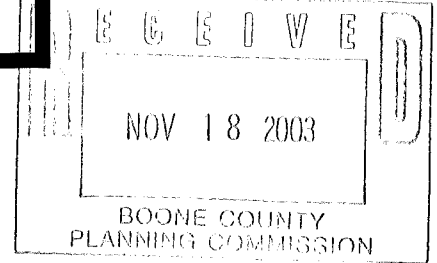


APPLICATION FORM

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 [X] Florence [ ] Walton [ ] Union [ ]
2. (Check One) Conditional Use Permit [X] Variance [ ] Appeal [ ]
3. Applicant's Name Whitney Stith
Phone Number 283-5560 Fax No. 283-5562
Applicant's Address 3090 Hathaway Road
Union KY 41091
City State Zip
4. Description of Request: Rear yard set back variance 20' to 15' see attachment.
5. Name of Development Stith Office Building
6. Location of Development 39 Shelby Street
7. Acreage Under Review 0.12
8. Lot Number and Name of Subdivision (if part of a subdivision)
38 addition to the town of Florence, Kentucky by E.K. Fish
9. Owner of Property Whitney Stith
Phone Number of Owner 283-5560
10. Address of Property Owner 3090 Hathaway Road, Union, KY 41091
City State Zip
11. Proposed Use(s) on Site Office Building
12. Total Square Footage of Existing and/or Proposed Buildings Ex=4,336, proposed=2,077
13. Current Zoning on Property C-2
14. Deed Book 818 Page No. 368 Group No. 2041B
15. Is the site subject to a zone change? no
If yes, give date of approval N/A
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: Whitney Stith

Property Owner's Signature: Whitney Stith

(over)

**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 11-18-03 Fee Received \$843.00 R#37204
2. Is application complete? \_\_\_\_\_ Yes \_\_\_\_\_ No
3. Staff Reviewer \_\_\_\_\_
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
12-11-03 **Approved**  
**Approved with Conditions** (See #6)  
**Denial** (See #7)
6. Conditions of Approval: SEE 12-11-03  
F.B.O.A. MEETING MINUTES
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](http://www.boonecountyky.org) - Web Page**

**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: Whitney Stith

LOCATION: Lot 38 of Ezra Fish Subdivision  
The Parcel is located on the south side of Shelby Street between 35  
Shelby Street and 7209 Burlington Pike, Florence, Kentucky

ZONING: Commercial Two (C-2)

DATE: December 11, 2003

### Proposal

The Applicant has requested a variance so he can construct a 2,077 square foot addition onto his 4,336 square foot office building. The existing office building is located at 35 Shelby Street, Florence, Kentucky. The addition is being proposed on lot 38 of Ezra Fish Subdivision. This parcel used to contain a single-family residence that had an address of 39 Shelby Street. The request is to reduce the 20 foot rear yard setback requirement to 11 feet.

### 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.

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 nuisance to the public, and will not allow an unreasonable circumvention of the requirements contained in the zoning regulations.
  - 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 regulation 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.

#### Site History of Office Building

12/11/91 – The Florence Board of Adjustment approved front and rear yard setback Variances for an office building which was being proposed on lots 29, 32, and 35 of Ezra Fish Subdivision. The front yard setback was reduced from 75' to 67' and the rear yard setback was reduced from 20' to 11' (or 15' if an adjoining alley way was not considered). The Board imposed conditions which dealt with landscaping and storm water detention (see attached meeting minutes and conditions of approval).

#### Surrounding Land Uses & Zoning

- Northeast: Shelby Street & Single-Family Dwelling (C-2)
- Northwest: Entire Tire Store (C-2)
- Southeast: Stith Office Building (C-2)
- Southwest: 8' Public Alleys, Single-Family Dwelling, RCI Appraisals (C-2)

#### Site Characteristics

The single-family dwelling on the 0.12 acre site was recently demolished. The lot is fairly level and comprised of gravel and grass. The front half of the lot is currently being used as a parking area. The rear property line contains a large number of weeds and some scrubby vegetation.

#### Staff Comments

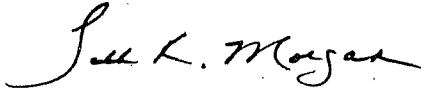
1. The subject property is currently before the City of Florence Code Enforcement for the installation of an illegal gravel parking lot. The matter has been continued by the Code Enforcement Board so that the property owner will have ample time to pursue Variance and Site Plan approvals for the proposed office addition.
2. A variance is required for the office addition because it is extending onto lot 38 of Ezra Fish Subdivision. This lot was not part of the variance request that was approved in 1991.
3. The front, rear, and side property line of the subject lot will need to be screened with a 10' wide landscape buffer (Buffer Yard A) when the building addition is constructed.
4. Staff talked with the City of Florence about the public alleys. There is no record that these alleys have ever been vacated.

5. The Board needs to consider if 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. The Variance is needed so that the building addition can be kept on the same building line as the existing building.

Conclusion

KRS 100.241 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 rear yard setback variance.

