

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: Robert A. Flick For Hebron Fire Dept  Owner

Address: 2023 SAND RUN RD  Agent

HEBRON Telephone: 689-7161 or 686-7655

Location: N 237 + RT 20

Name of Property Owner: Ky DOT

Address of Property Owner: \_\_\_\_\_

Zoning District: C-2 P1 Area in Acres: 4.84 acres

Deed Book: \_\_\_\_\_ Page Number: \_\_\_\_\_ Group Number: 2007

Description of Request: VARIANCE RE FRONT SET BACK

Applicant's Signature: Robert A. Flick For Hebron Fire Dept

Property Owner's Signature: \_\_\_\_\_

FOR PLANNING COMMISSION USE ONLY

Application Fee: 165.00 Date Received: \_\_\_\_\_ By: \_\_\_\_\_

Referred To: \_\_\_\_\_ Meeting Date: \_\_\_\_\_

Action Taken: \_\_\_\_\_ Date of Action: \_\_\_\_\_

BOONE COUNTY BOARD OF ADJUSTMENT  
SEPTEMBER 11, 1985 6:30 P.M.

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Vice-Chairman Archambault called the meeting to order with roll call of the Board members present. Three members present. Absent: Mr. Ryan and Chairman Whitton. Counselor Wilson was also present.

Vice-Chairman Archambault proceeded to Item 1 of the Board's Agenda.

Variance

The request of Robert Flick (agent) for Hebron Fire Department for a Variance in the required front yard setback. This property is located at Ky. 237 and Ky. 20 and is currently zoned Commercial Two.

Vice-Chairman Archambault explained that communication had been received from the agent which indicated that the exact amount of the variance at the present time was unknown. Vice-Chairman Archambault stated that the staff report indicated that it had been determined that the zoning district would not support the proposed development. Mr. Archambault related that the staff report stated that based on the foregoing facts the application was requesting deferral of the agenda item.

Mr. Bob Flick, representing the Hebron Fire Department, requested that the fees be waived with the exception of the hard costs as the proposed use is for a County organization.

Counselor Wilson noted that the Planning Commission with regard to the proposed zone change pending had waived all but the hard costs.

Mr. Nevel moved that the Board defer action on the variance request until the meeting of the Board in October. The motion was seconded by Mr. Houston. After discussion, the motion carried unanimously.

Mr. Nevel moved that the Board waive all but the hard costs involved in the proposed variance request. The motion was seconded by Mr. Houston. After discussion, the motion carried unanimously.

Counselor Wilson noted that the agenda item would be heard at the meeting of the Board on October 9, 1985 and that no other notice would be given.

Conditional Use Permit

The request of Theodore and Carol Houston for a Conditional Use Permit to operate a day care center. This property is located at 691 Peach Tree Lane and is currently zoned Suburban Residential Two.

Staff member Ralph Hopper presented a slide presentation on the subject and surrounding area. Mr. Hopper stated the subject property is lot 64 of the Cherry Hill Subdivision which is zoned Suburban Residential Two. Mr. Hopper explained the zoning district does permit a Day Care Center as a conditional use under Article 8, Sect. 843 of the regulations. Mr. Hopper noted the property is currently being used as a residence and a Day Care Center, and the applicant has received a license to operate the facility with up to 12 children. Mr. Hopper noted a resident of the neighborhood had contacted the Planning Commission office after receiving advertisement of the Day Care Center after which time the property owners were notified that such a use would require a conditional use permit. Mr. Hopper stated a submitted plan indicates that the property will remain in its current condition except for the addition of a 10'x48' driveway and the installation of a swing set in the rear yard.

Mrs. Carol Huston, applicant, noted there would be the addition of a swing set and also that the property is the residence of her daughter and her husband.

Mr. George Neff, the neighbor across the street, stated he was not notified of the pending permit. Mr. Neff stated he is in opposition to the proposed use due to increase in the traffic.

Mrs. Elizabeth Stedtler expressed opposition to the proposed Day Care Center for the reasons of increased load on the area sewer capabilities and the increased traffic caused by the Center. Mrs. Stedtler stated they wish the neighborhood to be preserved as a residential area as it has been for the past 23 years.

Mrs. Ruth Hunter, a neighborhood resident, inquired of the differentiation between Residential One and Residential Two properties. Mr. Hopper responded the difference between the residential areas is the intensity of the residential development (SR-1 allows 4 dwelling units per acre; SR-2 allows 8 dwelling units per acre). Mrs. Hunter expressed concern of the widening of the drive area as it would take up pretty much of the entire residential front yard. Vice-Chairman Archambault noted the drive would be 20' wide which would leave a remaining 40' in front yard area.

