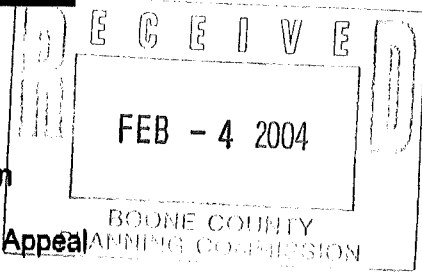


04-F&BOA-001-A

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)
1. Boone Florence Walton Union
 2. Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use
 3. Applicant's Name Cynthia A. DeZarn
Phone Number 513-471-6145 Fax No. _____
Applicant's Address 520 Purcell Avenue
Cincinnati OH 45205
City State Zip
 4. Description of Request: Operate telemarketing/telephone sales office.
 5. Name of Development 7312 Dixie Highway
 6. Location of Development 7312 Dixie Highway, Florence, KY 41042
 7. Acreage Under Review _____
 8. Lot Number and Name of Subdivision (If part of a subdivision)
Lots 24 & 25 in North Kentucky subdivision in Florence
 9. Owner of Property Todd and Cynthia Fischer
Phone Number of Owner 859-371-5888
 10. Address of Property Owner 10658 Chenery Cove
Union KY 41091
City State Zip
 11. Proposed Use(s) on Site Office
 12. Total Square Footage of Existing and/or Proposed Buildings + 1,500 sq. ft.
 13. Current Zoning on Property SR-2
 14. Deed Book 797 Page No. 659 Group No. 2042
 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? Y
 17. Have you submitted a list of adjoining property owners with this request? Y
 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: Cynthia A. DeZarn

Property Owner's Signature: Todd Fischer
Cynthia A. Fischer

(over)

**BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
APPLICATION
PAGE 2**

Special BOA Meeting - 2-5-04 \$1000.00 R# 37753

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

H 16.00 R# 37739

- 1. Date Received 2-4-04 Fee Received \$379.00 R# 37738
- 2. Is application complete? _____ Yes _____ No also \$32.00 R# 37754
- 3. Staff Reviewer _____
- 4. Scheduled Board Action Date _____
- 5. Board Action: _____
 2-25-04 Approved
 Approved with Conditions (See #6)
 Denial (See #7).
- 6. Conditions of Approval: SEE FLORENCE Board of Adjustment 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 - 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: Cynthia A. DeZarn
LOCATION: 7312 Dixie Highway, Florence, Kentucky
ZONING: Suburban Residential Two (SR-2)
DATE: February 25, 2004

PROPOSAL

The applicant is requesting a Change in Non-Conforming Use so the use category of a non-conforming business can be changed from medical services to telephone marketing/telephone sales. The property is located at 7312 Dixie Highway and is zoned Suburban Residential Two (SR-2).

APPLICABLE REGULATIONS

Article 2, Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment and Zoning Appeals is to act on applications for changes in non-conforming use.

Article 2, Section 270 of the Boone County Zoning Regulations states that it is the intent of the regulations to keep non-conforming lots, uses or structures from being "enlarged or extended beyond the scope and area of its operation at the time it became a legal non-conforming use, nor shall other uses or structures which are prohibited elsewhere in the same district be permitted on lots of non-conforming uses or structures."

Article 2, Section 272 of the Boone County Zoning Regulations states "where, at the time of the adoption of this order, legally established, uses of land exist which would not be permitted by regulations imposed by this order, the uses may be continued so long as they remain otherwise lawful, provided the Board shall not allow the enlargement or extension of a non-conforming use beyond the scope and area of its operation at the time these regulations were adopted."

K.R.S. 100.253 allows the following:

1. The lawful use of a building or premises, existing at the time of the adoption of any zoning regulations affecting it, may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein.
2. The board of adjustment shall not allow the enlargement or extension of a non-conforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the board permit a change from one (1) nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification, provided, however, the board of adjustment may grant approval, effective to maintain nonconforming-use status,

for enlargements of extensions, made or to be made, of the facilities of a nonconforming use, where the use consists of the presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.

3. Any use which has existed illegally and does not conform to the provisions of the zoning regulations, and has been in continuous existence for a period of ten (10) years, and which has not been the subject of any adverse order or other adverse action by the administrative official during said period, shall be deemed a nonconforming use. Thereafter, such use shall be governed by the provisions of subsection (2) of this section.

Article 2, Section 273 of the Boone County Zoning Regulations states "the Board of Adjustments and Zoning Appeals shall have the power to hear and decide on applications to permit a change from one non-conforming use to another.

The Board shall not permit such change unless the new non-conforming use is as equally or more compatible with permitted uses in the district in which it is located as the existing non-conforming use.

