

APPLICATION FOR ZONING ACTION

TO:

- Boone County Planning Commission
- City of Union Board of Adjustment
- City of Florence Board of Adjustment
- City of Walton Board of Adjustment
- Boone County Board of Adjustment
- Zoning Enforcement Officer

FOR:

- Zoning Text Amendment
- Zoning Map Amendment
- Comprehensive Plan Change
- Planned Development Overlay Change
- Preliminary Plat Review
- Improvement Plat Review
- Conditional Use Permit
- Final or Deed Plat Review
- Concept Development Plan Change
- Site Plan Review
- Preliminary Development Plan
- Historic District Overlay
- Change of Non-Conforming Use
- Appeal or Variance
- Design Review Board and Certificate of Appropriateness
- Sign or Zoning Permit

Applicant: Raymond Erpenbeck Owner

- Owner
- Agent

Address: 4205 Dixie Highway

Elsmere, Ky 41018 Telephone: 727-4200

Location: Rogers Lane

Name of Property Owner: IPM, Inc by option

Address of Property Owner: 8860 Valley View Dr., Florence, Ky 41042

Zoning District: SC overlay SR-2/SC Area in Acres: 0.49 acres

Deed Book: 283 Page Number: 273 Group Number: 196

Description of Request: conditional use permit for a 2 story office building,
totaling 4,800 S.F. with site plan approval

Applicant's Signature: Raymond Erpenbeck

Property Owner's Signature: [Signature] IPM, INC BY OPTION

Application Fee: \$293 FOR PLANNING COMMISSION USE ONLY
\$461.90 Date Received: 4-21-89 By: TWB

Referred To: _____ Meeting Date: _____

Action Taken: _____ Date of Action: _____

owe 168.00

STAFF REPORT

APPLICANT: Raymond Erpenbeck (agent for IPM, Inc.)
DEVELOPMENT: two-story office building
LOCATION: Rogers Lane (across from Torrid Street), Burlington
ZONE: Suburban Residential Two/Small Community Overlay
(SR-2/SC)
DATE: May 11, 1988

REMARKS:

The applicant is requesting 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).

All surrounding properties are zoned SR-2/SC. Their land uses include:

North: single-family residential
South: single-family residential
East: Storage structure for Poston Brothers Heating and Cooling;
vacant property
West: single-family residential; courthouse parking lot

The following reviews the general standards applicable to all Conditional Uses in the county:

1. The 1986 Boone County Comprehensive Plan Future Land Use Map indicates the future use of this property to be Medium Density Residential (three to eight dwelling units per acre). The Land Use Element of the text makes the following statements about the area:

"Burlington proper will see numerous changes to its center. The influence of residential subdivisions in every direction and its 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. Upon initial review of the site plan, the development appears to be designed so as to be harmonious and appropriate in appearance with the existing and intended character of the general vicinity. Some early concerns include landscaping, sidewalks, access, and architectural elevations.

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3. General office uses will not be hazardous to existing or future neighboring uses.
4. The site is adequately served by essential public facilities.
5. Excessive additional requirements at public cost for public facilities and services will not be created.
6. The proposed offices will not involve uses, activities, processes or conditions of operation which will be detrimental to any persons, property, or to the general welfare.
7. Current design of vehicular approaches to the property will not create an interference with traffic on Rogers Lane. Further review of the Site Plan may reveal alternative means of access.

The Board must also consider more specific criteria applicable to Conditional Use Permits in Small Communities:

- a. General office activity (doctors, lawyers, insurance, real estate, etc.) is an integral part of Burlington's function as a Small Community and will not detract from or conflict with the principal purpose of the area.
- b. Again, upon initial review, the arrangement of the building and accessory parking appears to be compatible with the permitted and accessory uses to be protected in the district.

Recently, the "Burlington Historic District" has been accepted by the National Register of Historic Places. The significance of Burlington is that it is a "planned community whose 19th Century scheme remains obvious. Many of the strategically located public and religious buildings remain in use. They combine with commercial and residential structures to constitute a fine assemblage of constructions whose scales are reciprocal, and whose styles exemplify changing architectural modes" (from National Register Nomination Form). The purpose and importance of the National Register of Historic Places is explained in the attached letter from the United States Department of the Interior, National Park Services. This Board should consider not only those general and specific criteria for Conditional Uses, but also the impact of new development on a historic district. The applicant should have architectural renderings of the proposed office at the meeting so that the Board can evaluate the visual impact of the new development.