Respectfully submitted,

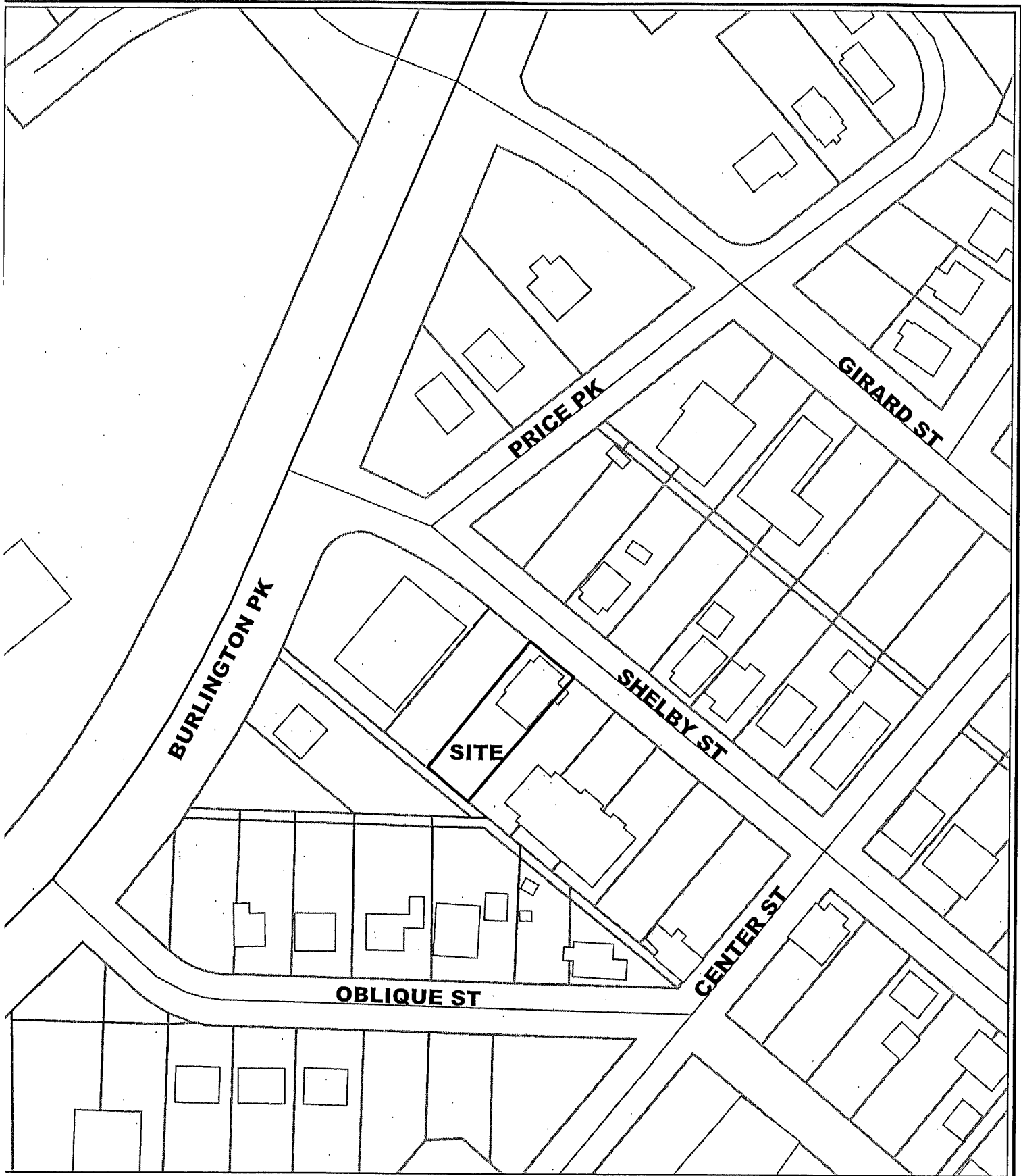


Todd K. Morgan, AICP  
Planner, Zoning Services

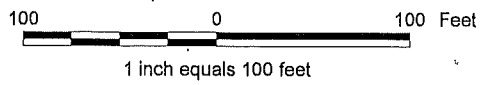
TKM/pr

Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Applicant's Description of Request
- Exhibit C – Concept Development Plan
- Exhibit D – Aerial Map
- Exhibit E – Zoning Map
- Exhibit F – Final Plat, Ezra Fish Subdivision
- Exhibit G – 12/11/91 Staff Report & Florence B.O.A. Meeting Minutes
- Exhibit H – Pictures
- Exhibit I – Application



# Smith Office Addition Site Vicinity Map



Produced by the  
Boone County Planning Commission  
GIS Services Division  
November 21, 2003



## ATTACHMENT

The owner proposed to construct a 2,077 sq. ft. addition to an existing 4,336 sq. ft. office building located at 35 Shelby Street, City of Florence, Boone County, Kentucky. The request for the rear yard variance is from the required 20' to 11' or if the alleyway is not considered 15'. This variance will allow the owner to keep the rear building line of the proposed addition in line with that of the existing building.

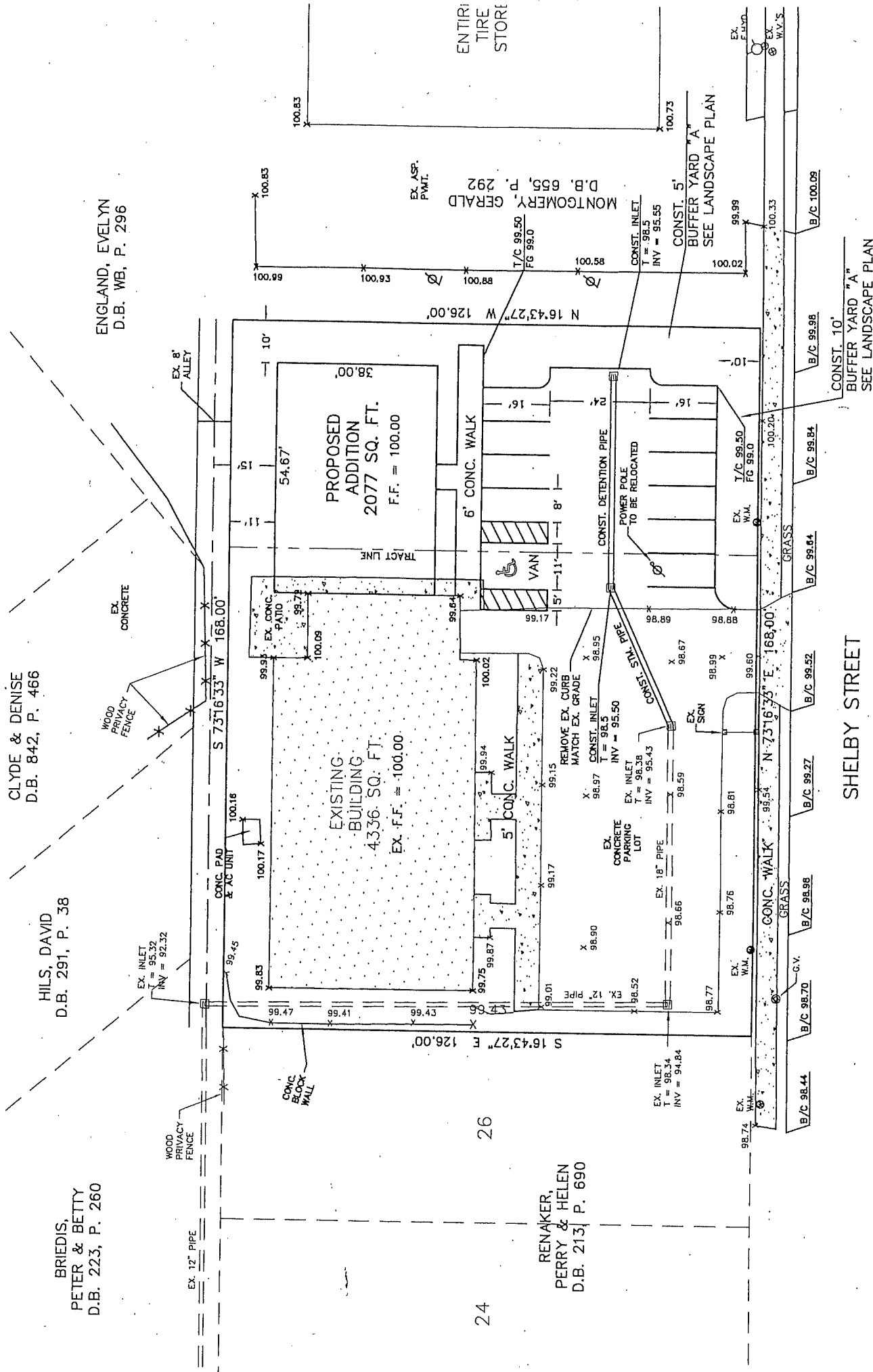
CLYDE & DENISE  
D.B. 842, P. 466

HILLS, DAVID  
D.B. 291, P. 38

BRIEDIS,  
PETER & BETTY  
D.B. 223, P. 260

ENGLAND, EVELYN  
D.B. WB, P. 296

RENAKER,  
PERRY & HELEN  
D.B. 213, P. 690



SHELBY STREET

26

24

CONST. 10' BUFFER YARD "A" SEE LANDSCAPE PLAN

CONST. 5' BUFFER YARD "A" SEE LANDSCAPE PLAN

MONTGOMERY, GERALD  
D.B. 655, P. 292  
EX. ASP. PWIT.

