

APPLICATION FORM

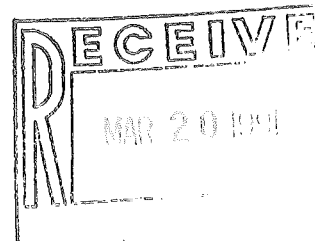
BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION

(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

- 1. (Check One)
 Boone _____ Florence _____ Walton _____ Union
- 2. (Check One)
_____ Conditional Use Permit Variance _____ Appeal
_____ Change in Non-Conforming Use
- 3. Applicant's Name HEBRON DEPOSIT BANK
Phone Number 689-4301
Applicant's Address 2652 NORTH BEND ROAD, P.O. BOX 360
HEBRON KY 41048
City State Zip
- 4. Description of Request: REQUEST FOR VARIANCE FOR A FREE-STANDING SIGN.
- 5. Name of Development HEBRON DEPOSIT BANK/OAKBROOK BRANCH
- 6. Location of Development SOUTHWEST CORNER KY 18 & KY 237,
6081 LIMABURG ROAD, BURLINGTON, KY 41005
- 7. Acreage Under Review ONE (1) ACRE
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
N/A
- 9. Owner of Property HEBRON DEPOSIT BANK
Phone Number 689-4301
- 10. Address of Property Owner 2652 NORTH BEND ROAD, P.O. BOX 360
HEBRON KY 41048
City State Zip
- 11. Proposed Use(s) On Site BANK SIGN
- 12. Total Square Footage of Existing and/or Proposed Buildings
2,850 SQUARE FEET
- 13. Current Zoning on Property C-2 (P.D.)
- 14. Deed Book 439 Page No. 103 Group No. 2031
- 15. Is the site subject to a zone change? NO
If yes, give date of approval N/A
- 16. Have you submitted a Site Plan with this request? YES
- 17. Have you submitted a list of adjoining property owners with this request? YES
- 18. Applicant's Signature: [Signature]
- 19. Property Owner's Signature: [Signature]

HEBRON DEPOSIT BANK
HEBRON, KENTUCKY 41048



SECTION B

(To be completed by Boone County Planning Commission Staff)

1. Date Received 3-20-91
2. Fee Received \$340
3. Is application complete? Yes Yes No *\$21 CLUR due*
4. Staff Reviewer JGT
5. Scheduled Board Action Date 4-10-91
6. Board Action:
 Approval
 Approved With Conditions (See #7)
 Disapproved (See #8)
7. Conditions: Approval with a condition that the remaining low parcels of the Toms property is subject to the November 18, 1989 Agreement (see meeting minutes - 4/10/91)
8. Reasons For Disapproval: _____

STAFF REPORT

#5

APPLICANT: Hebron Deposit Bank
DEVELOPMENT: Hebron Deposit Bank
LOCATION: 6081 Limaburg Road
ZONING: Commercial Two/Planned Development (C-2/PD)
DATE: April 10, 1991
REMARKS:

The applicant is requesting a Variance in the number of free-standing signs to allow a single free-standing sign for a bank. The 1.0 acre site is located across from the Oakbrook Marketplace on Limaburg Road, is zoned Commercial Two/Planned Development, and is owned by Hebron Deposit Bank.

History

On September 13, 1989 the Board approved a Conditional Use Permit for the Hardees restaurant. On November 8, 1989, the Board reversed the Zoning Administrator's decision regarding the free-standing sign for Hardees. In order to shed light on what this means, Article 19 of the zoning regulations reads in part:

Shopping centers, mixed use commercial, and planned developments shall be permitted one on-premises free-standing sign for the purpose of identifying the name of the development and its major access point. Such developments with frontage and access from two or more major thoroughfares may be allowed one free-standing sign at each such major thoroughfare for a maximum of two free-standing signs. No free-standing sign may be permitted for individual establishments or buildings located within, or accessible from, the entrance of a shopping center or mixed use development when such building or establishment, or the lot upon which such development is located is planned, designed, or marketed as part of such development.

