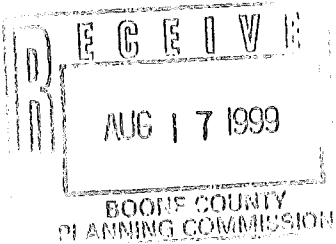


421.2
4/21/99

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)

- (Check One)
- Boone _____ Florence _____ Walton _____ Union _____
 - (Check One)
 Conditional Use Permit _____ Variance _____ Appeal _____
_____ Change in Non-Conforming Use _____
 - Applicant's Name CLAYTON HOMES
Phone Number 606-371-2140 Fax No. 606-371-2145
Applicant's Address 10833 DIXIE HIGHWAY
WALTON KY 41094
City State Zip
 - Description of Request: SIGN ON BUILDING PAINTED
12' x 40' = 480 sq ft Conditional Use Permit For
off-business sign.
 - Name of Development _____
 - Location of Development 11139 Dixie Highway, Walton, KY
41094
 - Acreage Under Review 0.7580
 - Lot Number and Name of Subdivision (if part of a subdivision)
N/A
 - Owner of Property ROBERT C. ROBINSON
Phone Number of Owner 606-371-7592 10995 US 25 10.
Address of Property Owner WALTON KY 41094
City State Zip
 - Proposed Use(s) on Site SIGN ON BUILDING PAINTED
12' x 40' at 480 sq ft
 - Total Square Footage of Existing and/or Proposed Buildings 40' X 60' = 2400
 - Current Zoning on Property C-3
 - Deed Book 80/4844143/82 Page No. 82 Group No. 2064
 - Is the site subject to a zone change? NO
If yes, give date of approval _____
 - Have you submitted a Site Plan with this request?
 - Have you submitted a list of adjoining property owners with this request? YES
 - 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: Robert C Robinson

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 8-17-99 Fee Received #421.0R #21609
2. Is application complete? Yes Yes _____ No _____
3. Staff Reviewer Mark Jordan
4. Scheduled Board Action Date September 8, 1999
5. Board Action:
 Approved
 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: No Conditions
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

DEVELOPMENT: Clayton Homes, Inc.

APPLICANT: Gary Gambrel on behalf of Clayton Homes

LOCATION: 10833 Dixie Highway, Boone County, Kentucky

ZONING: Commercial Services (C-3)

DATE: September 8, 1999

Proposal

The applicant is requesting a change in Non-Conforming Use that would permit the replacement of an existing freestanding sign that is seven (7) feet in height, and 36.75 square feet, to a proposed sign that is 22'-3" in height, and 133 square feet. The sign is to be located along the Southwest corner of the property, facing Dixie Highway.

Site History

In December of 1990, the Boone County Board of Adjustment and Zoning Appeals approved two (2) Variances in the size and height of one (1) of the two (2) existing freestanding signs. The request was for an increase in square footage from the permitted 250 square feet to 471 square feet, and a Variance in height of the same freestanding sign from 40 feet to 45 feet. The maximum height for a freestanding sign under the 1990 Boone County Zoning Regulations was 40 feet in height, based upon 200 feet or more of road frontage. The sign that was subject to the Variance approval was not erected or installed upon the subject property. There are currently two (2) freestanding signs on the site that do not conform to the 1996 Boone County Zoning Regulations, due to the fact that the current regulations permit only one (1) freestanding sign. The applicant has indicated that both of the existing freestanding signs are to remain on site, and this request for a change in Non-Conforming Use is for one (1) of the existing signs.

Action by Board of Adjustment and Zoning Appeals

Under Section 273 of the Boone County Zoning Regulations, the Board of Adjustment and Zoning Appeals shall have the power to hear and decide on applications to permit a change from one nonconforming use to another.

The Board shall not permit such a change unless the new nonconforming use is as equally compatible with the permitted uses in the district in which it is located as the existing nonconforming use.

The Board shall not allow any changed nonconforming use to be increased or enlarged, nor extended to occupy a greater area of land than was occupied by the original nonconforming use. In permitting such change in nonconforming use, the Board may require appropriate conditions and safeguards in accord with other provisions of this order, such as the provision of landscaping and buffering, the improvement of parking areas, and restrictions on the hours of operation.

