

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

- 1. (Check One) Boone [checked] Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_
2. (Check One) Conditional Use Permit [checked] Variance \_\_\_\_\_ Appeal \_\_\_\_\_
3. Applicant's Name Joseph T. Baxter Phone Number 586-0094 Applicant's Address 938 Bellview Rd Petersburg Ky 41080
4. Description of Request: Auto Repair / Towing Service All customers vehicles and proposed buildings will be contained in existing fenced area.
5. Name of Development
6. Location of Development Tanner Station 3113 3rd St Petersburg, KY
7. Acreage Under Review 1 Phone# 586-1111
8. Lot Number and Name of Subdivision (if part of a subdivision)
9. Owner of Property Nancy Baxter Phone Number of Owner 513-941-5981 Address of Property Owner Cleves OH 45002
10. City 5092 Deer Creek State woods Zip
11. Proposed Use(s) on Site
12. Total Square Footage of Existing and/or Proposed Buildings 40 x 60 Building
13. Current Zoning on Property
14. Deed Book 593 Page No. 62-67 Group No. 2011
15. Is the site subject to a zone change? NO
16. Have you submitted a Site Plan with this request? NO
17. Have you submitted a list of adjoining property owners with this request? YES
18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

Applicant's Signature: [Signature]

Property Owner's Signature: Nancy Baxter

BOARD OF ADJUSTMENT AND  
ZONING APPEALS ACTION  
APPLICATION  
PAGE 2

**SECTION B** (To be completed by the Boone County Planning Commission Staff)

1. Date Received 8-12-98 Fee Received 482.<sup>00</sup> R# 17829
2. Is application complete? Yes \_\_\_\_\_ No
3. Staff Reviewer Edward Colman
4. Scheduled Board Action Date 9/9/98
5. Board Action:  
 Approved  
 **Approved with Conditions** (See #6)  
 Denial (See #7)
6. Conditions of Approval: \_\_\_\_\_  
\_\_\_\_\_
7. Reasons for Denial: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Boone County Planning Commission**  
2995 Washington Street  
Burlington, Kentucky 41005  
(606) 334-2196 Phone  
(606) 334-2264 Fax

NOTE: See Boone County Planning Commission Fee Schedule for Board of Adjustment Fees.

Site Plan Review is not granted by the appropriate Board of Adjustment.

An application consists of all fees paid in full, submitted drawings and a completed application form.

## STAFF REPORT

**APPLICANT:** Joseph T. Baxter  
**LOCATION:** 3113 Third Street, Boone County, (Petersburg), KY  
**ZONING:** Suburban Residential Two/Small Community (SR-2/SC)  
**DATE:** September 9, 1998

### Proposal

The applicant is requesting a Conditional Use Permit to allow automotive repair and related towing services in conjunction with auto repair on an approximate 1 acre tract, located at 3113 Third Street in Petersburg. The site is the current location of Tanners Station, which serves the Petersburg area as a grocery, restaurant, and gasoline station. The property is located within the Small Community (SC) overlay district of Petersburg. The zoning classification for Tanners Station is Suburban Residential Two/Small Community (SR-2/SC). The intent of the Small Community (SC) overlay district is to provide for the maintenance and development of small community centers where an integrated variety of land uses are essential to the vitality, viability, and well-being of the community. The Small Community (SC) overlay district also permits commercial uses that are not permitted in the underlying Suburban Residential Two (SR-2) zone.

The proposed use of the property for automobile repair and related towing services in conjunction with auto repair is permitted as a conditional use within the Small Community (SC) overlay district.

The use may be permitted by the Boone County Board of Adjustment provided that:

1. The activity is an integral part of the area's function as a small community center, and is not of scale, nature, or character which will detract from or conflict with the principal purpose and continued well-being of the center;
2. The arrangement of use, building, or structure is compatible with the arrangement or organization of permitted and accessory uses which are to be protected in the district; and
3. Historical and architectural characteristics are protected from inappropriate alteration to existing structures and new buildings are sensitive to the established character of the small community overlay.