The Board shall not allow any changed non-conforming use to be increased or enlarged, nor extended to occupy a greater area of land than was occupied by the original non-conforming use. In permitting such a change in non-conforming 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."

Article 2, Section 276 of the Boone County Zoning Regulations states that repairs and maintenance may be made on any non-conforming structure or portion of a structure containing a nonconforming use. Such work may include ordinary repairs, or repair or replacement of non-bearing walls, fixtures, wiring, or plumbing; provided that the cubic content existing when it became non-conforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Article 9, Sections 941 and 943 of the Boone County Zoning Regulations do not list "physician and dental services including medical, dental laboratories and clinics" or "office uses or activities (integral stenographic reproduction, mailing, research, sales, etc.) of commercial businesses and other organizations" as principally permitted or conditional uses in the Suburban Residential Two (SR-2) zone.

SITE HISTORY

5/10/95 – The Florence Board of Adjustment and Zoning Appeals approved an appeal of the Zoning Administrator's interpretation of the City of Florence Official Zoning Map and interpretation of the Boone County Zoning Regulations pertaining to the principally permitted uses within a Suburban Residential Two (SR-2) zoning district. The approval of this appeal allowed the single-family dwelling on the site to be converted into a Chiropractic Office (see attached meeting minutes).

SITE CHARACTERISTICS

The 0.14 acre parcel contains a single-family residence which was converted into a business in 1995. The City of Florence has allowed the subject property and the adjoining property owner to the north to utilize an unimproved section of the Fair Street right-of-way as joint access to these two sites.

SURROUNDING LAND USES & ZONING

North: Fair Street Right-of-Way, Electric Repair Business (C-2)

South: Single-Family Residential Dwelling Fronting on Dixie Highway (SR-2)

East: Dixie Highway, Morris & Bressler P.S.C. (C-2 & SR-2)

West: Single-Family Residential Dwellings Fronting on Fair Street (SR-2)

STAFF COMMENTS

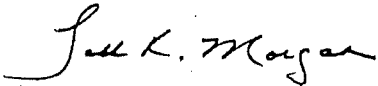
1. On January 27, 2004, the Zoning Administrator made a determination (see attached letter) that he could not approve a change in non-conforming use from a hearing test/hearing aide business to a telemarketing/telephone sales business because it would involve changing one non-conforming use to another. The only body that can permit such a change is the Board of Adjustment and Zoning Appeals.
2. Staff would like the applicant to address the hours of operation of the proposed business.
3. Staff believes that the proposed change from a hearing test and hearing aide sales business to a telemarketing/telephone sales business should be equally or more compatible with the Suburban Residential Two (SR-2) zone because the use should have less vehicular traffic (no customers). However, the defined hours of operation are critical in making this determination.
4. Staff would like to point out that a 30' wide buffer (Buffer Yard C) is typically required between a developing commercial property and an adjoining single-family residential district. As a result, Staff recommends that a minimum a 6' tall privacy fence should be installed along the rear property line.

5. The trash dumpster for the facility is located in the middle of the Fair Street right-of-way. This is a violation of the 1995 Site Plan approval. A 1995 letter from Richard J. Lunnemann (see attachments) indicates that the Fair Street right-of-way could be used to access the site, but that no structure or parking area could obstruct this right-of-way. Staff has talked with the City of Florence about this matter and they want the dumpster moved onto the subject property. In addition, Staff recommends that the dumpster should be enclosed or screened per the Boone County Zoning Regulations.

Conclusion

KRS 100.253 and Section 220 of the Boone County Zoning Regulations gives the Boone County Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for a Change-in-Non-Conforming Use.

Respectfully submitted,



Todd K. Morgan, AICP
Planner, Zoning Services

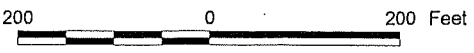
TKM/pr

Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Aerial Map
- Exhibit C – Zoning Map
- Exhibit D – 1/27/04 Letter From Kevin Wall
- Exhibit E – 5/10/95 Florence B.O.A. Meeting Minutes
- Exhibit F – 5/15/95 Approved Site Plan
- Exhibit G – 4/13/95 Letter From Richard Lunnemann
- Exhibit H – Pictures
- Exhibit I – Application



7312 Dixie Highway Site Vicinity Map



1 inch equals 200 feet

Produced by the
Boone County Planning Commission
GIS Services Division
February 11, 2004





70 0 70 Feet

1 inch equals 70 feet

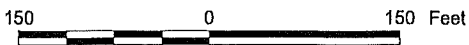
Produced by the
Boone County Planning Commission
GIS Services Division
February 11, 2004



7312 Dixie Highway Aerial Map



7312 Dixie Highway Zoning Map

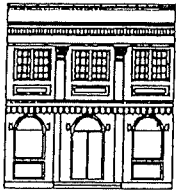


1 inch equals 150 feet

Produced by the
Boone County Planning Commission
GIS Services Division
February 11, 2004



BOONE COUNTY PLANNING COMMISSION



2995 Washington Street • Burlington, KY 41005

www.boonecountyky.org

Phone: (859) 334-2196

Fax: (859) 334-2264

E-mail: plancom@boonecountyky.org

January 27, 2004

Ms. Kristie Grogan
First Commercial Realty, Inc.
8174 Mall Road
Florence, KY 41042

FAX: 371-6365

RE: Change of Nonconforming Use at 7312 Dixie Highway, Florence, Kentucky;
Suburban Residential Two (SR-2) Zone

Dear Ms. Grogan:

In response to your inquiry, I am providing the following information.

