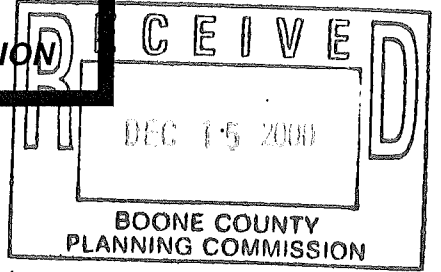


**BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION**



See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

- 1. (Check One) Boone Florence Walton Union
- 2. (Check One) Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use
- 3. Applicant's Name William J. YUSKO
Phone Number 513-383-1504 Fax No. 513-241-5060
Applicant's Address 2845 Ridge Ave.
Hebron, OH 43020-4104
City State Zip
- 4. Description of Request: Add additional ~~signage~~ to existing sign
VARIANCE to allow Bldg mounted signage to be increased
FROM 126 FEET TO 165 FEET
- 5. Name of Development Furniture Row
- 6. Location of Development Corner of KY 18 & Mail Rd. 7515 Mail Rd.
- 7. Acreage Under Review 1.8910
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
- 9. Owner of Property Visser Irrevocable Trust
Phone Number of Owner 105 W Jefferson Ave. 701
- 10. Address of Property Owner Englewood CO 80110
City State Zip
- 11. Proposed Use(s) on Site Retail
- 12. Total Square Footage of Existing and/or Proposed Buildings 21,000
- 13. Current Zoning on Property
- 14. Deed Book 500-11711 Page No. 1710 Group No. 2040A
- 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. 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: William J. Yusk

Property Owner's Signature: William J. Yusk

**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 12-15-00 Fee Received \$500.00 R#
2. Is application complete? _____ Yes _____ No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
 Approved
 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: Approval of the Variance is Contingent
Upon the Removal of Three Neon Signs located on
the North and East Bldg. Elevations
7. Reasons for Denial: _____

**Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005
(859) 334-2196 - Phone
(859) 334-2264 - Fax
plancom@boonecountyky.org - E-mail**

www.boonecountyky.org

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.

BCPC: 12/00

STAFF REPORT

APPLICANT: William J. Yusko, Gordon Sign Company
LOCATION: 7515 Mall Road, Florence, Kentucky
ZONING: Commercial Two (C-2)
DATE: January 18, 2001

Proposal

The applicant is requesting a variance to allow the size of a building mounted sign to be increased from 126 square feet to 165 square feet on the east elevation of the Denver Mattress store. The building on which the sign is to be mounted is located on a 1.896 acre site at 7515 Mall Road, Florence, Kentucky. The site is zoned Commercial Two (C-2). The applicant submitted Exhibits A, B, and C as part of the application.

Exhibit A – List of adjacent property owners.

Exhibit B – Letter from CG Glover & Associates, LLC

Exhibit C – Drawings showing the north and east building elevations and sign location, sign dimensions, and floor plan for Denver Mattress.

Exhibit D – Aerial photograph showing building location.

Applicable Regulations

Article 2, Section 250 of the Boone County Zoning Regulations states that the Board of Adjustment and Zoning Appeals shall have the power to hear and decide on applications for variances. A variance is defined as a departure from the dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247. However, the Board shall not possess the power to grant a variance to permit a use of land, building, or structure, which is not permitted by the zoning regulation in the zone in question, *or to alter the density requirements in the zone in question.*

Article 34, Section 3441 of the Boone County Zoning Regulations establishes the Mall Road Sign District and states the following concerning building mounted signage, “Independent buildings or individual establishments with direct frontage on, or unobstructed visibility from, Mall Road shall not be permitted individual free-standing signs but shall *be permitted one (1) building mounted sign, with a maximum sign of two (2) square feet per lineal foot of building width*, for each wall with direct visibility from Mall Road, a secondary access road, or areas of major internal traffic circulation. Under no circumstances shall an establishment be allowed more than four (4) building mounted signs.”