A letter dated July 14, 1998, was sent to Kevin Wall, Director of Zoning Services by the property owners, Nancy and Joe Baxter. The purpose of the letter was to explain what types of uses occur at the site. Mr. Wall reviewed the letter and responded with a follow-up letter dated July 23, 1998. Mr. Wall's letter explained in detail, which uses are permitted, which uses are not permitted, and which uses are permitted, provided those uses receive Conditional Use Permits from the Boone County Board of Adjustment and Zoning Appeals.

Mr. Wall explicitly stated that towing is only permitted when it is conducted as part of an approved automobile repair facility as an accessory function of the conditional use, provided the conditional use (automotive repair) is approved by the Board of Adjustment. Mr. Wall also stated that wrecking services/storage of junk vehicles is not permitted in the SR-2/SC zoning district under any circumstances. It was also Mr. Wall's interpretation that commercial storage/parking of recreational vehicles, boats, etc., were not permitted in the SR-2/SC zoning district. Mr. Wall advised Mr. Baxter that these activities must be discontinued. Both letters accompany this staff report.

#### Staff Concerns/Comments

1. The applicant is responsible for discontinuing those activities on the site that have been determined to be uses that are not permitted by the Boone County Zoning Regulations in the Suburban Residential Two Small Community (SR-2/SC) zoning district. These uses shall be discontinued regardless of the outcome of this public hearing.
2. Staff suggests that if the automotive repair and related towing services are approved, all major repair occur within the fenced area on the rear portion of the property.

#### Conclusion

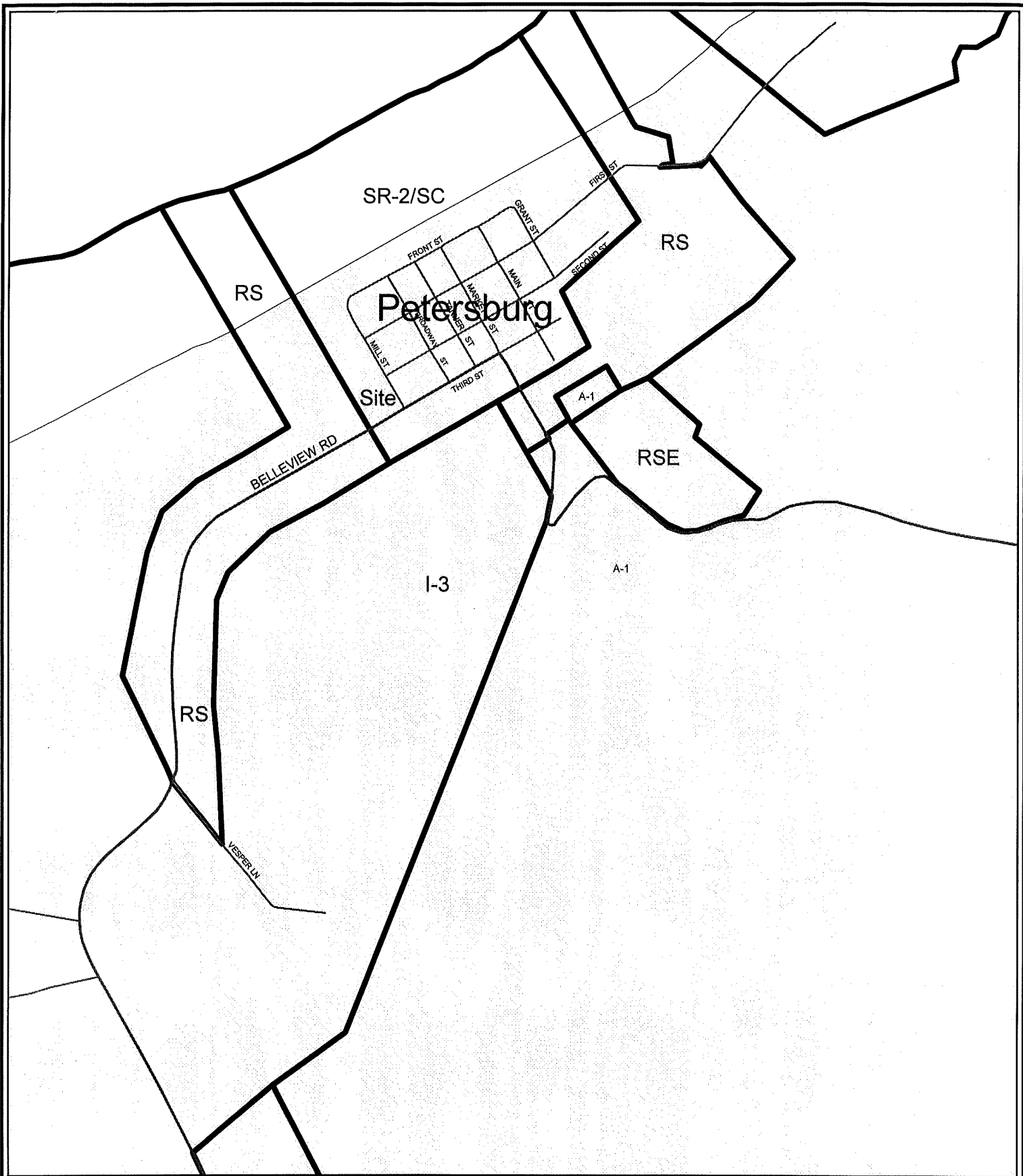
K.R.S. 100.237 gives the Boone County Board of Adjustment and Zoning Appeals the authority to approve the applicant's request for a Conditional Use Permit to allow automotive repair and related towing services in conjunction with auto repair at 3113 Third Street in Petersburg. The Board should base its decision on the applicant's request as it relates to the compatibility of the seven criteria for a Conditional Use Permit and the criteria for a Conditional Use within a Small Community (SC) overlay district. The Board shall determine whether or not the proposed Conditional Use Permit will adversely affect the Public health, safety, or welfare, alter the essential character of the general vicinity, cause a hazard or a nuisance to the public, or allow an unreasonable circumvention of the requirements of the zoning regulations.