Respectfully submitted,

Thomas W. Breidenstein

Thomas W. Breidenstein,
Zoning Enforcement Officer

TWB:mcb

Attachments



United States Department of the Interior

NATIONAL PARK SERVICE
WASHINGTON, D.C. 20240

IN REPLY REFER TO:

THE NATIONAL REGISTER OF HISTORIC PLACES

The National Register of Historic Places is the official list of historic properties recognized by the Federal Government as worthy of preservation for their significance in American history, architecture, archeology, engineering and culture. The National Register program is part of a national policy to coordinate and support public and private efforts to identify, evaluate, and protect our cultural and natural resources. Under provisions of the National Historic Preservation Act of 1966, as amended, the National Register is maintained by the Secretary of the Interior and is administered by the National Park Service.

Listing in the National Register provides the following benefits to historic properties:

- Recognition that a property is of significance to the Nation, the State or the community.
- Consideration in the planning for federally assisted projects. Section 106 of the National Historic Preservation Act of 1966, as amended, provides that the Advisory Council on Historic Preservation be given an opportunity to comment on projects affecting such properties.
- Eligibility for Federal tax benefits. The Economic Recovery Tax Act of 1981 includes significant revisions to the historic preservation tax incentives authorized by Congress in the Tax Reform Act of 1976, the Revenue Act of 1978, and the Tax Treatment Extension Act of 1980. These revisions, including a 25% investment tax credit, encourage the preservation of historic commercial, industrial and rental residential buildings by allowing favorable tax treatments for rehabilitation and discouraging destruction of historic structures. The Tax Treatment Extension Act of 1980 provides Federal tax benefits for charitable contributions for conservation purposes of partial interests in historically important land areas or structures.
- Consideration of historic values in the decision to issue a surface coal mining permit where coal is located, in accord with the Surface Mining and Control Act of 1977.
- Qualification for Federal grants for historic preservation, when funds are available.

Through the National Register program, the National Park Service encourages the preservation and rehabilitation of the Nation's historic resources. However, listing in the National Register does not interfere with a property owner's right to alter, manage or dispose of a property. State and local laws establishing historical commissions, special zoning, or design review committees are not a part of the National Register program. For information on any State or local laws affecting historic resources you should contact either the appropriate State Historic Preservation Officer or local governmental officials.

The National Park Service administers the National Register program through the professional staff of the National Register of Historic Places, Interagency Resource Management Division, who work in cooperation with State Historic Preservation Officers and Federal Preservation Officers. Responsibilities of the State Historic Preservation Officer include conducting a statewide survey, the nomination of properties to the National Register, administration of the Historic Preservation Fund grants-in-aid program within the State, and review of federally funded or licensed projects for their effect on the State's historic properties. Federal Preservation Officers are appointed by the heads of Federal agencies to inventory and nominate to the National Register properties under the agency's ownership or control. Procedures for certifying local governments to participate in the program are now being developed.