The Zoning Administrator's decision denying Hardees the use of the free-standing sign was overturned. Permission for the sign was granted with the understanding that Mrs. Jones (owner) and Mr. McKinney (applicant) know that another company (which is Hebron Deposit Bank) will have to go through the options which are listed below, in order to obtain a free-standing sign.

A letter from the Zoning Enforcement Officer is attached as well as the minutes from the Board meeting of November 8, 1989. In the letter to Michael Conner, President of Hebron Deposit Bank, it states that in order to obtain a free-standing sign he has three options: appeal to the Board, apply to the Planning Commission for a Change in Concept Development Plan, or apply to the Planning Commission for a Zone Change to a Special Sign District. It was determined, however, by the current Zoning Administrator that the applicant had a fourth option and could pursue a Variance in the number of free-standing signs.

The applicant is requesting a 114.5 square foot free-standing sign that will be 30 feet in height. The following reviews the criteria the Board must use when granting Variances:

1. Staff does not feel that the Variance, if granted, will adversely affect the public health, safety or welfare; however, the Board must decide whether it will alter the essential character of the general vicinity. The Board must decide whether granting the Variance will cause a hazard or nuisance to the public and whether it will allow an unreasonable circumvention of the requirements of the zoning regulations. In making these determinations, the following points must be considered:
 - a. Because this property is in a planned development, there is a special circumstances with this development which does not apply to land in the general vicinity. The Boone County Zoning Regulations states the intent of planned developments as to encourage a sign package in harmony with the objectives of being innovative and imaginative.
 - b. Strict application of the zoning regulations would prohibit the applicant from erecting a free-standing sign. The applicant would still be able to utilize building mounted signs.
 - c. The circumstances are not the result of the applicant taken subsequent to the adoption of the zoning regulations. They were however, the result of the previous property owner.

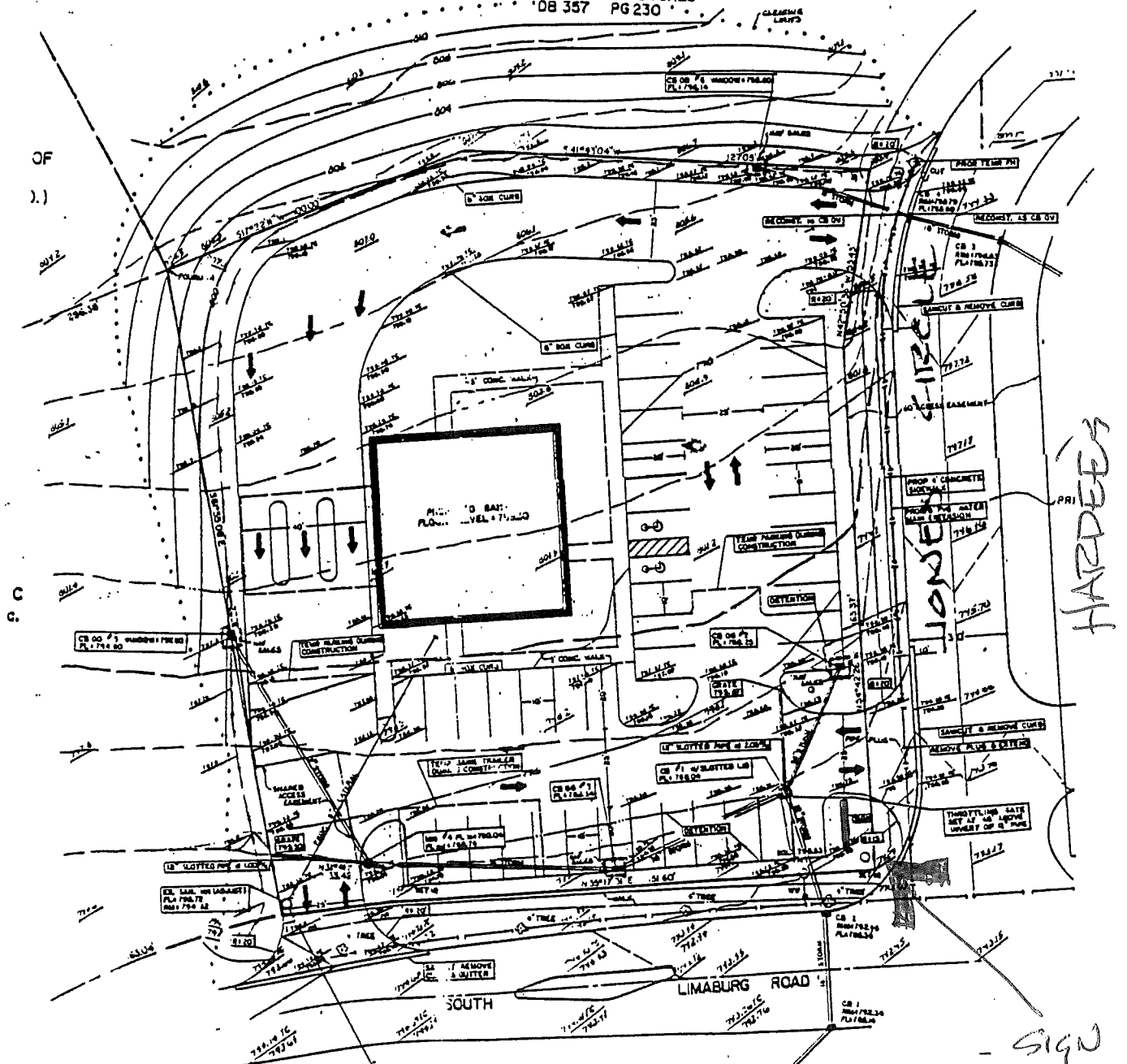
In conclusion, there are 5 outlots including the bank site and the Board will be hard-pressed to deny permission of these owners if this Variance is granted. In order to prevent this type of situation, an alternative may be for the applicant to apply for a Special Sign District as proposed by the previous Zoning Administrator.