Article 40, Section 4000 of the Boone County Zoning Regulations defines a **sign** as, “A device designed to promote and identify an establishment or activity by any means including but not limited to words, letters, figures, designs, symbols, fixtures, colors, *illumination*, or projected images.”

Article 40, Section 4000 of the Boone County Zoning Regulations defines **density**, “. . .*For signage, density is expressed in this order in terms of number of a certain type of sign per wall, building, lot, or overall development or subdivision.*”

Findings Necessary for Variance

The Board should evaluate the applicant’s request as it relates to the criteria necessary for granting a variance as stated in Section 251 of the Boone County Zoning Regulations:

1. Before any variance is granted, the Board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements contained in the zoning regulations. In making these findings, the Board shall consider whether:
 - a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - b. The strict application of the provisions contained in the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
 - c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.
2. The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

Surrounding Land Uses and Zoning

The existing building where Denver Mattress is located is divided into two separate retail areas and currently contains Oak Express as the second retail store. To the north of the site is KY 18 and K-Mart which is zoned Commercial Two (C-2)/PD. To the east of the site is B.P. Gas Station and Pro-Care Automotive Center both zoned Commercial Three (C-3). South of the site is Lone Star Steak House zoned Commercial Two (C-2). Kerry Nissan, zoned Commercial Three (C-3), is located to the west of the site.

Staff Concerns/Comments

1. The applicant originally applied for and was granted permits for two signs. The sign permitted on the north elevation was 165 square feet in size. The sign permitted for the east elevation was 126 square feet in size. Since this time the applicant has decided to enlarge the originally permitted sign for the east building elevation from 126 square feet to 165 square feet (to match the sign mounted on the north elevation of the building). As the east elevation of the building is only 68.66 feet in length, the maximum square footage for a sign is 137 square feet. Therefore, the applicant is requesting a 28 foot (20.4%) variance from the maximum size sign permitted for a

building of this size. However, during a site visit it was discovered that the applicant had also installed an additional three (3) strips of neon lighting extending from both signs to the end of each building elevation. The neon lighting, considered signage according to Article 40, Section 4000 of the BCZR, cannot be permitted on either building elevation as only one (1) building mounted sign is permitted per elevation in the Mall Road Commercial Sign District in accordance with Article 34, Section 3441 of the BCZR. Therefore, the three (3) neon signs on both elevations must be removed.

Conclusion

KRS 100.237 and Section 250 of the Boone County Zoning Regulations gives the Florence Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for a variance in order to increase the size of a sign located within a Commercial Two (C-2) district. However, the Board but does not have the authority to alter density requirements in accordance with Section 250 of the BCZR and KRS 100.247.

It is the staff's opinion that a 20.4% variance will not adversely affect the public health, safety, or welfare, alter the essential character of the general vicinity, cause a hazard or unreasonable circumvention of the requirements. However, should the board consider approval of the variance request, it should be contingent upon the removal of the three (3) additional neon signs located on the north and east building elevations.

Respectfully submitted,



Lara B. Robertson, AICP

Attachments

Exhibit A – List of adjacent property owners.

Exhibit B – Letter from CG Glover & Associates, LLC

Exhibit C – Drawings showing the north and east building elevations and sign location, sign dimensions, and floor plan for Denver Mattress.

Exhibit D – Aerial photograph showing building location.

Exhibit E – Location/Zoning Map.

~~Map 4~~ Owners of adjoining property

Map 4

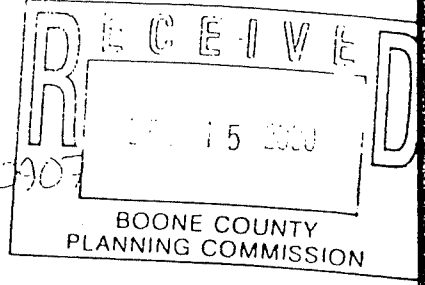
61-26

Kidwell Corp

Burr White L.P.