ENTIRE TIRE STORE

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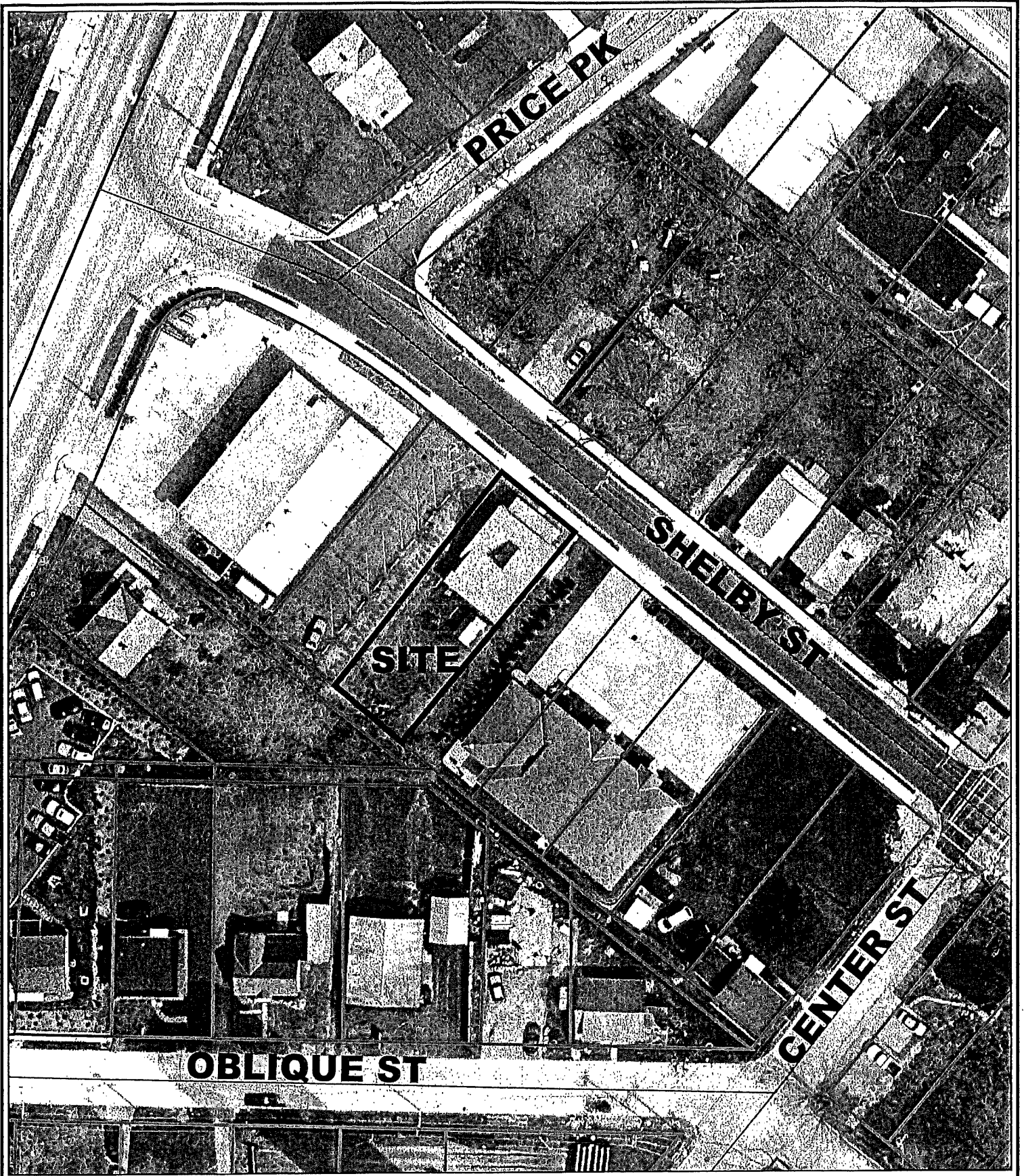
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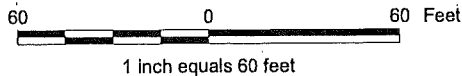
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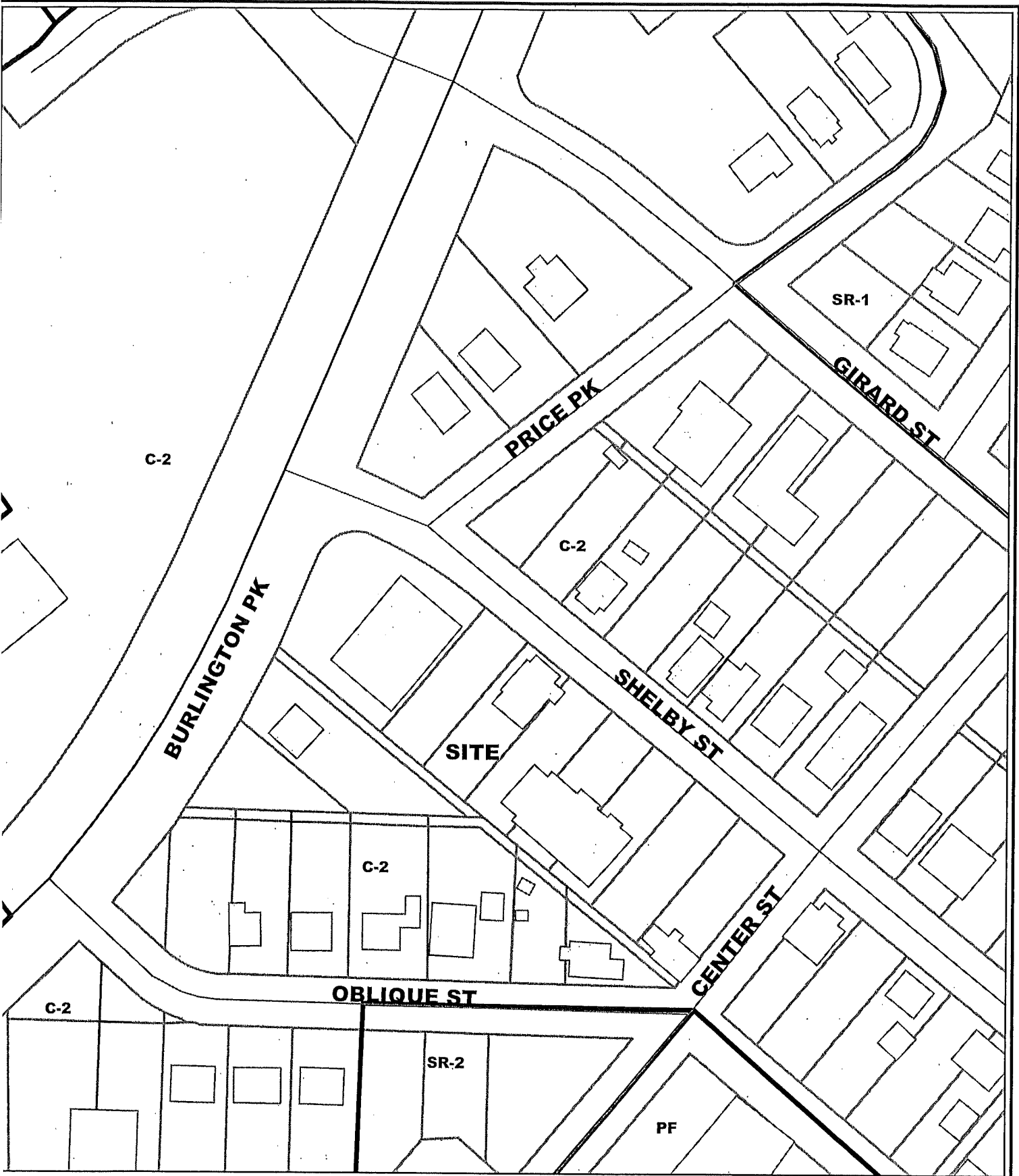