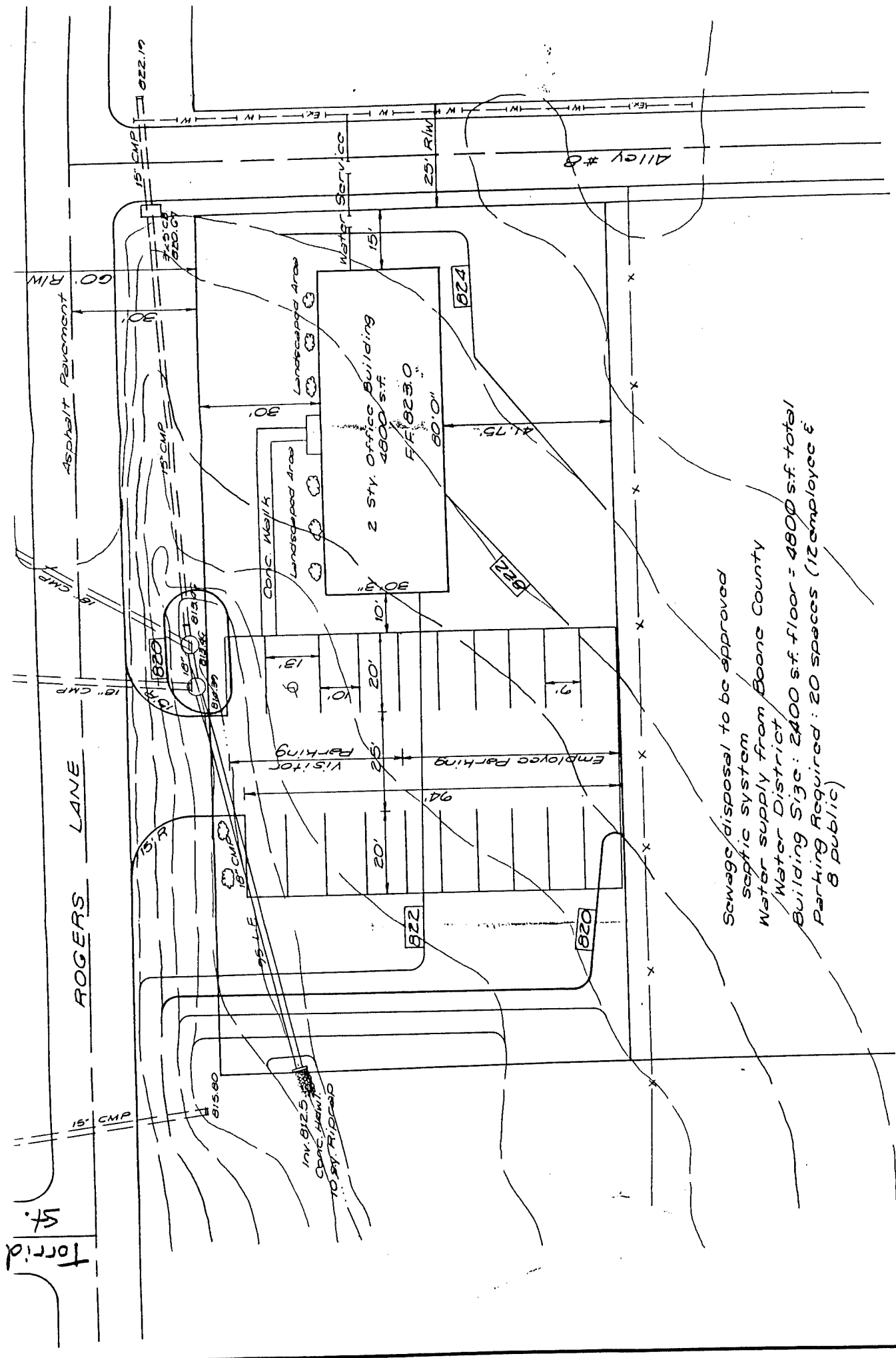
Historic properties of national, State, or local significance may be nominated by the States and Federal agencies for listing in the National Register, and historic components of the National Park System and properties designated by the Secretary of the Interior as National Historic Landmarks are automatically included in the National Register. Properties are listed in the National Register if they meet the National Register criteria for evaluation (see National Register leaflet).

A list of the properties entered annually in the National Register is published in the Federal Register. Issues, dated February 6, 1979, (vol. 44, no. 26, book 2), March 18, 1980, (vol. 45, no. 54, part 2), February 3, 1981, (vol. 46, no. 22, part 2), February 2, 1982, (Vol. 47, No. 22, part 3) include all properties listed in the National Register through November 1, 1981, and are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. A list of properties under consideration for listing in the National Register is published for comment every Tuesday in the Federal Register.

Federal regulations for the National Register program can be found in the Code of Federal Regulations under 36 CFR 60 (National Register nomination procedures), 36 CFR 63 (determination of eligibility procedures), and 36 CFR 67 (certifications of significance and rehabilitation for Federal tax purposes).

For additional information, write to your State Historic Preservation Officer or to the National Register of Historic Places, Interagency Resource Management Division, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240.

North →



Sewage/disposal to be approved
 septic system
 Water supply from Boone County
 Water District
 Building Size: 2400 s.f. floor = 4800 s.f. total
 Parking Required: 20 spaces (12 employee & 8 Public)

Ray Erpenbeck (agent for IPM, Inc.) C.U.P. 5-11-88

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