PO Box 560907

Dallas, TX. 75356-0907



61-118

BD Oil Inc.

Arthur Anderson prep tax dept.

711 Louisiana St Suite 1300

Houston, TX 77002

2T-3H

BJ Development

STE 300 212 E. Third St.
Cincinnati, OH. 45202

2T-2B

Caddell, Arnold Jr.
Beverly A

c/o Savage Savage & Brown

PO Box 22845

OKLAHOMA CITY, OK 73123

owner of property
- 116 - Trust

irrevocable

1992-3, Trustee

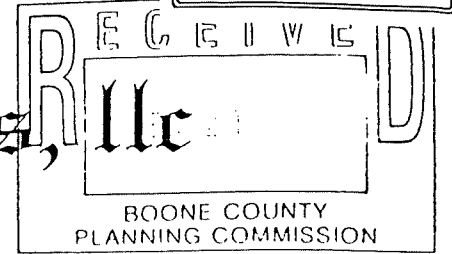
105 West Jefferson Ave.

Englewood, CO 80112

Glover & associates, llc

• Construction Management • Planning •

Exhibit B



One Main Street • PO Box 808 • Montello, WI 53949
(608) 297-9214 (FAX) • (608) 297-2469 (Phone)

FAX MEMO

Priority Mail

Date: December 15, 2000

To: Treva • Boone County Planning
2995 Washington Street
Burlington, KY 41005

Fax Number: 859-334-2264

Re: VARIANCE APPLICATION

Number of pages with this transmittal (including this one): 1

Dear Treva,

Please be advised that William of Commercial Sign Company has been authorized to sign an application for a sign variance as an agent for GG Glover & Associates, Construction Managers, and Furniture Row, Owner, for the Furniture Row retail stores at 7531 Mall Road, Florence, Kentucky.

Thank you for your consideration and continued cooperation.

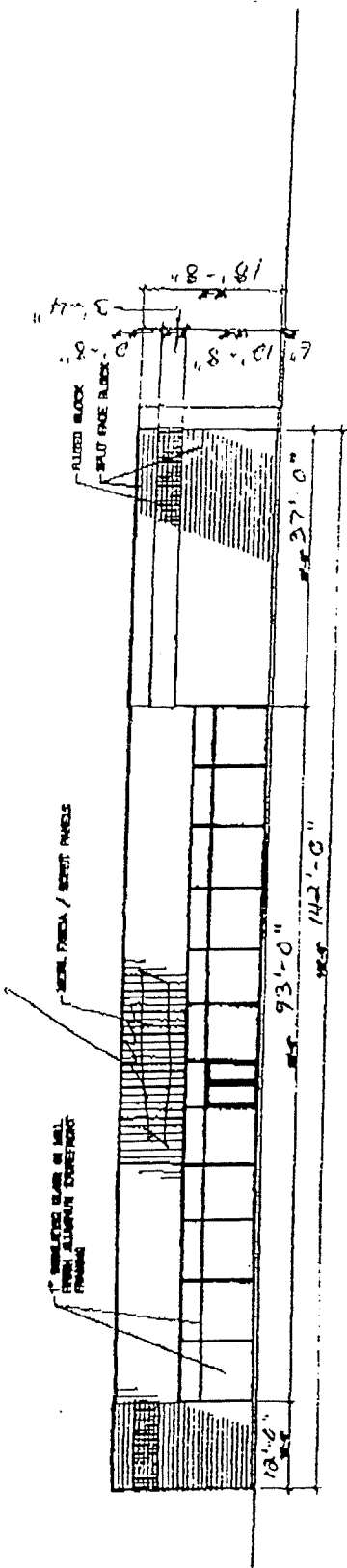
Yours truly,

A handwritten signature in cursive script, appearing to read "G. Glover".