Mr. Coherst, operator, explained that prior to notification of the need for the permit the Day Care Center had been operating out of the residential property. Mr. Houston noted that previously there had been no problems with regard to traffic for the reason that it is rare for three parents to be dropping the children off at the same time. Mr. Houston explained the drive was intended to solve the problem should the rarity of multiple drop off of children occur simultaneously with others. Mr. Houston noted there were no previous complaints and the system is more of a staggered system of child dropoff.

Mrs. Stedtler expressed concern of the conditional use permit staying with the property and concern of the future use after the applicant is long gone from the area.

Counselor Wilson noted that is true that the Conditional Use Permit would go with the land unless the Board would place some time constraint on the Conditional Use Permit which would be unusual.

Mr. George Neff expressed concern of other day care centers moving into the area and creating the domino effect.

Vice-Chairman Archambault explained that there is no assurance that others may or may not follow and noted that within the zoning code people have the right to request such a use through the conditional use permit process on a case-by-case basis.

Mr. Nevel inquired of the proposed hours of operation. Mrs. Peggy Coherst (daughter of Carol Houston) stated the hours of operation would be 7:00 a.m. to 6:00 p.m.

Mr. Coherst explained there would be no changes to the property other than the drive area. Mr. Coherst stated there would not be any signs except for a small sign in the door.

Vice-Chairman Archambault inquired of the reference that children were there initially but that the children were not at the present location now. Mrs. Coherst responded the children went to her mother's day care location for use of a pool which is located in Erlanger.

Vice-Chairman Archambault inquired of when the letters went out to the neighbors. Mr. Hopper responded the letters went out to the neighbors on the date of the legal notice.

Mrs. Hunter inquired of how long the children were at the proposed location. Mrs. Coherst responded the children were at the proposed location during the month of May.

Mr. Neff inquired of the number of people needed to oppose the Conditional Use Permit.

Vice-Chairman Archambault explained that any number may oppose a proposed use. Mr. Archambault explained that the Board listens to both sides, support and opposition, and using the Zoning Code as a guideline and the particular circumstances of an area they make a decision on the approval or denial of a Conditional Use Permit.

Mrs. Fay Smith, 683 Peach Tree, expressed her opposition to the proposed use. Mrs. Smith stated that the pictures are a deceiving in that they depict the area between lots as quite spacious while in truth the residential properties are close to each other.

Counselor Wilson noted the Board looks at the impact of the proposed use on adjacent properties and what the future land use in the Comprehensive Plan shows for the area. Counselor Wilson stated that if the Board feels they need to take a personal look at the area they certainly have the right to do so. Mr. Wilson noted the only restraint may be the 40 day time limitation requirement. Counselor Wilson suggested the applicant be requested to waive the 40-day requirement.

Vice-Chairman Archambault inquired if the applicant would waive the time limitation. Mrs. Houston stated that would be acceptable to them. Mr. Hopper suggested the applicant send a written statement on the waiver also. Mrs. Houston responded she would do so.

Mr. Nevel moved that the Board defer action until the October meeting of the Boone Board of Adjustment in order to allow the Board to personally view the subject and surrounding area. The motion was seconded by Mr. Houston. After discussion, the motion carried unanimously.

Vice-Chairman Archambault stated the next meeting would be October 9, 1985 at 6:30 p.m.

#### Conditional Use Permit

The request of Darryl Black for a Conditional Use Permit to place a mobile home on his property located at 3858 Bellview Road. This property is currently zoned Agricultural One.

Staff member Ralph Hopper presented a slide presentation on the subject and surrounding area. Mr. Hopper presented the staff report which stated the applicant is requesting a Conditional Use Permit to place a mobile home on a 6.32 acre tract located at 3858 Bellview Road. Mr. Hopper noted the property is currently zoned Agricultural One which does permit a mobile home as a conditional use under Article 6, Sect. 613 of the zoning Regulations. Mr. Hopper noted the surrounding uses as agricultural. Mr. Hopper stated the Boone County Comprehensive Plan Land Use Map indicates the subject property and those properties to the north, east and south as being environmentally sensitive while to the west is planned agricultural land uses. Mr. Hopper explained

the submitted plan indicates the property beginning at the end of a 30' right of way approximately 1057 feet long. Mr. Hopper stated that from that point the mobile will be setback an additional 800 feet which will make the home 50 feet from the north property line and approximately 89 feet from the south property line.