# Stith Office Addition Aerial Map

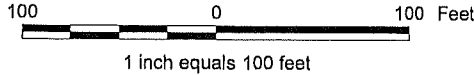


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Boone County Planning Commission  
GIS Services Division  
November 21, 2003



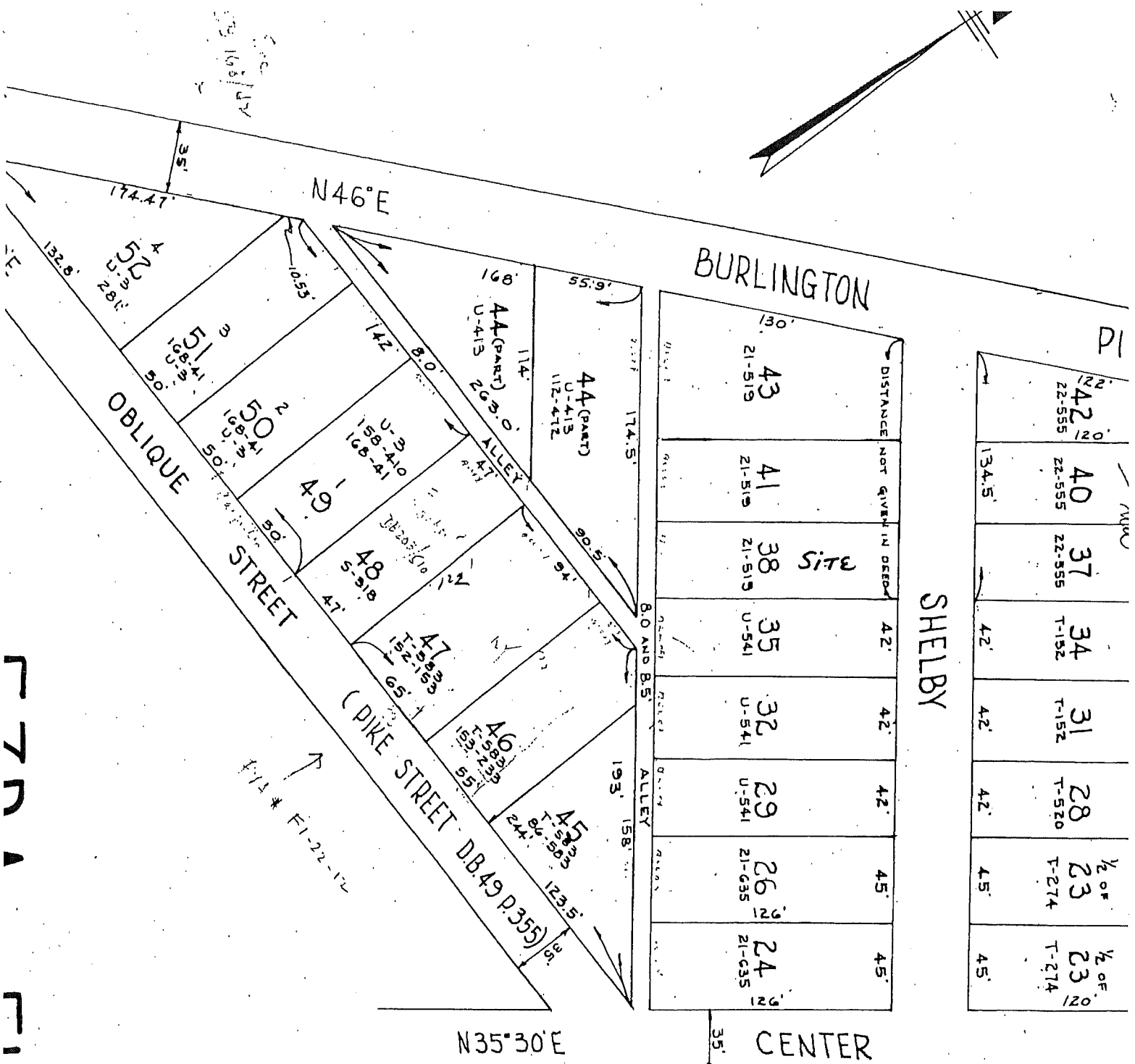
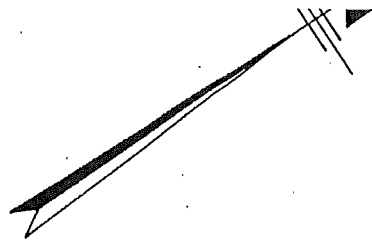


# Smith Office Addition Zoning Map



Produced by the  
Boone County Planning Commission  
GIS Services Division  
November 21, 2003





SHELBY

42	22-555	120'
40	22-555	134.5'
37	22-555	42'
34	T-152	42'
31	T-152	42'
28	T-520	42'
23	T-274	45'
23	T-274	45'

CENTER

STREET

21	U-544	44.5'
18	S-544	"
15	S-583	"
12	S-583	"
9	21-633	"

20	22-346	44.5'
17	U-192	"
14	T-588	"
11	T-588	"
8	U-243	"

PLAT NO. 168/171

## STAFF REPORT

#2

APPLICANT: Steven Butcher  
DEVELOPMENT: office and storage facility for audio/visual equipment  
LOCATION: 35 Shelby St., Florence  
ZONING: Commercial Two (C-2)  
DATE: December 11, 1991

### REMARKS:

The applicant is requesting front and rear yard Variances to allow the construction of an office and storage facility for Mac Productions audio/visual equipment rental. The 0.33 acre site, located on the south side of Shelby Street between Burlington Pike and Center Street, is zoned Commercial Two (C-2) and is owned by Mike and Becky Claypool.

### Background

Recently, a small, residence on three 42' x 126' lots on Shelby Street lots was burned and removed. The owner and applicant intend to replace it with a 3,840 square foot office and storage facility for their audio/visual equipment rental. The applicant proposes side yard setbacks of 10 feet, a front yard setback of 67 feet, and a rear yard setback of 11 feet (or 15 feet if an alleyway is not considered) for the 80' x 48' building. (see attached exhibit "A"). The Boone County Zoning Regulations require a front yard setback of 75 feet and a rear yard setback of 20 feet in C-2 districts. These setbacks would allow the construction of a 2,400 square foot building only. (see attached exhibit "B").

### Review

The following reviews the standards which the Board must use when considering Variance requests:

1. Staff can find no reason why, if granted, the Variances would adversely affect the public health, safety, or welfare, would alter the essential character of the area, would cause a nuisance or a hazard to the public, or would allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Board must further consider the following:
  - a. Staff can find no special circumstances which give rise to this Variance request and which do not generally apply to land in the area. The small lot size is standard for this part of the City;
  - b. Strict application of the setback requirements would limit the applicant to a structure of 2,400 square feet, rather than the proposed 3,840 square feet. The Board must consider whether this reduced size building (a difference of 1,440 square feet) would deprive the owner of the reasonable use of the land or would create an unnecessary hardship on the owner, and;

- c. Again, no special circumstances were found which were the results of the applicant and which give rise to this request.
2. Finally, the Board must deny any request which is the result of willful violations of the zoning regulations. This requirement does not apply in this case.