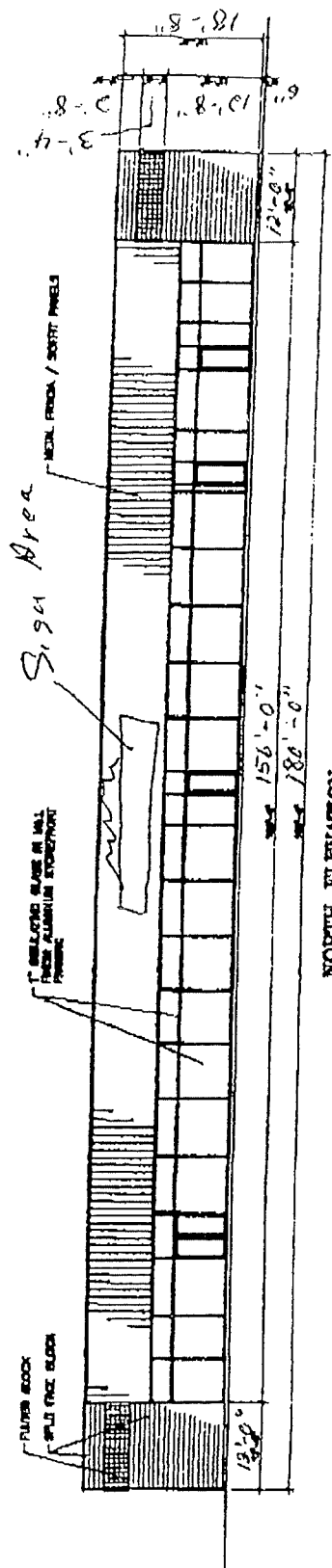
Garry G. Glover

Copy: Commercial Sign 513-241-5060
Attention: William

Sign Area



EAST ELEVATION
SCALE: 1/8" = 1'-0"



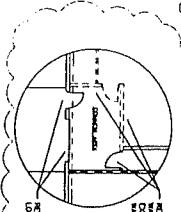
NORTH ELEVATION
SCALE: 1/8" = 1'-0"

RECEIVED
 DEC 15 2000
 BOONE COUNTY
 PLANNING COMMISSION

#0004 FURENCE 10-16-00

RECEIVED
 DEC 15 2000
 BOONE COUNTY
 PLANNING COMMISSION

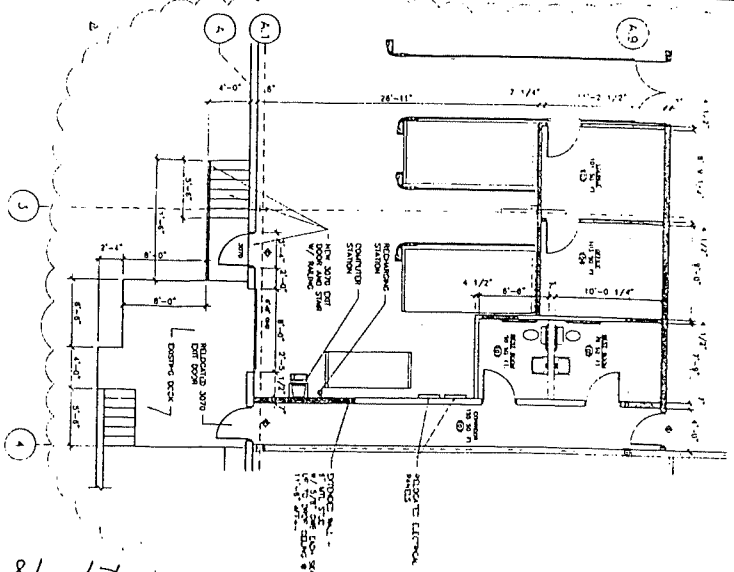
EXISTING DOCK AREA
 SCALE 3/8" = 1'-0"
 NORTH



REMOVE EXISTING CONCRETE AND
 REINFORCE WITH 4" DIA. BARS AT 12" ON
 CENTER. POUR 8" THICK CONCRETE
 SLAB ON TOP OF EXISTING SLAB.
 REMOVE EXISTING DOCK AREA
 AND REINFORCE WITH 4" DIA. BARS
 AT 12" ON CENTER. POUR 8" THICK
 CONCRETE SLAB ON TOP OF
 EXISTING SLAB.