Respectfully Submitted,


J. Gregory Tuttle
Planner I

JGT:kat

PAT & ARLENE JONES
08 357 PG 230

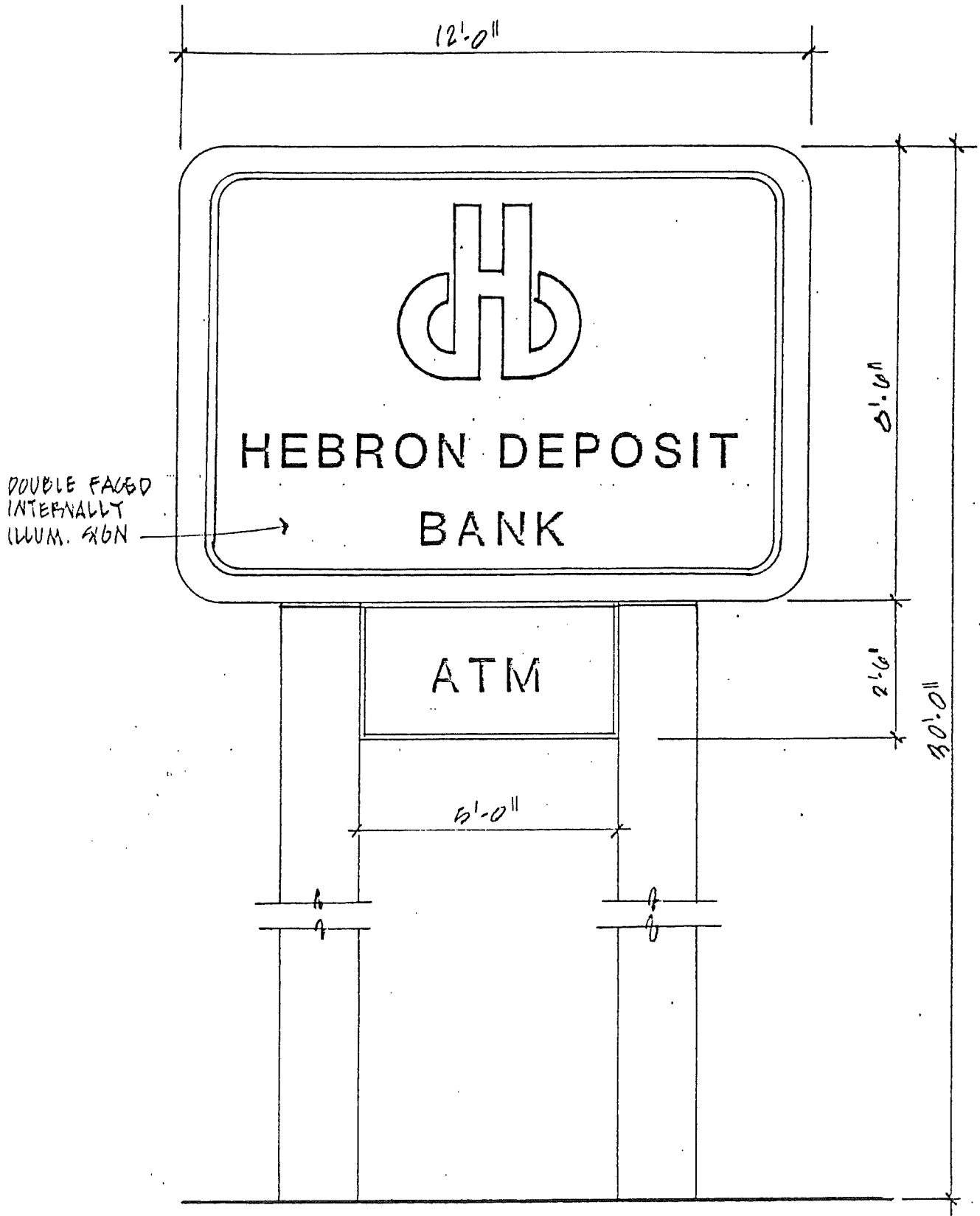


HEBRON DEPOSIT BANK

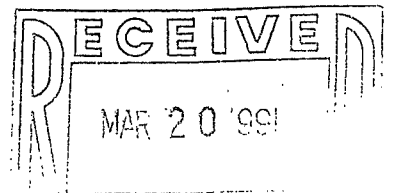
- SIGN
LOCATION

HARDY'S HOME

OF
C



PROPOSED
FREE STANDING SIGN
3/8" = 1'-0"



MATHIS, DALLAS & FROHLICH
Attorneys at Law

Willie Mathis, Jr., P.S.C.
Stephen K. Dallas, P.S.C.
Anthony W. Frohlich, P.S.C.
David W. Martin, P.S.C.
Terry R. Edwards, P.S.C.

Kentucky National Bank Bldg.
19 North Main Street
Walton, Kentucky 41094
(606) 485-7727

Kentucky National Bank Bldg.
7992 Dixie Highway
P.O. Box 6205
Florence, Kentucky 41042
(606) 525-6161
FAX: (606) 525-6194

March 19, 1991

PLEASE REPLY TO: FLORENCE OFFICE

Boone County Planning Commission
Attn: Thomas W. Breidenstein
Zoning Enforcement Officer
2995 Washington Street
Burlington, KY 41005

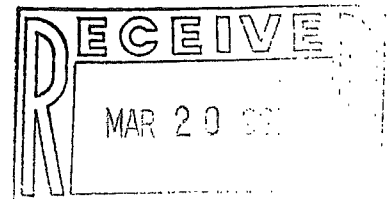
Re: **Variance Application for Freestanding Sign for
Hebron Deposit Bank at 6081 Limaburg Road,
Boone County, Kentucky**

Dear Mr. Breidenstein:

Please be advised that I represent the Hebron Deposit Bank in regards to their variance request to obtain a permit to build a freestanding sign at their new bank location on Limaburg Road. In order to have this variance request placed upon the April 10, 1991 agenda for the Boone County Board of Adjustment, enclosed please find the following documents:

1. Application form for Board of Adjustment and Zoning Appeals Action;
2. Deed to the property;
3. Drawing of proposed freestanding sign;
4. Names and addresses of adjoining property owners;
5. Site plan;
6. Application fee.