Respectfully Submitted,

Edward Coleman  
Planner

EC\pr

Attachments  
-Location Map  
-Site Map



Tanners Station  
 3113 Third Street



1 inch equals 1100 feet  
 Produced by the  
 Boone County Planning Commission  
 GIS Services Division  
 September 4, 1998





# Tanners Station

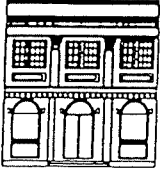
## 3113 Third Station



1 inch equals 100 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
September 4, 1998



# BOONE COUNTY PLANNING COMMISSION



2995 Washington Street, Burlington, KY 41005

606-334-2196

FAX 606-334-2264

E-Mail plancom@one.net

July 23, 1998

Mr. Joe Baxter  
Tanners Station  
3113 Third Street  
Petersburg, KY 41080

RE: Zoning Issues Pertaining To Tanners Station, 3113 3rd Street, Petersburg, Boone County, Kentucky; Suburban Residential Two/Small Community (SR-2/SC) Zone

Dear Mr. Baxter:

I have reviewed your letter dated 7/14/98 regarding the current and future uses at Tanners Station, and have visited the site twice in the past week. I understand and can appreciate the substantial investment that has been in the business and the effort that has been made to improve the facility. Based on the facts outlined in your letter, I am providing the following information regarding how the activities at Tanners Station relate to the applicable zoning requirements.

First, the site is located within a Suburban Residential Two/Small Community (SR-2/SC) zone. The "SC" overlay zone allows a wide range of commercial uses in the small town centers around the county, such as Petersburg, that are not permitted in the underlying SR-2 zone (SR-2 is a residential zone).

Second, one of the primary zoning issues at this time is the towing service that is being conducted on the site. The only zone that permits vehicle towing and/or wrecking/storage of junk vehicles (i.e., the vehicle strip down that is conducted before vehicles are hauled to the recycler) as a primary use is the Industrial Two (I-2) zone. These activities are a Conditional Use in the I-2 zone; this means that a Conditional Use Permit (CUP) must be granted by the Board of Adjustment through a public hearing procedure to ensure that the use is appropriate for a given location. However, because your property is not within an I-2 zone, this option is not available.

Third, towing is permitted when it is conducted as part of an approved automobile repair facility (it is then considered to be an "accessory use," or an integral and subordinate function of the auto repair use). Automobile repair is a Conditional Use in the Small Community overlay zone, thus, when considering that you are planning to offer auto repair services, you may apply for a Conditional Use Permit to permit auto repair services at this location and the related towing that is conducted in conjunction with the auto repair. However, the wrecking services/storage of junk vehicles is not permitted in the SR-2/SC under any circumstance, therefore, this activity must be discontinued.

