

REVIEW NO. _____

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 Lee Erb
Phone Number 525-9215
Applicant's Address 144 Duelfel Lane
Walton Ky. 41094
City State Zip
- 4. Description of Request: Side Yard Variance
- 5. Name of Development my home
- 6. Location of Development 144 Duelfel Ln
- 7. Acreage Under Review _____
- 8. Lot Number and Name of Subdivision (if part of a subdivision) _____
- 9. Owner of Property Lee Erb
Phone Number 525-9215
- 10. Address of Property Owner 144 Duelfel Lane
Walton Ky. 41094
City State Zip
- 11. Proposed Use(s) On Site STORAGE SPACE FOR PERSONAL TOOLS & MATERIAL FOR EVERY DAY WORK (ELECTRICIAN)
- 12. Total Square Footage of Existing and/or Proposed Buildings 104 SQ FT.
- 13. Current Zoning on Property C3
- 14. Deed Book 238 Page No. 209 Group No. 2064
- 15. Is the site subject to a zone change? no
If yes, give date of approval _____
- 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]

DB
236/101
pg

APPLICATION FORM
BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION

SECTION B

(To be completed by Boone County Planning Commission Staff)

- 1. Date Received 6-20-91
- 2. Fee Received 241.00 RLG87
- 3. Is application complete? Yes No
- 4. Staff Reviewer _____
- 5. Scheduled Board Action Date _____
- 6. Board Action:
 - _____ Approval
 - _____ Approved with Conditions (See #7)
 - _____ Disapproved (See #8)
- 7. Conditions: _____

- 8. Reasons for Disapproval: _____

STAFF REPORT

#2

APPLICANT: Lee Erb
REQUEST: side yard Variance
LOCATION: 144 Dueffel Lane
ZONE: Commercial Services (C-3)
DATE: July 10, 1991

REMARKS:

The applicant is requesting a Variance in the minimum side yard setback to allow the placement of a shed closer than 5 feet to the property line. The 0.425 acre site, located on the north side of Dueffel Lane, is zoned Commercial Services (C-3) and is currently owned by Lee Erb.

History

This request is before the Board as the result of a violation by the applicant which occurred this April. Specifically, the applicant moved a shed into the front yard of his home without a permit. Article 17 of the Boone County Zoning Regulations requires that all accessory structures be located in the side or rear yard of the principal building only and no closer than 5 feet to the side and rear property lines. The building code would not allow the applicant to attach this shed to the front of his trailer, even though the front yard setback could be maintained. Therefore, the applicant is requesting a Variance to allow the shed to be placed in his eastern side yard virtually next to the side property line (according to the submitted site plan). The shed is 8 feet, 7 inches by 12 feet, 11 inches.

Please recall that this Board granted a Variance for this site in November, 1987. At that time, the applicant built a pool in his rear yard closer than 5 feet to the side property line and also in violation of the zoning regulations. The Variance was approved with the condition that a 6 foot high privacy fence be built. The privacy fence was partially built, but construction was discontinued when the neighbors disagreed on the exact location of the their property line. Since that time, the pool has been removed.

Review

The following reviews the standards which the Board must use in evaluating Variance requests:

1. If granted, the reduced side yard setback will not adversely affect the public health, safety, or welfare, and will not cause a hazard or a nuisance to the public. The Board must also consider whether, if granted, the Variance will alter the essential character of the general vicinity or will allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Board must consider the following:

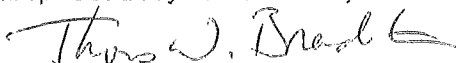
- a. The applicant will argue that the Variance arises from the special circumstance of lot width. He will explain that the shed is needed for his electrical business, and that there is no other feasible place to put the shed on his property. The trailer and its additions are so close to the side lines, and health regulations will not allow him to place the shed in the rear yard.
 - b. Strict application of the setback requirements will deprive the applicant of the use of this shed in the side yard; however, there is already a shed in the rear yard which could be used. Also, there is a screened in porch on the west side which could be utilized for storage, or modified so that the applicant can better access his rear yard. The Board must decide whether denial of the use of this shed would create an unnecessary hardship on the applicant.
 - c. The special circumstance of lot width is not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations.
2. The zoning regulations require the Board to deny any request for a Variance which arises from circumstances that are the result of willful violations of the zoning regulations by the applicant. Although Staff has not been pressed to prove that the placement of the shed constitutes a willful violation, the surrounding circumstances of this request do deal with a violation of the zoning regulations.