Conclusion

The Board must find that the applicant's request for a change in nonconforming use is not enlarging or extending the nonconforming use beyond the scope and area of it's present existence.

Respectfully Submitted,



Mark E. Jordan
Planner

MEJ\pr

Attachments

- Site Vicinity Map
- Zoning Map
- Architectural drawing of proposed height and square footage of freestanding sign
- Site Plan showing location of proposed freestanding sign
- Letter from Kevin Wall, Zoning Administrator to Gary Gambrel dated August 3, 1999
- December 12, 1990, minutes of the Boone County Board of Adjustment meeting

BOONE COUNTY BOARD OF ADJUSTMENT
BUSINESS MEETING

December 12, 1990 - 6:30 P.M.

BOARD MEMBERS PRESENT:

Mr. I. A. Archambault
Mr. Dan Houston
Mr. Fred Nevel
Mr. Walt Ryan
Mr. George Whitton, Chairman

BOARD MEMBERS NOT PRESENT:

None.

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

The meeting was called to order by Chairman Whitton at 6:30 P.M..

Approval of the Minutes:

Chairman Whitton noted that each Board member had received a copy of the Minutes of the Boone County Board of Adjustment meeting of October 10, 1990 and November 8, 1990. He asked if there were any comments or corrections.

There being no changes to the Minutes, Mr. Houston moved that they be approved as mailed. Mr. Nevel seconded the motion and it carried unanimously.

Agenda Item:

1. The request of Clayton Homes, Inc. for two Variances. One Variance in the size of a permitted free-standing sign from 250 square feet to 471 square feet. The second Variance is in the height of the same permitted free-standing sign from 40 feet to 45 feet. The 6.30-acre site is located at 10833 Dixie Highway, Boone County, Kentucky. The property is zoned Commercial Services (C-3) and is owned by Harold Franks.

Staff Member, Amy Moore, presented the Staff Report which included a slide presentation (see Staff Report).

Chairman Whitton questioned how many free-standing signs are permitted. Mrs. Moore advised that one free-standing sign is permitted. They currently have three pre-existing signs. The sign visible from I-75 is a new sign replacing an older billboard sign. The previous sign was 16' x 40'. The applicant has replaced that sign and if the replacement is larger than the previous sign, they should have gotten a sign permit. According to Staff's calculations, it is the same size. She stated that the requested sign would be a fourth sign unless they are required to remove some of the others.

Chairman Whitton asked who was present in behalf of the request.

Mr. Jerry Gambrell, Manager of Clayton Homes, stated that the billboard sign is the same sign that has been there for years. They refaced it with their name as opposed to the previous owner's name. If this request is approved, they intend to remove the two signs in the front on U.S. 25.

Chairman Whitton questioned why they need such a large sign.

Mr. Gambrell stated that it is due to their location and the competition down the street. Their customers have to pass Holiday Homes to get to this site and with the larger sign, they will be able to see it from the competition's location.

Chairman Whitton stated that Holiday Homes was limited to 250 square feet and this request is for 475 square feet. Mrs. Moore stated that Holiday Homes got a Variance in the number of signs, not in the size or height. They were allowed two signs instead of one. Chairman Whitton stated that he believes the two signs together totalled 250 square feet.

Counselor Wilson stated that there is no sign on Holiday Homes which exceeds the maximum allowed of 250 square feet.

Chairman Whitton asked if there was anyone else present who wished to speak.

Mr. Bernard Schmidt stated that he is against the request. He stated that their competition will use the same argument and want a larger sign. He stated that there is a discrepancy in the size of the space and the size of the sign. He stated that he thinks larger signs should go on larger sites. This is a small piece of land. He stated that he is a property owner in the area.

Mrs. Moore advised that Don Davis and the President of the Richwood Action Committee contacted her. They have a great deal of concern about the sign and its setting a precedent to allow other larger signs in the area.

Mr. Bill Holmes questioned the Staff's calculation of the square footage of the sign in front of the property. Mrs. Moore advised that they calculate the square footage of each side of the sign as they are further than 18" apart, which comes to 471 square feet.

Chairman Whitton questioned how wide the faces of the sign are and Mrs. Moore stated that the mobile home is 42" wide and the signs below are 20" wide.