Conclusion

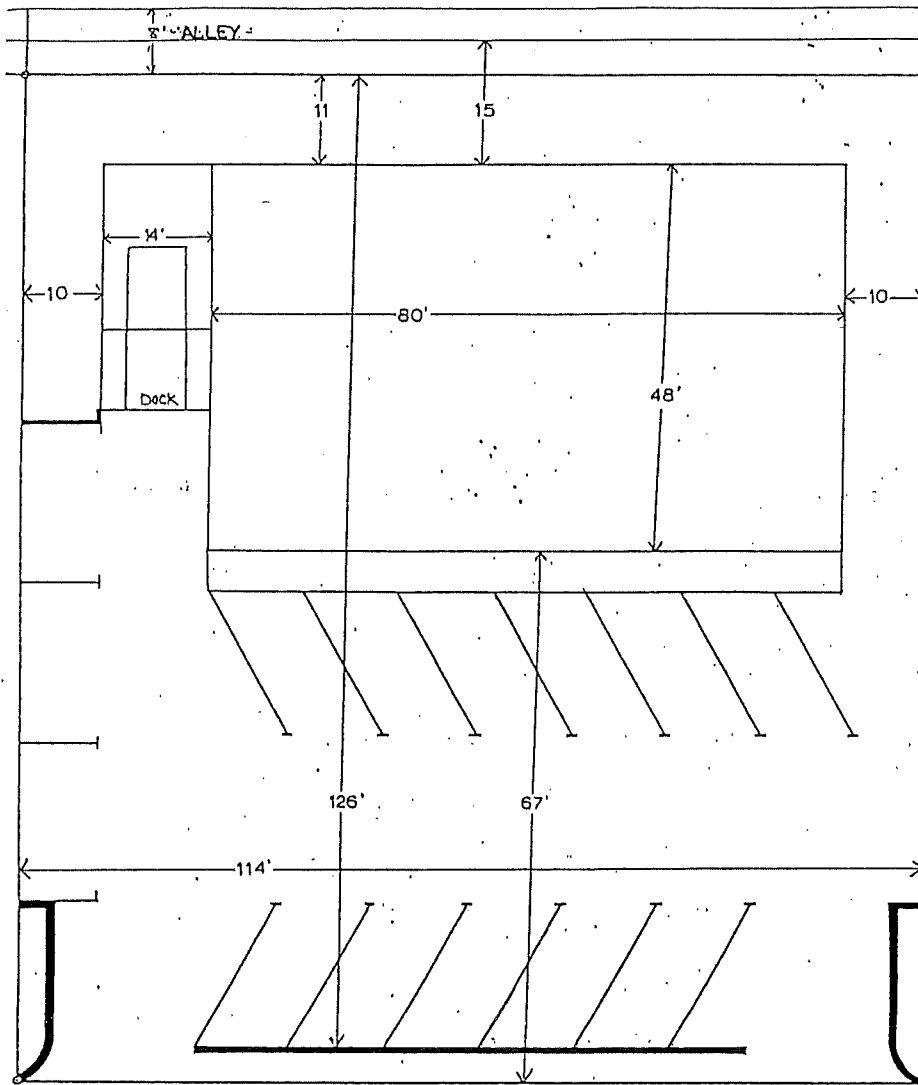
Since this area of the City is in a transitional phase from residential to commercial, Staff would recommend that, if the Variances are granted, adequate landscaping and buffering be provided. This requirement may be reviewed by the Planning Commission at the Site Plan stage.

Respectfully submitted,



Thomas W. Breidenstein  
Zoning Enforcement Officer

TWB:kat

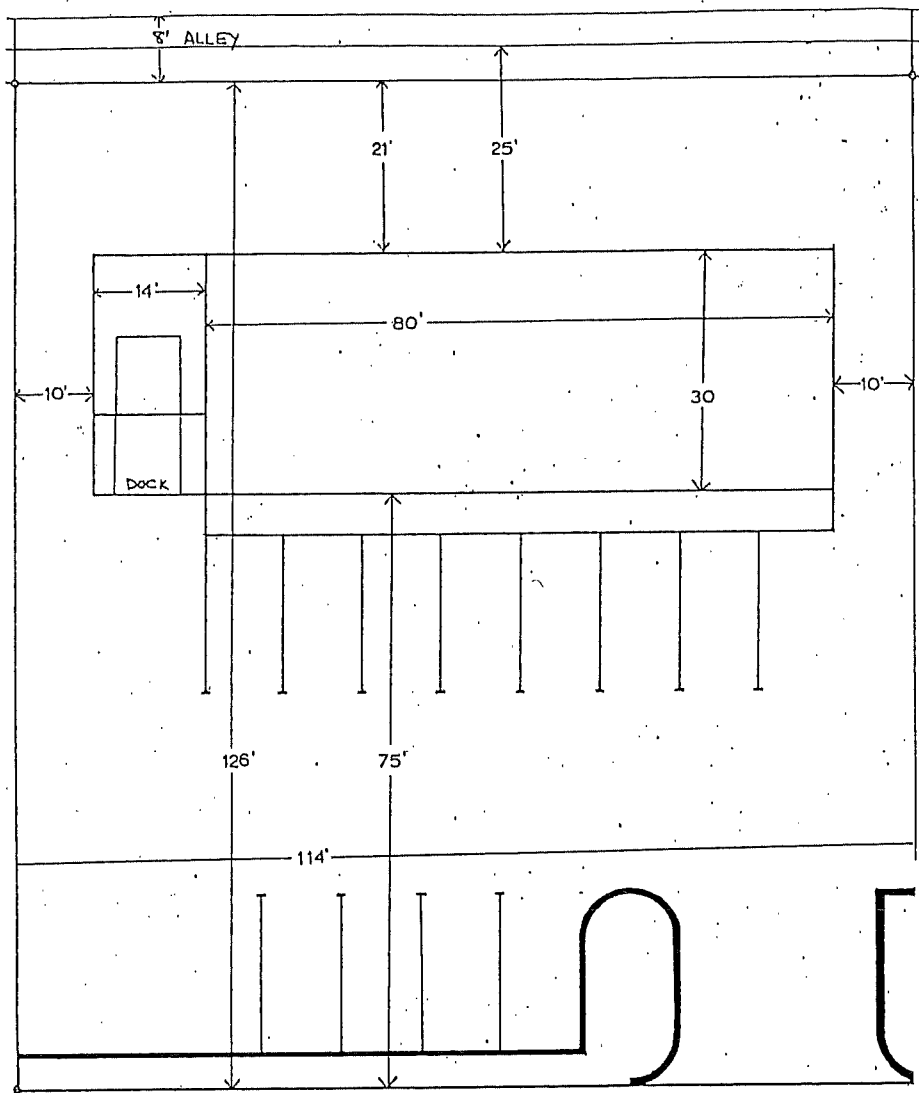


REVISED PROPOSAL OF BUILDING  
for Michael & Becky Claypool

35-37  
SHELBY STREET

Exhibit "A"

Butcher 12-11-91



PROPOSED BUILDING TO CODE  
 For Michael & Becky Claypool

35-37  
 SHELBY STREET

Exhibit "B"  
 Butcher 12-11-91

Agenda Item #2

Request of Steven Butcher for front and rear yard Variances to allow the construction of an office and storage facility for Mac Productions audio/visual equipment rental. The 0.33 acre site, located on the south side of Shelby Street between Burlington Pike and Center Street, is zoned Commercial Two (C-2) and is owned by Mike and Becky Claypool.

Staff member Mr. Thomas Breidenstein presented the Staff Report which included a slide presentation (see Staff Report).

Chairman Holland asked if the applicant had any drawings of what the building would look like. Mr. Mike Claypool answered that they do not have architectural drawings yet, because he wanted to see first whether the building could be built. He explained that he had in mind a metal building much like the DuBob Lawn Mower Service building in the area. There would be no basement, but there would be windows for the office.

Mr. Breidenstein asked Mr. Claypool to describe his business to the Board. Mr. Claypool explained that his company rents audio/visual equipment to hotels in the area for conventions or meetings that they hold. He further explained that they have a video production business also.