Conclusion

If denied, the applicant will be required to remove the shed from his property. This task should be easy to accomplish since the shed was not constructed on the site, but was hauled to the applicant's property. Staff would suggest that if the request is denied, that the Board require the removal of the shed within 2 weeks.

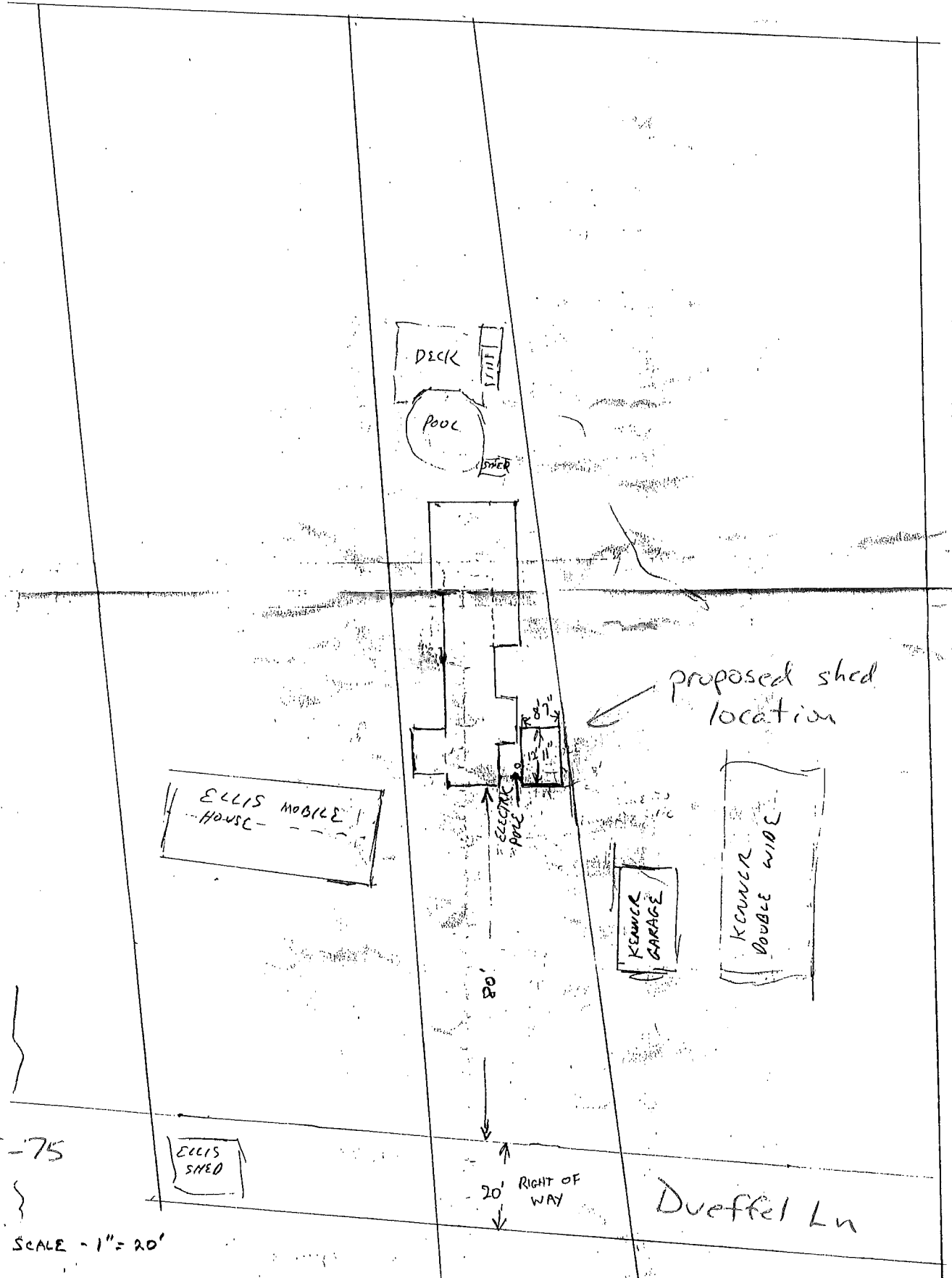
If approved, the neighbor to the east will be faced with not only an encroachment on her property in the rear (swimming pool), but also an encroachment on her property in the front. Staff would suggest as a condition, should this request be approved, that the applicant be required to construct a six (6) foot high privacy fence from the front edge of his trailer to the rear property line to minimize the impact of these encroachments. This construction should occur within 1 month of approval, and should be done only after the applicant has his property surveyed and staked by a professional land surveyor.