The request of my client is to allow them to erect a freestanding sign on their lot where a new branch bank is presently being constructed. The area where the branch bank is being constructed is not a strip center but a commercial development consisting of individual lots with individual freestanding - detached commercial buildings. Since the area is entirely commercial in nature and was so planned since its recent inception, the erection of a freestanding sign for the bank will not adversely affect the public health, safety or welfare, nor will it alter the essential character of the general vicinity.



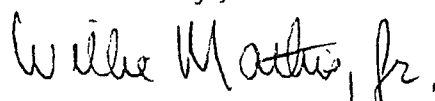
The sign will be constructed in complete conformance with all building codes and will be erected in a fashion so as not to be a hazard or a nuisance to the public. This request is a reasonable one under the zoning regulations since the Board has already permitted an adjoining lot owner, Hardees Restaurant, to erect a personal freestanding sign on the restaurant's property. Under these circumstances, the Board has already set a precedence to allow individual freestanding signs for each of the individual commercial lots that comprise this overall commercial development. In this location, an individual freestanding sign will not affect any residential units. Since the overall size of this commercial development is relatively small, the addition of another freestanding sign will not add visual burden to the area as opposed to such a request on Mall Road. As the sign is designed to identify the location of the Hebron Deposit Bank, it will be tasteful in appearance in contrast to some commercial signs which contain unsightly neon color panels.

There are special circumstances which apply to this request. Originally, there were to be two identification signs in this area. One identification sign has been erected for the strip center located on the east side of Limaburg Road. However, the other proposed identification sign was permitted to be erected as a specific business identification sign for Hardees Restaurant which is located on the west side of Limaburg Road. This situation has created circumstances whereby should this request be denied, Hebron Deposit Bank will not be allowed to erect any freestanding sign to identify its branch bank. Other newly constructed banks in the general area along the Kentucky 18 corridor have all been permitted to erect freestanding signs to identify their respective locations. Thus, strict applications of the provisions of the regulations would deprive the applicant of the reasonable use of the land and would create an unnecessary marketing handicap upon the applicant as opposed to the other nearby competing banks who all have been permitted to erect freestanding identification signs. The circumstances causing this request to be made are not the fault of the applicant and have arisen after the adoption of the current zoning regulations.

For the foregoing reasons, the applicant respectfully requests that the variance be granted.

I remain,

Sincerely,



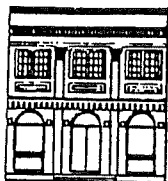
Willie Mathis, Jr.
Attorney at Law

WMjr/jvh
enclosures

BOONE COUNTY PLANNING COMMISSION

2995 Washington Street Burlington, KY 41005

606-334-2196 FAX 606-334-2264



February 11, 1991

Michael Conner, President
Hebron Deposit Bank
2652 North Bend Road
Hebron, KY 41048

Dear Mr. Conner:

This letter is written to inform you that your application for a free-standing sign for the new Hebron Deposit Bank at 6081 Limaburg Road, Boone County has been denied.

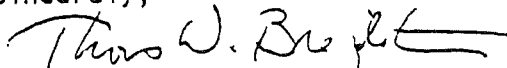
Article 19, Section 1920 reads (in part):

Shopping centers, mixed use commercial, and *planned developments* shall be permitted one on-premises free-standing sign for the purpose of identifying the name of the development and its major access point. Such developments with frontage and access from two or more major thoroughfares may be allowed one free-standing sign at each such major thoroughfare for a maximum of two free-standing signs. No free-standing sign may be permitted for individual establishments or buildings located within, or accessible from, the entrance of a shopping center or mixed use development when such building or establishment, or the lot upon which such establishment is located is planned, designed, or marketed as part of such development. (*This requirement also applies to any out-lots subdivided as part of a larger development and any development established under Article 15, Planned Development Overlay, of the zoning regulations.*)
p. 19-4 (italics added for emphasis)

On November 8, 1989, the Boone County Board of Adjustment reversed the Zoning Administrator's decision relative to the Hardee's free-standing sign. In other words, the Board classified this sign as the second entrance sign permitted for the Oakbrook Marketplace/Jones Property planned development. This decision effectively precluded any other free-standing sign for the area, including individual signs for individual lots. A copy of the minutes of this meeting is enclosed.