Mr. Joe Baxter  
July 23, 1998  
Page 2

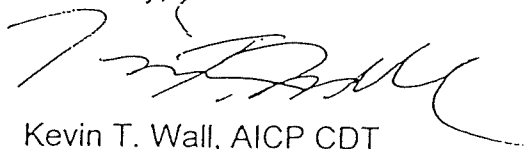
Fourth, the commercial storage/parking of recreational vehicles, boats, etc., is not specifically identified in the Boone County Zoning Regulations. However, I have considered this very same issue in the past, under the same set of regulations that are currently in force, and determined that this use is permitted only in the Commercial Services (C-3), Industrial One (I-1), and Industrial Two (I-2) (refer to enclosed letter dated 3/24/98). Therefore, this activity must be discontinued.

In summary, the towing services may be permitted if they are an integral part of an approved automobile repair facility - a Conditional Use Permit must be approved by the Board of Adjustment before these activities can commence. You should contact Ed Coleman, a planner in this office, regarding the Board of Adjustment procedure and the necessary application materials. The wrecking activities/storage of junk vehicles and the storage of RVs, boats, etc., are not permitted in the zone in question under any circumstance, therefore, these activities must be discontinued at this location. Based on the level of investment you have made, I will allow you sixty (60) days to discontinue the prohibited activities. After this time period, all of these activities must cease, except that the towing service may be continued after this period IF a Conditional Use Permit has been granted for the automobile repair facility/towing service combination. This sixty day period can be reasonably extended if necessary. In addition, I will consider any additional information that you may have that would shed a different light on these issues.

Lastly, as I mentioned in our telephone conversation the other week, you can appeal this decision to the Board of Adjustment (although it was not known at the time what the final decision would be regarding this matter). The Appeal, with all the required submittal materials, must be submitted to this office within thirty (30) days of today's date. In order for an Appeal to be granted, it must be demonstrated that the decision is in error.

As I mentioned above, I understand the level of investment that has been made and appreciate your efforts to upgrade the property. Please call me if you have any questions or need any clarifications.

Sincerely,



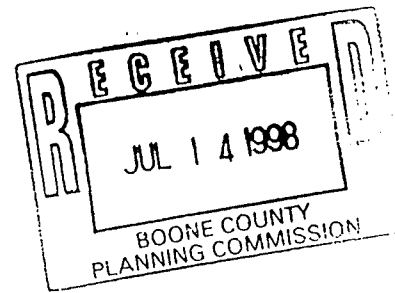
Kevin T. Wall, AICP CDT  
Director, Zoning Services

KTWmpr

Enclosure

cc: Brad Horn, Zoning Enforcement Officer  
Ed Coleman, Planner

July 14, 1998



#### TANNER STATION

When we bought Tanner Station in October 1995, it had quite the reputation of being a rough establishment. Apparently the place was known for it's unruly type behavior from the clientele it was drawing in the town of Petersburg, Kentucky.

Being a resident of Kentucky myself, we are doing our best to turn the bad into great, not only for a business but also for the community. The improvement just in the time we have had this business have done wonders.

- New shelves for grocery store
- Outside of building painted
- Gas station sign
- Cincinnati Artist (Joe Carle) painted a picture of a river boat on the front of the building.

Unfortunately, after about 6 months we were getting shut down on an average of once per week (during our lunch hour); which is our busiest time of the day. The reasoning for our shut down is trucks are getting stuck on the horseshoe curve. These shut downs are causing a major loss to our business. To compensate for the loss of business we have purchased a tow truck to provide towing for our patrons, along with the gas station, groceries, and restaurant service the already currently exist.

In the future I hope to also build a garage for minor auto repairs. The tools and tire changer have already been purchased.

