at the same address.

The plot of land chosen for the mobile home is fairly level (will require minimal excavation), and this site is near an existing well, which will be used as the water source for the unit. Although, the farm is 36 acres this is the most desirable spot for the mobile home. Without this variance, additional costs of between eight to ten thousand dollars will be needed in order to construct a road farther back from the road. This would require a bridge (to be built over the creek which runs 150 feet behind the buildings) and two culverts to be built on what is now only a tractor path.

There are several existing buildings on the property; one house which is 41 ft. from the road, one barn which is 56 ft. from the road, and one milk house which is 16 ft. from the road.

I feel this variance will not adversely effect the public health, safety, or the beauty of the surrounding area.

Respectfully yours,
Gary A. Neal
Gary A. Neal

Enclosure

DR. REDDIN

MR. MALORY

11511 Big Bone Church Rd.

ED MORHEAD

TRACTOR PATH

MIKE REEVES

existing

proposed

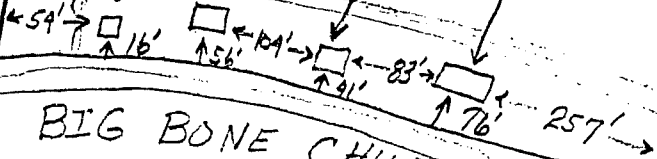
er. MILK HOUSE
13' X 11' X 10'

HOUSE
28' X 30' X 15'

BARN
36' X 48' X 40'

MOBILE HOME
14' X 70' X 12'

NATURAL DRAINAGE



BIG BONE CHURCH ROAD

CREEK 140 FT. FROM ROAD (AT BASE OF HILL)

DR. ADAIR

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