At this point, you have three options to secure a permit for this sign: appeal this decision to the Boone County Board of Adjustment, apply to the Boone County Planning Commission for a Change in Concept Development Plan, or apply to the Planning Commission for a zone change to a Special Sign District. If you decide to pursue either, give Kevin Costello or me a call to set up an appointment to discuss the application procedure.

Sincerely,



Thomas W. Breidenstein
Zoning Enforcement Officer

cc: Kevin P. Costello, AICP, Zoning Administrator

Chairman Whitton asked if there was anyone else present who wished to speak. There was no response.

Counselor Wilson advised that the Board could find that based on the facts presented, this does not represent a violation of the prior approval, provided that the work is completed by June 1, 1990, and the Board could overturn the Zoning Administrator's decision.

Mr. Ryan moved that the Board overturn the Zoning Administrator's decision on the basis indicated by Counselor Wilson, including the condition that the work be completed by June 1, 1990. Mr. Nevel seconded the motion and it carried unanimously.

- 1b. The request of William Keith and Peggy Browning (applicant) for a Variance to allow a reduction in the side yard building setback in order to construct a garage attached to an existing house. The 0.30-acre site, located on the southwest corner of Briargate Place and Fernwood Place, is zoned Suburban Residential One (SR-1) and is owned by William Keith and Peggy Browning.

Ms. Browning, part-owner of the residence on Fernwood Place, stated that denial of the Variance will create a hardship as the driveway is steep and a hazard in the winter. It is difficult to clean it before leaving for work in the morning or after work before dark. There is a connector box at the base of the driveway and she has narrowly missed it. She stated that they do not have a basement and need extra storage by using one side of the garage. She presented pictures of the site and stated that there would be no blockage of view. She indicated a string-fence in the picture to show the extent of the attachment. Ms. Browning stated that she has spoken with six of the neighbors and they are not opposed.

Chairman Whitton asked if there were any questions or if anyone else wished to speak.

Mr. Nevel questioned what would be done with the existing driveway and Ms. Browning advised that it may be removed at a later date. She added that the proposed garage would be brick to match the house, with the door facing Briargate Drive.

There being no further discussion, Mr. Nevel moved that the Variance be granted. Mr. Ryan seconded the motion and it carried unanimously.

2. The request of Michael McKinney (agent for Arlene A. Jones, owner) for an Appeal of the Zoning Administrator's decision denying permission for a free-standing sign at the recently approved Hardee's development. The 1.029-acre site, located at the southwest corner of KY 18 and Limaburg Road, is zoned Commercial Two with a Planned Development Overlay (C-2/PD) and is owned by Arlene Jones.

Mr. Gerald Newton, Zoning Administrator, presented the Staff Report using a slide presentation (see Staff Report). He stated that Hardee's is part of the Planned Development and allowing them a free-standing sign would not allow advertisement through signage on the remaining buildings.

Mr. McKinney stated that he represents Hardee's Food Systems. He stated that none of the other buildings exist and there is approximately seven acres that has not been platted and has no access road. He stated that the only platted lot for the purpose of this appeal is Parcel A. He stated that signs for other purposes may be addressed at a later date. He stated that when the Drees company got approval for the zone change, there was a misunderstanding that the conditions would also apply to the Jones property that was not even platted. He added that directly across the street is IGA, Florence Deposit Bank, and a car dealership, all having their own free-standing signs. He stated that the one multi-sign serving the Oakbrook Market Place is not readable when driving. He added that there is ambiguity in Section 19.20 of the regulations and due to this ambiguity, he asked that the sign be allowed.

Chairman Whitton noted that there was discussion of a ground-mounted sign. Mr. McKinney stated that the only discussion about this had been at 4 P.M. today with Mr. Newton.