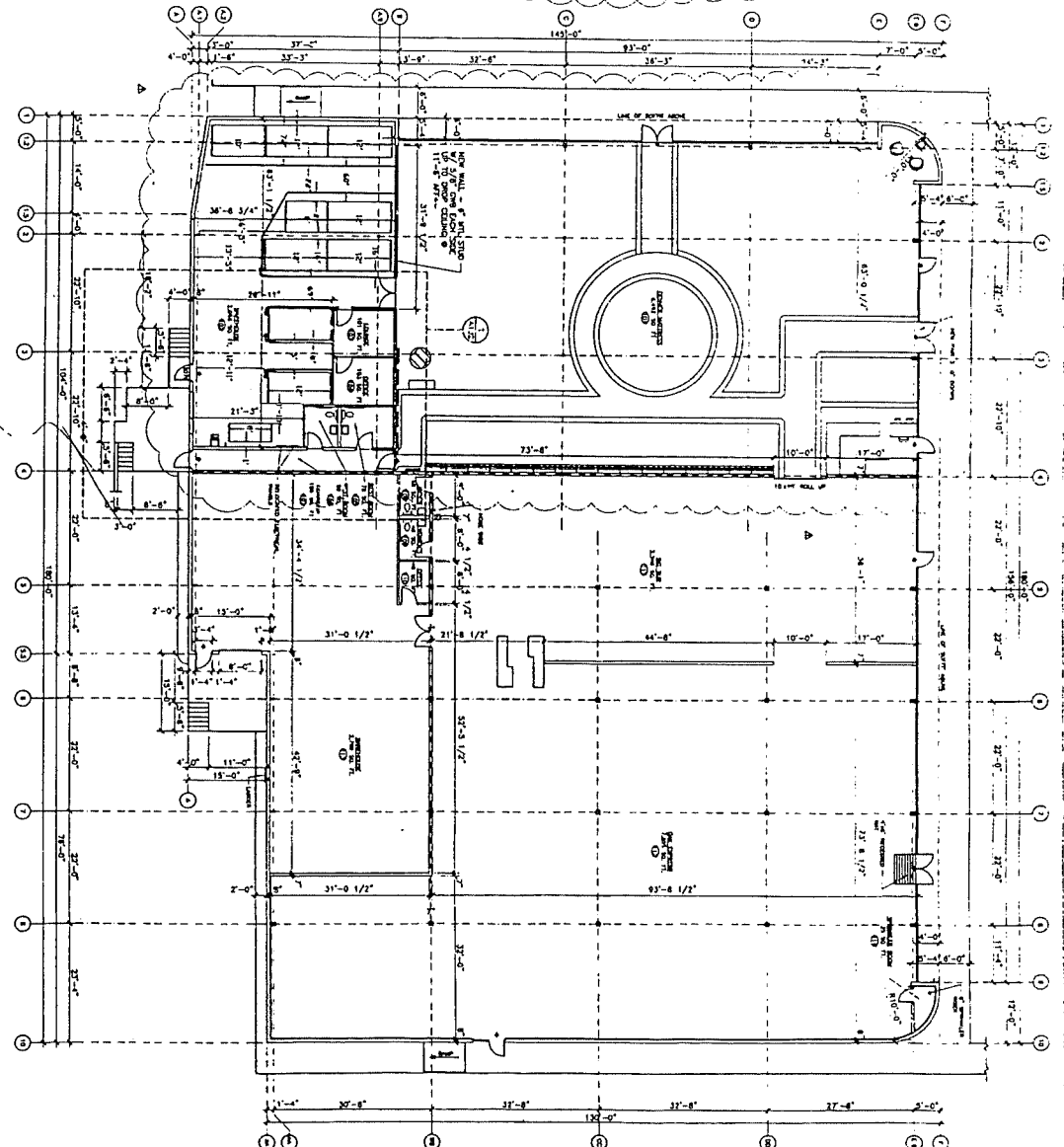
ENLARGED FLOOR PLAN
 SCALE 3/16" = 1'-0"
 NORTH