Vice-Chairman Archambault noted the applicant had done some clearing of the land there. Mr. Black, applicant, responded in the affirmative and that he would like to move in within the next four weeks.

Mr. Nevel inquired if the applicant has to receive Board of Health approval of the sanitary sewage system. Mr. Hopper responded that the permit would require approval of the Northern Kentucky District Health Dept. for sanitary sewage permit. Mr. Black stated that he has contacted the Health Dept. in this regard.

There was no other support or opposition expressed.

Mr. Houston moved that the Board approve the Conditional Use Permit for the placement of a mobile home on the property located at 3858 Bellview Road. The motion was seconded by Mr. Nevel. After discussion, the motion carried unanimously.

#### Conditional Use Permit

The request of Perry Trouberman for a Conditional Use Permit to place a mobile home on property located at 3700 Ashby Fork Road. This property is currently zoned Agricultural One.

Staff member Ralph Hopper presented a slide presentation on the subject and surrounding area. Mr. Hopper noted other mobile home locations in the subject area. Mr. Hopper presented the staff report which stated the applicant is requesting a Conditional Use Permit to place a mobile home on a 11.76 acre tract. Mr. Hopper noted the property is currently zoned Agricultural One which does permit a mobile home as a Conditional Use under Article 6, Sect. 613 of the zoning regulations. Mr. Hopper described the subject tract is undeveloped and the adjoining properties to the east and west are largely undeveloped and do have mobile homes on the land. Mr. Hopper related the Boone County Comprehensive Plan Land Use Map indicates a planned future land use for the subject and adjoining tracts for agricultural uses and are environmentally sensitive. Mr. Hopper explained the submitted plan shows that the mobile home will be placed 100 feet from Ashby Ford Road, 100 feet from the west property line, and approximately 192 feet from the east property line.

There was no audience support or opposition expressed.

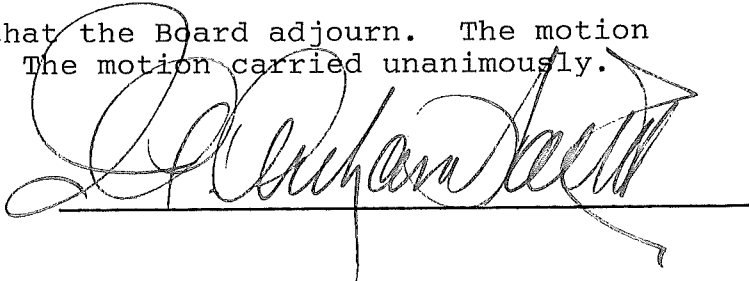
Mr. Nevel moved that the Board approve the Conditional Use Permit for the placement of a mobile home on property located at 3700 Ashby Fork Road. The motion was seconded by Mr. Houston. After discussion, the motion carried unanimously.

Administration

The Board considered the Minutes of the meeting of August 14, 1985 of the Boone Board of Adjustment, and of the Special Meeting of the Board of August 21, 1985.

Mr. Nevel moved that the Board approve the Minutes of the August 14, 1985 and the Special Meeting of the Board of August 21, 1985 as reviewed. The motion was seconded by Mr. Houston. After discussion, the motion carried unanimously.

Mr. Houston moved that the Board adjourn. The motion was seconded by Mr. Nevel. The motion carried unanimously.



Attest:



BOONE COUNTY BOARD OF ADJUSTMENT

OCTOBER 9, 1985

6:30 P.M.

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Roll call was taken by staff member Jeannie Huddleson. Three members present. Absent: Mr. Nevel and Chairman Whitton Counselor Dale Wilson was also present.

The minutes of the September 9, 1985 were considered. Mr. Ryan moved to approve the minutes as distributed. The motion was seconded by Mr. Houston. After discussion, the motion carried unanimously.

Conditional Use Permit

The request of Theodore and Carol Houston for a Conditional Use Permit to operate a day care center. This property is located at 691 Peach Tree Lane and is currently zoned Suburban Residential Two. (This request was deferred from the last meeting).

Staff member Ralph Hopper reiterated the contents of the staff report as presented on September 11, 1985.

Mr. Dan Coherst, representing Theodore and Carol Houston, addressed the previously expressed concerns of neighborhood residents by stating the additional amount of traffic would only amount to 12 cars and that the addition of 12 children should not cause a sewage problem. Mr. Coherst stated that if the area residents wished the expanded driveway not to be installed, the applicant would not install same.

Mr. Ryan inquired if the day care center was currently in operation. Mr. Coherst responded not at present.