Chairman Whitton noted that if the signs were less than 18" apart they would be calculated as one sign. Mrs. Moore agreed and added that they would still exceed the regulations.

Mr. Bill Holmes stated that if they take the mobile home off the top of the sign, the square footage of one side would be 180. He asked if it would be more acceptable to make the signs 18" apart and eliminate the mobile home.

Chairman Whitton stated that if they do this, they do not need to be in front of the Board. Counselor Wilson stated that they would have to clarify that the other two signs are being removed.

Chairman Whitton stated that there are two issues -- the number of signs and the square footage. Mrs. Moore stated that the application is for the size and height of a free-standing sign.

Mr. Holmes and Mr. Gambrell stated that they were not aware of what was in the application. Mrs. Moore advised that the application was signed by Harold Franks and Gary Campbell.

Mr. Holmes asked if they could leave the request at 5 feet and shrink the mobile home and the other sign down within 18".

Chairman Whitton advised that there has been a lot of controversy in the Richwood area about signs. He stated that if the sign was designed differently as far as the thickness, they could plead their case for the additional 5 feet.

Counselor Wilson referred to the mobile home on top of the sign and advised that the Board cannot grant a rotating sign as the regulations do not allow it. The Board cannot approve the rotating aspect of the sign.

Mr. Ryan suggested that the sign could be two inches thinner and it would still not be 250 square feet. He stated that the mobile home is 3' x 10' (30 sq. ft.), the name is 6' x 20' (120 sq. ft.), the mobile home is 3' x 20' (60 sq. ft.) and the readerboard is 4' x 6' (24 sq. ft.). Chairman Whitton stated that he calculates 234 square feet, including the readerboard, and they would be under the regulations.

Mr. Ryan questioned if the five feet in height is that important.

Mr. Holmes stated that it is because there is a hill between the two locations and a curve. Forty feet would make it close as to whether it could be seen over the large flea market sign.

Mr. Nevel stated that he believes the Board must hold to the height requirement or there will be other requests.

Mr. Ryan suggested that they put their name on top of the sign and the mobile home further down.

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Mr. Ryan suggested that they put their name on top of the sign and the mobile home further down.


There being no further business to come before the Board, Mr. Nevel moved that the meeting be adjourned. Mr. Archambault seconded the motion. The meeting was adjourned by unanimous consent.

APPROVED:



George D. Whitton, Chairman

Attest:

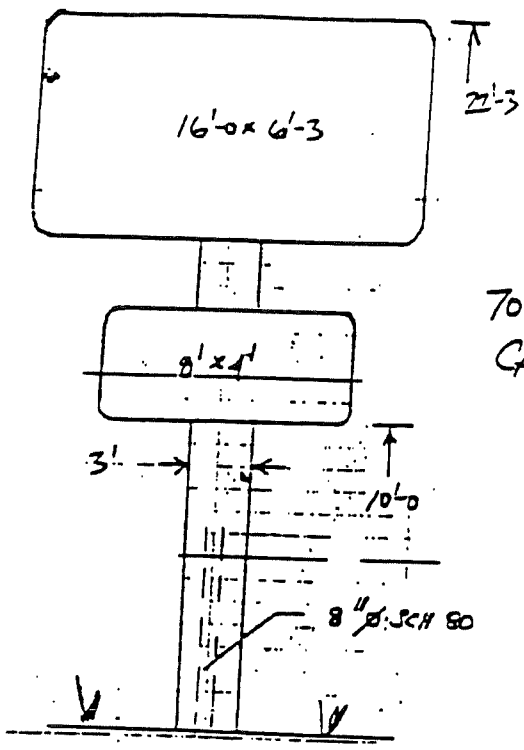


Jan Hancock, Recording Secretary

MICHAEL BRADY INC. ARCHITECTURE

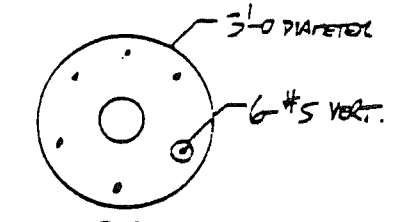
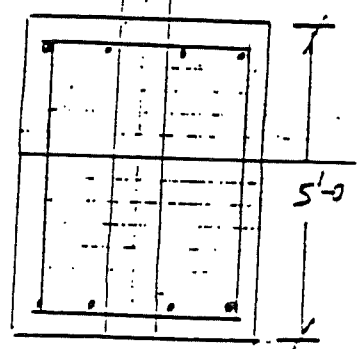
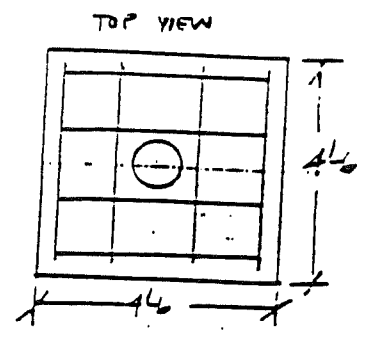
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5/19/98

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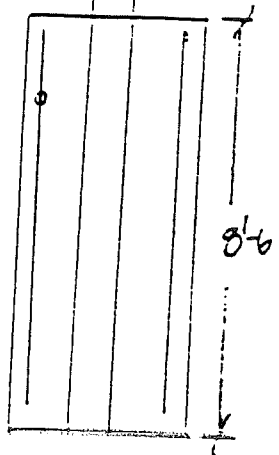
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FOOTING DETAIL



REINFORCING

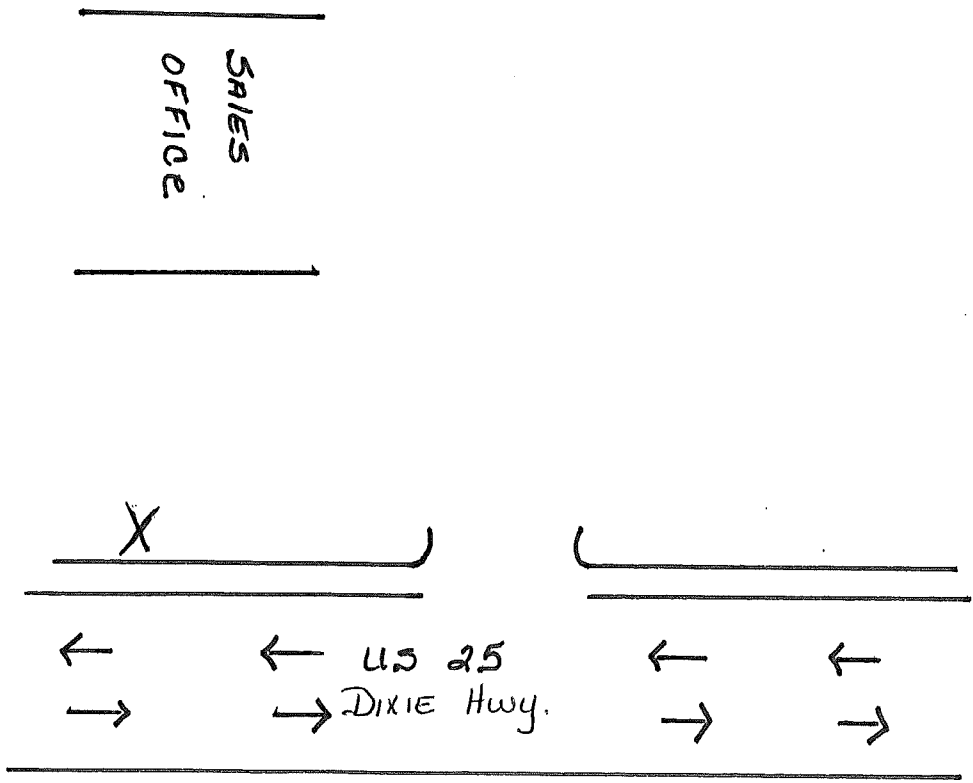
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4-#5 VERT



OPTIONAL FOOTING

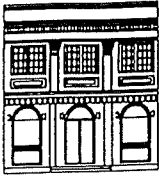
Clayton Sign Program

PLOT PLAN



BOONE COUNTY PLANNING COMMISSION

2995 Washington Street, Burlington, KY 41005



606-334-2196

FAX 606-334-2264

E-Mail plancom@one.net

August 3, 1999

Mr. Gary Gambrel
Clayton Homes
10833 Dixie Highway
Walton, KY 41094

RE: Replacement of Freestanding Sign at Clayton Homes, 10833 Dixie Highway, Boone County, Kentucky

Dear Mr. Gambrel:

I have reviewed your letter dated July 30, 1999 regarding your proposed replacement of an existing freestanding sign with a larger, higher sign at Clayton Homes. In addition, I have reviewed the file for the variance that was approved for the site in December 1990. This variance was to allow additional height and area for a freestanding sign at Clayton Homes.