Mr. Nevel questioned the size of the proposed sign and Mr. McKinney advised that it is 8' x 16' and 30 feet tall, which barely clears the top of the building. It is a typical Hardee's sign which is their trademark.

Mr. Newton advised that the area that was rezoned could be allowed two free-standing signs, and one already exists. He stated that in regard to the issue of ambiguity, you could determine that frontages on South Limaburg Road and KY 18 are involved and since there are two roads, there could be two signs. He noted that one sign is in place, leaving one sign for the remainder of the property. If Hardee's is granted a free-standing sign, then future uses would not be entitled to a sign without changing the Concept Development Plan or a Special Sign District. He noted that there is no guarantee that a sign package would be approved by the Planning Commission and the Fiscal Court, and the property owner needs to consider this.

Mr. McKinney stated that Mrs. Jones is party to the appeal and should be permitted to take that risk.

Chairman Whitton emphasized Mr. Newton's comments that there is no guarantee that a sign package would be allowed. Mrs. Jones stated that she understood that this could not be guaranteed.

Chairman Whitton asked if anyone else wished to speak. There was no response.

Mr. Houston moved that permission for the free-standing sign be granted, based on the finding within the regulations that there is frontage on two major thoroughfares, and with the understanding that Mrs. Jones and Mr. McKinney know that another company will have to go through the legal process in regard to the signage. Mr. Nevel seconded the motion.

Chairman Whitton noted that the motion is to overturn the Zoning Administrator's decision. Mr. Houston agreed.

Mr. Archambault stated that he would abstain from voting in regard to this item, but that his vote goes with the majority.

The Chairman asked for a vote on the motion made by Mr. Houston which found Mr. Houston, Mr. Nevel, Mr. Ryan and Chairman Whitton in favor. Mr. Archambault abstained. The motion carried.

3. The request of Raymond Erpenbeck (applicant) for an Appeal of the Zoning Administrator's decision regarding a zoning district boundary line. The subject property is located on the north side of KY 18, east of Limaburg Creek Road, and is currently zoned Commercial Two with a Planned Development Overlay (C-2/PD) and Industrial One (I-1).

Mr. Gerald Newton, Zoning Administrator, stated that the issue is not the use, but a question of the zoning boundary line. Mr. Newton presented the Zoning Administrator's Report which included the use of transparencies to overlay one map and/or drawing on another, (see Zoning Administrator's Report).

Chairman Whitton questioned where the 1,000-foot distance came from, as there is reference to this figure in Mr. Newton's report. Mr. Newton advised that it was presented by the Erpenbecks and is based on the two end points and arcing across the balance of the property at this distance from KY 18. Mr. Newton referred to his October 5, 1989 letter to Mr. Nienaber and the paragraph on Page 2 regarding "variety among land uses and densities in return for imaginative designs". He noted Mr. Nienaber's letter of October 19, 1989, page 2, which states, ". . . we are formally requesting that the proposed C-2 PD Development be permitted by dimension, . . .". He noted that there is some flexibility, but emphasized the words "by dimension" and stated that he cannot agree to this. He stated that they cannot add by dimension another 9.5 acres in Planned Development.

Chairman Whitton asked if there was anyone present who wished to speak in behalf of the request. Mr. Andre Busald asked to speak.

Mr. Busald, stated that he represents the applicants by option, which is Erpenbeck Enterprises. He re-presented the wide-lined overlay used by Mr. Newton and stated that whoever drew the zoning line started off at 1,050 feet and ended up at a point of 1,000 feet, with the lowest point in the middle of 870 feet. This creates a difficult parcel from a builder's point of view. Using a drawing, he indicated what was proposed to the Planning Commission and a red area indicating the land that the C-2/PD area would gain from the I-1 area in the rear if the boundaries ran parallel at 1,000 feet from the center line of the road. He noted that Mr. Newton had indicated this to be 9.5 acres. They measured at every 250 feet and the gain would be 5.6 acres. On another drawing, he indicated