Respectfully submitted,



Thomas W. Breidenstein
Zoning Enforcement Officer

TWB:kat



I-75

SCALE - 1" = 20'

Feb 7-10-91

We are in need of a storage building. I currently store my larger tools and extra materials for my business on East Bend Road at a friends garage. We feel this is an unnecessary burden to us as well as him. We were told by Building Inspector Dan Hinkle we would not be able to put the building in the rear of the house (north side) because of our leach lines. We don't have enough room on the west side and an ordinance prevents us from putting it in front of the house. (South Side) It ~~seems~~ seems the only alternative we have is to put it on the east side of our home.

[Signature]

Erb 7-10-91

COPY

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)

Lee Erb
144 Dueffel Lane
Walton, Kentucky 41094

2. ADDRESS OF PROPERTY

144 Dueffel Lane
Walton, Kentucky 41094

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

N/A

DEED BOOK: 236

PAGE NO.: 101

GROUP NO.: 2064

4. TYPE OF RESTRICTION (S) (Check all that apply)

_____ Zoning Map Amendment _____ Conditional Use Permit
from _____ to _____

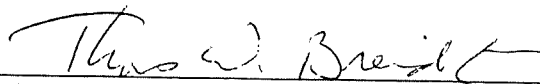
_____ Development Plan _____ Conditional Zoning
Condition

_____ Subdivision Plat _____ Other: (Specify)
(unrecorded)

X Variance

5. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION
2995 WASHINGTON STREET
BURLINGTON, KENTUCKY 41005



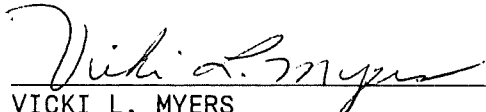
SIGNATURE OF COMPLETING OFFICIAL

Thomas W. Breidenstein, Zoning Enforc. Officer
NAME AND TITLE OF COMPLETING OFFICIAL
(type or print)

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE


Subscribed, sworn to, and acknowledge before me by Thomas W. Breidenstein
on behalf of the Boone County Planning Commission this 17th day
of September, 1991.


VICKI L. MYERS
NOTARY PUBLIC, State at Large

My commission Expires:

April 8, 1995

This instrument was prepared for recording purposes only by:


VICKI L. MYERS
Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)

BCPC 01/89

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Variance
as approved by the Boone County Board of Adjustments and in accordance with the
current zoning in effect as of July 10, 1991, (Certificate of Land Use
Restriction # BCBOA-91-018-A), for Lee Erb, property
owner.

The above mentioned Variance is approved subject to the following
conditions: (1) That the applicant be required to construct a six-
foot high privacy fence from the front edge of his trailer to the
rear property line to minimize the impact of the encroachments
within a month; and (2) that the construction occur after the
applicant has his property surveyed and staked by a professional
land surveyor.

The approved Variance as well as the preceding conditions apply
to the property described in: DEED BOOK 236 PAGE NO. 101 Group No. 2064