First, there are several issues that pertain to your proposal. The Zoning Regulations in place in 1990 allowed variances to be sought for the number of permitted freestanding signs on a lot in addition to issues such as maximum sign height and size. The regulations were amended in 1991 to prohibit the granting of variances for the number of freestanding signs on a lot. State law permits variances to be granted for "dimensional" requirements - this includes such things as building setbacks, building height, or in the case of signs, height and size. It does not permit variances to be granted for "density" requirements. The current Zoning Regulations defines density as "a unit of measurement involving a portion of an activity devoted to a specific use identified in acres, square footage, or number of dwelling units in relation to a site or portion thereof." It also states that "for signage, density is expressed in this order in terms of the number of a certain type of sign per wall, building, lot, or overall development or subdivision."

The current Zoning Regulations permit one freestanding sign per commercial lot (in some instances, limited to one freestanding sign for an overall development or commercial subdivision). Because the requirement for number of freestanding signs is expressly described as a density requirement, a variance can not be granted to allow additional freestanding signs. Also, because your establishment has more than one freestanding sign, these signs are now pre-existing, nonconforming (i.e., do not meet the current regulations, but were legally permitted originally and may be maintained in a like manner).

Mr. Gary Gambrel
August 3, 1999
Page 2

Due to the fact that the ordinance has changed dramatically relative to the variance that was granted in 1990, the fact that no action was taken to construct the approved sign for almost ten years, and the fact that you are now proposing a different sign than the one approved, I can not conclude that there are any sort of vested rights at this point in time which would entitle your establishment to the proposed 133 square foot, 22 foot high sign. However, you can apply for a "Change in Nonconforming Use" through the Board of Adjustment. Through this process the BOA can determine whether a proposed change in nonconforming use or structure (including signs) is appropriate. The process is basically the same as the variance process that was undertaken in 1990. You can contact Mark Jordan, a Planner in our office, regarding the Board of Adjustment procedure.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin T. Wall". The signature is fluid and cursive, with a large initial "K" and "W".

Kevin T. Wall, AICP CDT
Director, Zoning Services

KTW/vlm

cc: Mark Jordan, Planner
Todd Morgan, Planner

COPY

9-8-99

CLUR # 99-BCBOA-018-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)

Robert C. Robinson
10996 U.S. 25
Walton, Kentucky 41094

2. ADDRESS OF PROPERTY

11139 Dixie Highway
Walton, Kentucky 41094

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

Clayton Homes

3. DEED Bk# 80

PAGE # 484

GROUP # 2064

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

Zoning Map Amendment:
From To

Conditional Use Permit

Development Plan

Conditional Zoning

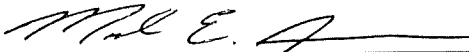
Subdivision Plat
(Not Recorded)

Other:

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



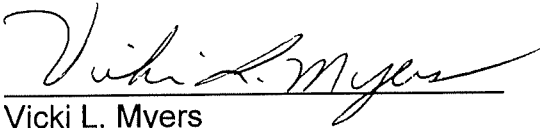
SIGNATURE OF COMPLETING OFFICIAL

Mark Jordan, Planner, Zoning Services
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

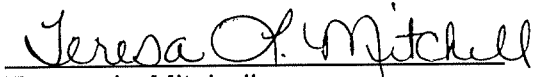
Subscribed, sworn to, and acknowledge before me by Mark Jordan on behalf of the
Boone County Planning Commission this 21st day of September 1999.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2003

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 Variances and Conditional Use Permit approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of September 8, 1999 Certificate of Land Use Restriction (# 99-BCBOA-018-A), for Robert C. Robinson, Property Owners

The following conditions will apply: No Conditions

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

described in: DEED BOOK 80

PAGE NO. 484

Group No. 2064