WALL LEGEND
 EXISTING WALL TO REMAIN
 EXISTING WALL TO BE REMOVED
 NEW WALL



FLOOR PLAN
 SCALE 3/8" = 1'-0"
 NORTH

REMOVE EXISTING DOCK CONCRETE SLAB
 1. SET 4" DIA. BARS AT 12" ON CENTER
 2. SET 4" DIA. BARS AT 12" ON CENTER
 3. SET 4" DIA. BARS AT 12" ON CENTER
 4. SET 4" DIA. BARS AT 12" ON CENTER



DATE	8/23/00
BY	AW
CHECKED BY	AW
PROJECT	POWER SUPPLY
OWNER	BOONE COUNTY
CONTRACT NO.	0004
CONTRACT DATE	8/23/00
CONTRACT VALUE	
CONTRACT TYPE	
CONTRACT STATUS	
CONTRACT DESCRIPTION	
CONTRACT NOTES	
CONTRACT CONTACT	
CONTRACT ADDRESS	
CONTRACT PHONE	
CONTRACT FAX	
CONTRACT E-MAIL	
CONTRACT WEBSITE	
CONTRACT OTHER	



RIVA Architects LLC
 215 EAST MAIN STREET
 WAUPUN, WISCONSIN 53983
 (920) 324-2066 FAX (920) 324-0025

C-2/PD

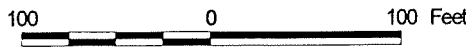
BURLINGTON PARK

C-3

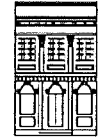
C-2

MALL RD

C-3



1 inch equals 100 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 January 10, 2001



7505 Mall Road

COPY

CLUR #01-FBOA-001-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Visser Irrevocable Trust
105 W. Jefferson Ave.
Englewood, CO 80110

2. ADDRESS OF PROPERTY
7515 Mall Rd.
Florence, KY 41042
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Furniture Row

4. DEED BOOK 500 PAGE NO. 176 GROUP NO. 2040A

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

 Zoning Map Amendment:
From To Conditional Use Permit

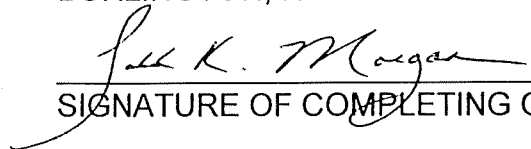
 Development Plan Conditional Zoning

 Subdivision Plat
(Not Recorded) Other:

 Variance

6. 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

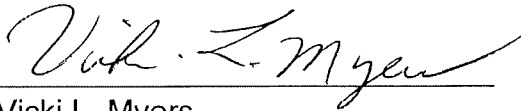

SIGNATURE OF COMPLETING OFFICIAL

Todd K. Morgan, Planner, Zoning Services
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

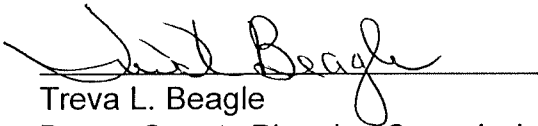
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 25 day of January, 2001.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2003

This instrument was prepared for recording purposes only by:



Treva L. Beagle
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 Variance approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of January 18, 2001 Certificate of Land Use Restriction (#01-FBOA-001-A), for Visser Irrevocable Trust, Property Owner(s).

The following conditions will apply:

1. The Variance is granted contingent on the removal of the three additional neon signs, which are located on the north and east sides of the building.

The approved Variance as well as the preceding conditions apply to the property described in:

DEED BOOK 500

PAGE NO. 176

GROUP NO. 2040A