Discussion followed about an alley which runs along the back of the subject property. Mr. Claypool explained that he could not find who owned the alley. Mr. Pete Briedis said that the alley is owned by the city, but the city is willing to sell it to the neighbors.

Chairman Holland asked if Mr. Briedis or Mr. Renaker were opposed to the request, or if they had any questions. Mr. Renaker explained that he was concerned with the site elevation and drainage once the project is completed. Mr. Holland explained that this issue would be addressed during Site Plan review.

Discussion followed about the suggestion that landscaping and buffering be provided on the site. Mr. Claypool explained that, as the property owner, he would make the site look attractive.

Discussion followed about the parking arrangements, driveway aisles, and curb cuts. Mr. Breidenstein explained that these items would be addressed during Site Plan review.

Mr. Ashcraft expressed his concern about how close the proposed building would be located to the neighboring house and about how much noise and traffic the business would produce. Mr. Breidenstein showed a plan which indicated a distance of about ten (10) feet. Mr. Butcher explained that their business only generates a minimum of traffic and that all their activities are conducted inside. The business hours will be in the range of about 8:00 a.m. to 5:00 p.m. and there would be no evening hours.

Mr. Ashcraft what would be an adequate buffer for the neighbor house. Mr. Breidenstein explained that the zoning regulations typically require a row of white pines, ten (10) feet on center, four (4) to eight (8) feet in height.

Discussion followed about storm water drainage from the site. Mr. Breidenstein explained that he would forward the Board's concerns to the Planning Commission for consideration during Site Plan review.

Mr. Ashcraft moved that the requested Variances be granted with the following condition: that a buffer consisting of white pines, no smaller than four (4) to eight (8) feet in height, be planted on ten (10) feet centers along the entire length of the Craddock property line in order to shield the house from any traffic. Mr. Ashcraft further explained a recommendation that during Site Plan review the Planning Commission take into consideration the drainage pattern from this site which affects all other neighbors as well as the change in elevation which may affect other neighbors. Chairman Holland seconded the motion. The motion carried unanimously.

Chairman Holland mentioned a letter from Mr. Bill Fromm, the Director of the Planning Commission, which explained that, due to budget cutbacks, zoning enforcement in Florence would be handled by Mr. Dan Marsh and Mr. Kevin Costello.

Mr. Ashcraft mentioned for the record that Mr. Earl White had been recently elected to the Florence City Council. He expressed his congratulations and acknowledged Mr. White's contributions to the Board.

There being no further business to come before the Board, Chairman Holland moved that the meeting be adjourned. Mr. White seconded the motion. The meeting was adjourned by unanimous consent at 8:25 p.m.

APPROVED:



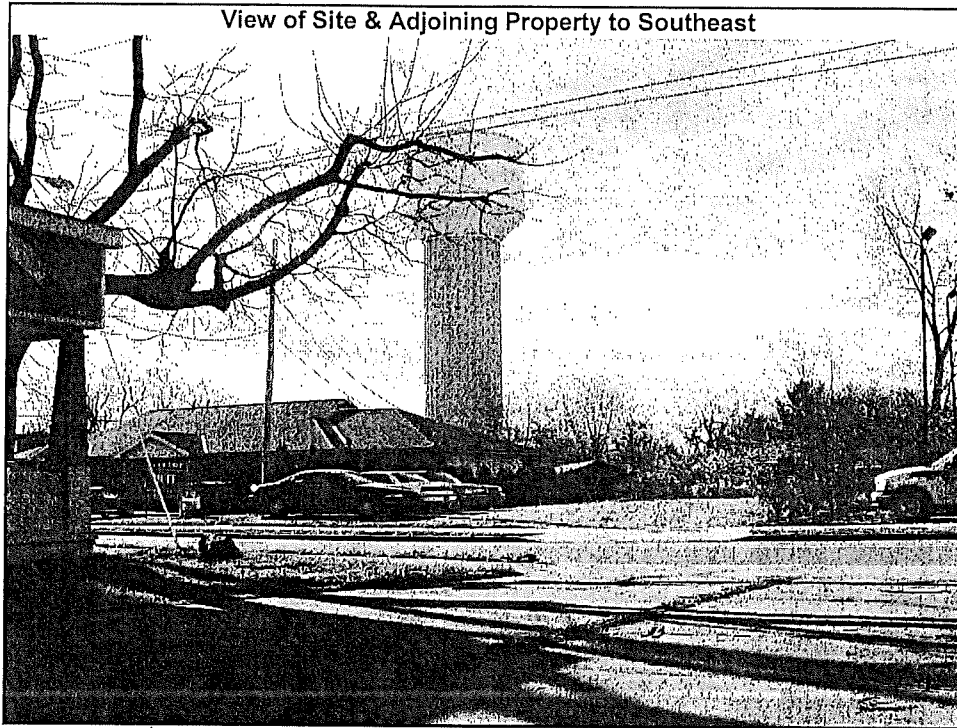
Charles F. Holland, Chairman

ATTEST:

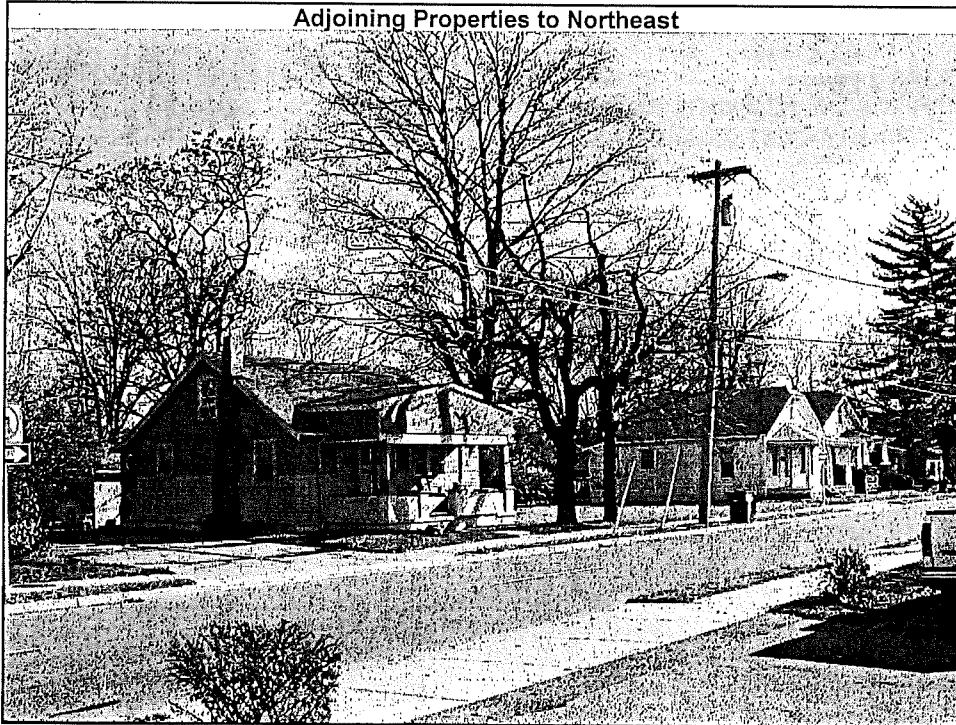


Thomas W. Breidenstein  
Zoning Enforcement Officer

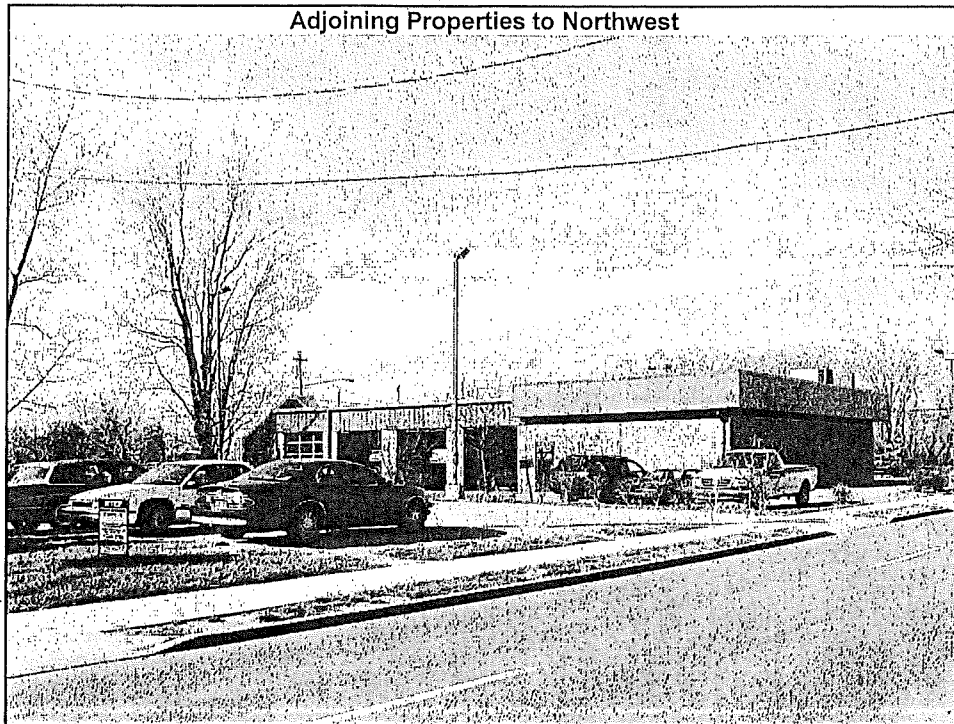
View of Site & Adjoining Property to Southeast