I believe that Tanners Station provides the people of this community a valuable service in many ways and the atmosphere has dramatically changed. If it weren't for Tanners Station the towns people would have at least a 10 mile distance to drive for the service we provide. The towing services I provide aren't as profitable compared to other towing services, because I do this service as a courtesy to my customers that are in the store and restaurant quite frequently. We have also put an add in the Boone County Recorder to remove unwanted vehicles. The vehicles we pick up aren't usually kept over 30 days. These vehicles are recycled through E-Town Recycling. Each year I have hauled over 50 vehicles to be recycled each year. The vehicles usually come in full of trash, which is dumped in my extend size dumpster located behind Tanners Station. The dumpster is emptied each week by Bavarian Waste Service. The recycle center requires that the vehicles be free of trash before they can be recycled. Some of these vehicles arrive without titles. These vehicles must have the engines removed before they can be accepted by the recycle center.

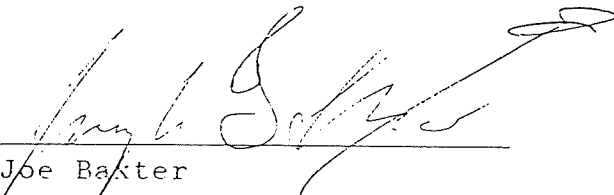
Approximately eight months ago we began getting a few cars on our lot awaiting the recycling process. To alleviate the site of vehicles gathering in our lot, we built a 8 foot privacy fence that cost us \$5,000.00. The fence completely surrounds the lot and avoids an unsightly atmosphere. This fenced in area is also used as a storage lot for boats, R.V.'s, etc.; which also provides an income for Tanners Station. The approximate number of vehicles on the lot at one time is 15. As I said before, these vehicles are not kept for an extended period of time.

I feel and my neighbors feel that Petersburg is a much better place since Tanners Station has changed from the unruly place, to a safe, clean place that works with the community, not against it.

Our hope is that you see Tanners Station as asset to the community, not a detriment.

In summory, Tanners Station has turned from a trouble spot to a safe place to take your family, to meet friends. Our profit last year was \$4,000.00. We also employ six people, which is a lot for this rural area where jobs can be scarce. We hope we can keep serving the community and will do everything in our power to keep this a safe, clean place for the comminty. Anything you can do to help us keep Tanners Station productive will be greatly appreciated.

Sincerely,



Joe Baxter  
Vice President

COPY

CLUR # 98-BCBOA-017-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)

Nancy Baxter  
5092 Deer View Woods  
Cleves, Ohio 45002

ADDRESS OF PROPERTY  
3113 3<sup>rd</sup> Street  
Petersburg, Kentucky 41080

3. NAME OF SUBDIVISION OR  
DEVELOPMENT (if applicable)  
Tanner Station

DEED BOOK: 593      PAGE NO.:62-67      GROUP NO.: 2011

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

Zoning Map Amendment:       Conditional Use Permit  
From        to       

Development Plan       Conditional Zoning

Subdivision Plat       Other:  
(Not Recorded)

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



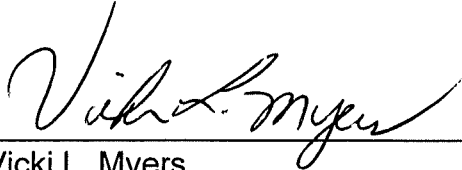
SIGNATURE OF COMPLETING OFFICIAL

Kevin T. Wall, AICP/CDT Director of Zoning Services  
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

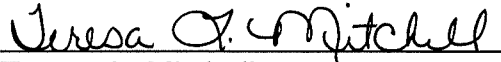
Subscribed, sworn to, and acknowledge before me by Kevin T. Wall on behalf of the Boone County Planning Commission this 7th day of October, 1998.



Vicki L. Myers  
NOTARY PUBLIC, State at Large

My commission Expires:  
April 17, 1999

This instrument was prepared for recording purposes only by:



Teresa L. Mitchell  
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.)

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Conditional Use Permit approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of September 9, 1998 Certificate of Land Use Restriction (# 98 BCBOA -017-

A), for Nancy Baxter, Property Owners

The following conditions will apply: 1). That the repairs be made inside the new proposed building and that (2) all cars in for repair remain behind the fenced area.

The approved Conditional Use Permit as well as the preceding conditions apply to the property

described in: DEED BOOK 593

PAGE NO. 62-67

Group No. 2011

TALKED WITH JOE  
BAXTER ON 9/20/99,  
JUNK CARS ALMOST GONE  

---

NO RV/BOAT STORAGE  
ALLOWED  

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SITE PLAN FOR NEW BLDG  
BEING PREPARED - 12/9/99