Mrs. Houston, applicant, noted that she has previously acquired the proper state licensing for the day care center. Mrs. Houston assured that one day care center would not run the neighborhood down.

Attorney Edward Drennen presented a signed petition of opposition by 34 area families who felt the proposed use was inappropriate. Mr. Drennen contended the use would not be harmonious with the residential subdivision, which has been a residential area for 24 years. Mr. Drennen expressed concern of increased traffic and contended the proposed use could well be a nuisance to the residential neighborhood. Mr. Drennen stated that property needs to be inspected by the State Fire Marshal which the applicant had not presented.

Mrs. Houston responded the 2 car drive could provide 4 parking spaces along with the area on the street in front of the property providing some additional parking. Mrs. Houston also noted the home already has been inspected by the State Fire Marshall's office, and the Human Resource Department. Mrs. Houston explained the regulation with regard to staffing of the day care facility. Mrs. Houston noted the side and back is and always has been fenced. Mrs. Houston also noted that some time ago a day care center was operated for 17 years in the neighborhood but that it had subsequently closed.

Mr. George Shadowen, inquired if the Board members had inquired of any effect or input from Kenton County as the property is near the county division line. Mr. Shadowen expressed concern of the street being a main thorofare and already congested. Mr. Sahdownen also expressed concern of the resale of the property and the future use and maintenance of the property.

Counselor Wilson explained the Conditional Use Permit does run with the land.

Mr. Coherst suggested in the alternative the Board place a stipulation which would prohibit the proposed use continuing if the property is sold.

Counselor Wilson explained that such a resale stipulation could be placed on the property but that new owners could subsequently reapply for such a use.

Mr. Ryan requested Mr. Hopper interpret Section 263 of the zoning code. Mr. Hopper explained Section 263.

Vice-Chairman Archambault inquired if the Board denied such a proposed based on the proposed use, in all probability likelihood, upsetting the ecology of the neighborhood.

Counselor Wilson explained the other factors in consideration of a purposes conditional use permit of the proposed use in relation to the Comprehensive Plan Text, the future uses intended for the area, and the existing uses in the area.

Mr. Ryan inquired if according to staff interpretation if the applicant would meet the parking requirements if they expand the driveway. Mr. Hopper explained the requirements as stipulated in the regulations by Mr. Coherst inquired by the type of fencing around the proposed site. Mr. Coherst responded the fence is a welded wire fence which would prevent the children from going out of the yard.

Mike Brady, 3427 Maple Tree Drive, an adjacent property owner, stated that while the day care center operated during the month of April at the proposed location, he was disturbed by the noise generated from the location and had to resort to closing windows and utilizing air conditioning.

Mrs. Ruth Hunter explained the slides as presented were deceiving in that they gave the appearance of large lots which she described the lots are not very large, and the front yard of the proposed facility being almost totally a driveway area. Mrs. Hunter stressed the proposed use would only devalue adjacent and area property values.

Mrs. Houston assured the driveway area, if installed, would be on applicants' property only.

Mr. Ryan stated he can sympathize with both the applicant and the area residents on the matter. Mr. Ryan then moved that the Board deny the request for a Conditional Use Permit to operate a day care center at the location of 691 Peach Tree Lane based on Section 263 of the Zoning Regulations and that the proposed use would not be compatible with the existing residential use. The motion was seconded by Mr. Houston.

Vice Chariman Archambault stated he was one who had viewed the proposed location.

After discussion, the motion carried unanimously.

#### Conditional Use Permit

The request of Robert Flick (agent) for the Hebron Fire Department for a Conditional Use Permit.

Staff member Ralph Hopper informed the Board the request would need to be deferred until the next meeting of the Boone Board of Adjustments to allow time for the Fiscal Court to act on the recommendation of the Planning Commission on a pending zoning map amendment on the subject property. Mr. Hopper also informed Board members the application was received the first week of September and that as the 60-day time limitation is approaching he would, accordingly, request the applicant to write a letter waiving the time constraints on the subject request.

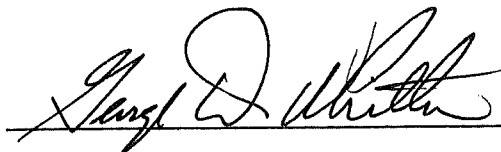
Mr. Ryan moved the Board defer action on the request until the next Board of Adjustment meeting. The motion was seconded by Mr. Houston. After discussion, the motion carried unanimously.

Mr. Ryan moved the meeting adjourn. The motion was seconded by Mr. Houston.

The meeting adjourned.

Attest:

  
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