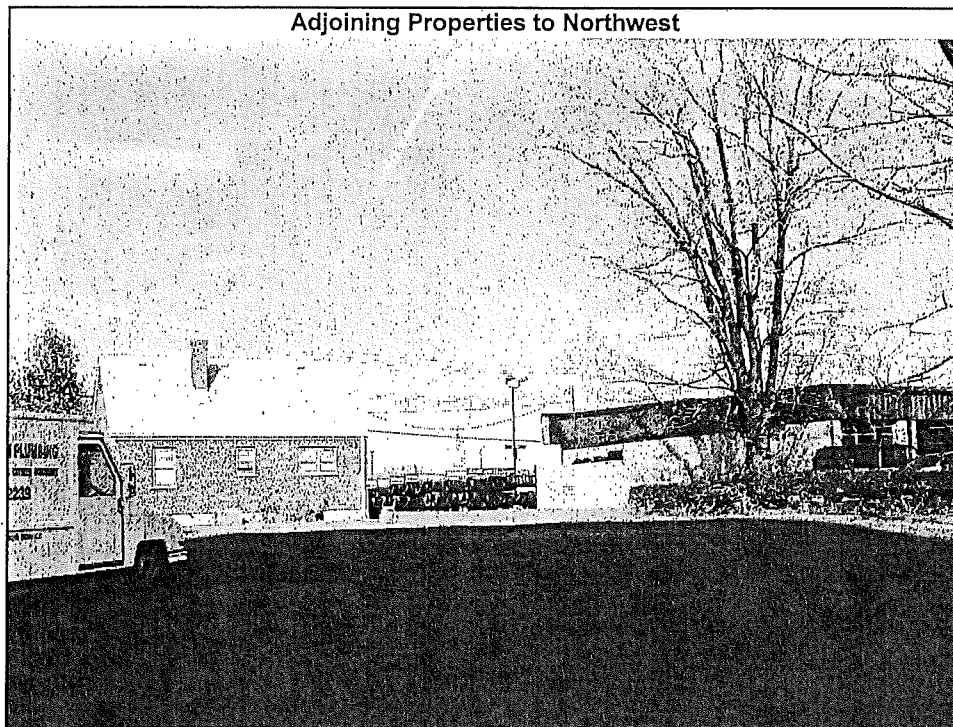
Adjoining Properties to Northeast



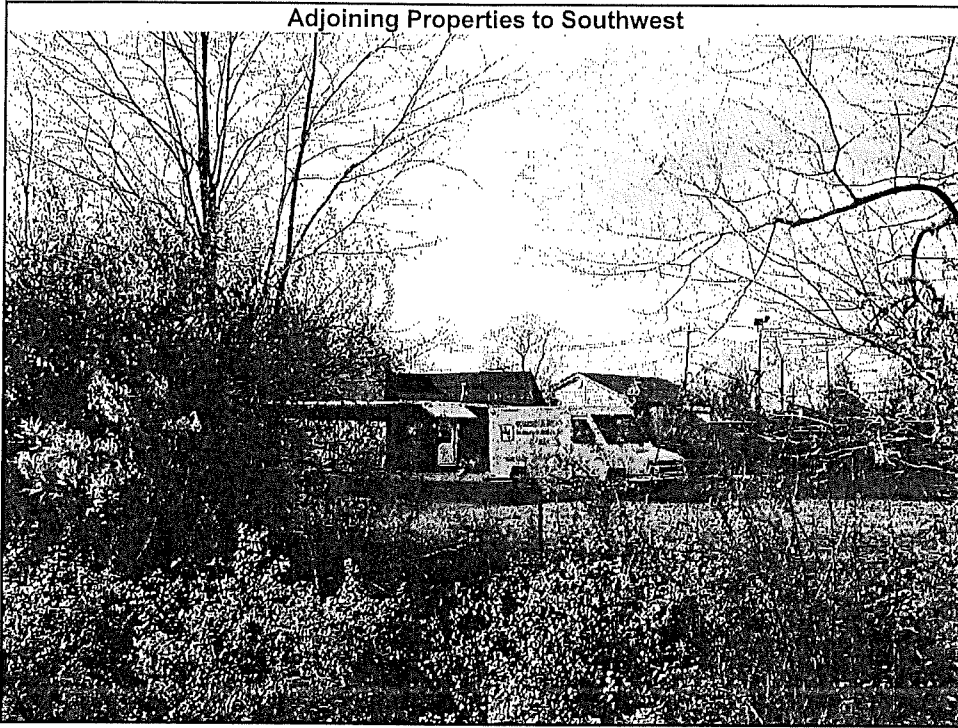
Adjoining Properties to Northwest



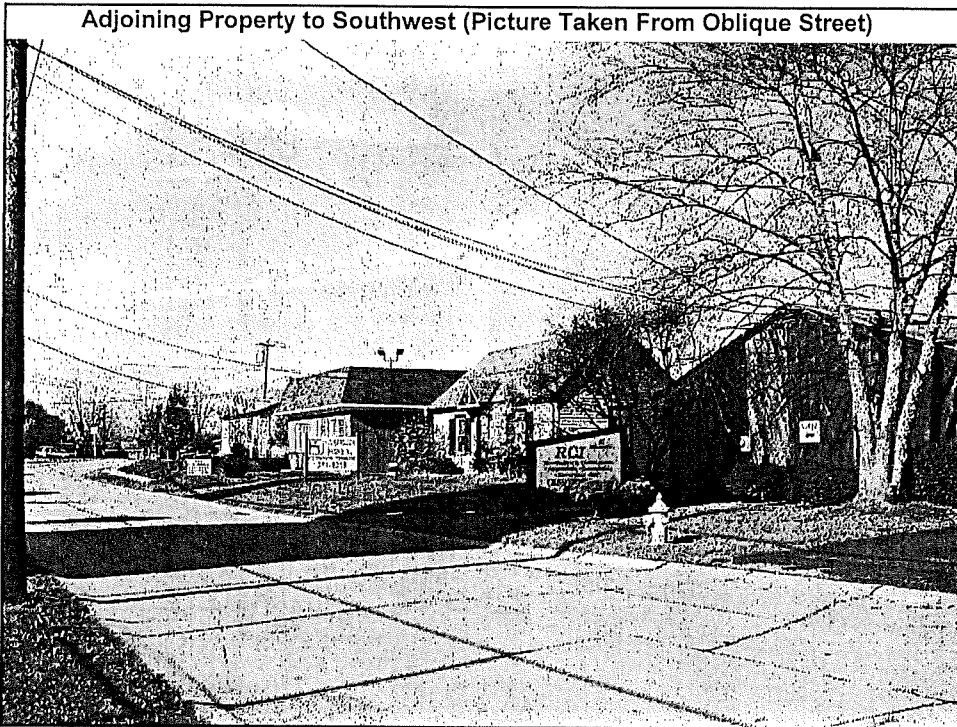
Adjoining Properties to Northwest



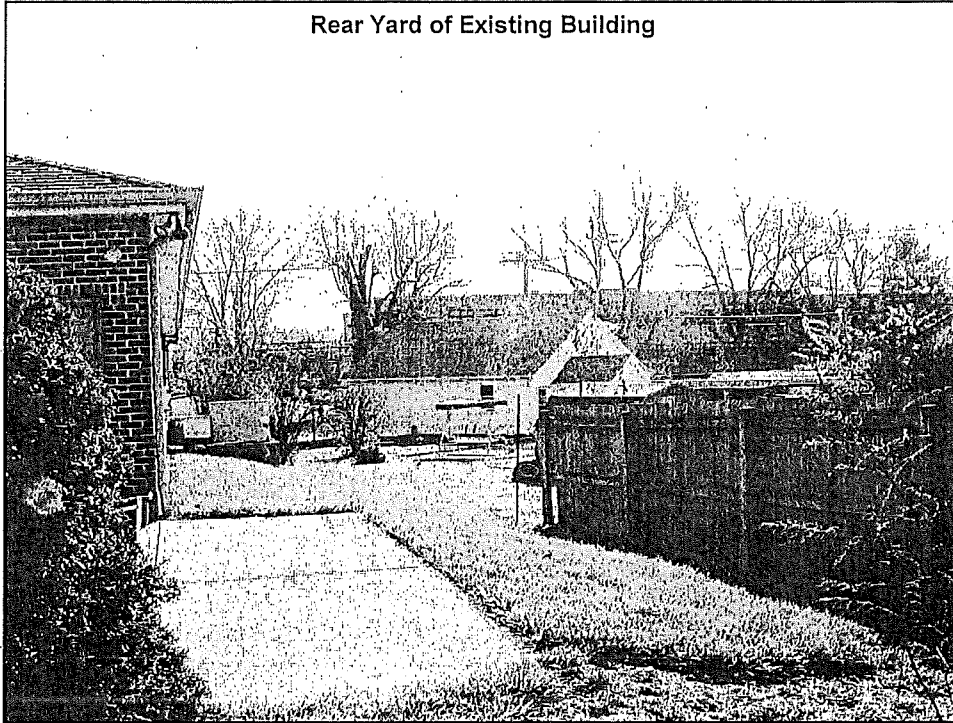
Adjoining Properties to Southwest



Adjoining Property to Southwest (Picture Taken From Oblique Street)



Rear Yard of Existing Building

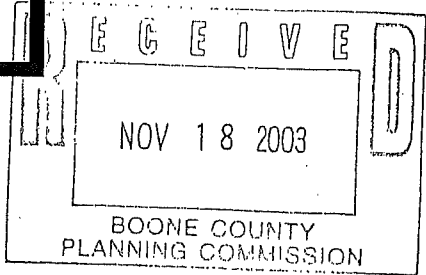


Rear of Existing Building (Picture Taken From Oblique Street)



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  Florence  Walton  Union
- 2. (Check One)  
 Conditional Use Permit  Variance  Appeal  
 Change in Non-Conforming Use
- 3. Applicant's Name Whitney Stith  
 Phone Number 283-5560 Fax No. 283-5562  
 Applicant's Address 3090 Hathaway Road  
Union KY 41091  
 City State Zip
- 4. Description of Request: Rear yard set back variance 20' to 15' see attachment.
- 5. Name of Development Stith Office Building
- 6. Location of Development 39 Shelby Street
- 7. Acreage Under Review 0.12
- 8. Lot Number and Name of Subdivision (if part of a subdivision)  
38 addition to the town of Florence, Kentucky by E.K. Fish
- 9. Owner of Property Whitney Stith  
 Phone Number of Owner 283-5560
- 10. Address of Property Owner 3090 Hathaway Road, Union, KY 41091  
 City State Zip
- 11. Proposed Use(s) on Site Office Building
- 12. Total Square Footage of Existing and/or Proposed Buildings Ex=4,336, proposed=2,077
- 13. Current Zoning on Property C-2
- 14. Deed Book 818 Page No. 368 Group No. 938
- 15. Is the site subject to a zone change? no  
 If yes, give date of approval N/A
- 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: Whitney Stith

Property Owner's Signature: Whitney Stith

(over)

COPY

CLUR #03-FBOA-007-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)  
Whitney Stith  
3090 Hathaway Road  
Union, KY 41091
2. ADDRESS OF PROPERTY  
35 Shelby Street  
Florence, KY 41042
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Stith Office Building, Lot 38, Ezra Fish Sub.
4. DEED BOOK 818                      PAGE NO. 368                      GROUP NO. 2041B
5. 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
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

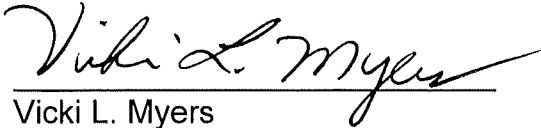
  
\_\_\_\_\_  
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

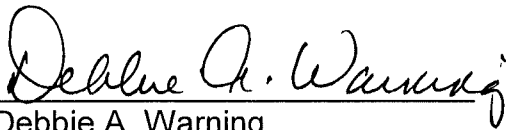
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 18 day of December, 2003.



Vicki L. Myers  
NOTARY PUBLIC, State at Large

My commission Expires:  
April 17, 2007

This instrument was prepared for recording purposes only by:



Debbie A. Warning  
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 December 11, 2003 Certificate of Land Use Restriction (#03-FBOA-007-A), for Whitney Stith, Property Owner(s).

The following conditions will apply:

- 1) The front, rear, and side property line of the lot is required to be screened with a 10' wide landscape buffer (Buffer Yard A) when the building addition is constructed.
- 2) The building materials are to be the same as the existing building.
- 3) There is to be no additional lighting, the direction of the lighting is to remain the same, and the lighting on the existing pole is to remain the same when the pole is moved.
- 4) There is to be no additional signage or access (curb cuts).

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

DEED BOOK 818

PAGE NO. 368

GROUP NO. 2041B