First, the property in question is within a Suburban Residential Two (SR-2) zone. As you are aware from my previous letter dated January 10, 2001, the prior medical services uses (chiropractic office and then hearing testing/hearing aide sales) were legal nonconforming uses. Nonconforming status was granted by the Florence Board of Adjustment (BOA) on May 10, 1995 to allow a chiropractic office. I authorized the hearing testing/hearing aide business in 2001 because this change was not a "change of use" per se (i.e., both operations are considered to be medical services in the context of the zoning regulations).

Second, the operation now proposed conducts telephone sales of advertising. The business will have five people working in the building and there are no walk-in customers. While I agree that this appears to be a low-impact office use, it is not a medical service use as were the two prior tenants per the BOA request that was approved in 1995. Rather, the proposed business is an administrative office (versus medical/medical related) and does not fall within the scope of the current BOA approval (for reference purposes using the O-1 zone as an example, medical services fall within Principally Permitted Use #15 and the proposed use falls under Principally Permitted Use #21).

As Zoning Administrator, I am not empowered to grant changes from one nonconforming use to another - this authority rests solely with the Board of Adjustment. Therefore, a change in nonconforming use must be approved by the BOA through the public hearing

Ms. Kristie Grogan
January 27, 2004
Page 2

procedure before the proposed advertising sales office use can be operated at this location. Todd Morgan, to whom you discussed the proposal with previously, can assist you with the necessary application materials and review process.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin T. Wall', written over a horizontal line.

Kevin T. Wall, AICP CDT
Zoning Administrator
City of Florence

KTW/vlm

cc: Rick Lunnemann, Assistant City Coordinator
Todd Morgan, AICP, Planner

Mr. Wall advised that the code would allow them a grace period since they are in business already. The recommendation is that all of the site improvements be in place before the Conditional Use Permit takes effect. Mr. Ashcraft included this in his motion and advised that this includes the trees and the striping.

Mr. Pieper suggested that there be an amended diagram and that it be part of the Minutes. Mr. Ashcraft asked Mr. Nordloh to send a revised diagram to the Board in accord with the motion. It is to be given to the Secretary and she will put it with the Minutes. If there is anything wrong with the amended diagram, the Board will let Mr. Nordloh know.

The Chairman asked for a vote on the motion made by Mr. Ashcraft and it carried unanimously.

3. The request of Jeff and Gail Forlenza for an Appeal of the Zoning Administrator's decision regarding the interpretation of the City of Florence Official Zoning Map and the interpretation of the Boone County Zoning Regulations pertaining to the principally permitted uses within a Suburban Residential Two (SR-2) zoning district for property located at 7312 Dixie Highway, Florence, Kentucky. The property is owned by Jeff and Gail Forlenza and zoned Suburban Residential Two (SR-2).

Counselor Wilson advised that Mrs. Jump was present in regard to this item and needs to leave shortly. She would like to speak at this time.

Mr. Jeff Siemen stated that he was present in behalf of Mr. and Mrs. Forlenza as they had a death in the family.

Mrs. Marie Jump, 7314 Dixie Highway, next door to the subject site, stated that they share a common fence. It is great that they are going to be there as they will keep the property up and are gone at 6 P.M..

Counselor Wilson advised that Staff Member Mitch Light dealt with this issue and can provide the details. Counselor Wilson stated that there was an inquiry about the zoning of the property and Mr. Light was given an address, but not a lot number. The zoning map does not have an address on it, and he went to a street address map to determine the zoning. That map was a city map, but there is a copy of it in the Planning Commission office, and it showed the property to be on the north side of Fair Street. Fair Street is not developed and is grass. However, the property is in fact on the south side of the paper street. Mr. Light then determined from the zoning map that the property would be zoned commercial. Mr. Light gave a general statement to the Forlenzas that the property appears to be commercial, but that he needed a more specific plat. Mr. Light then got a portion of a subdivision plat and two lots on the north side were highlighted. It is not known who highlighted the lots, but they coincided with the address map and confirmed that the property was on the north side of Fair Street -- but it is actually on the south side. Mr. Light then found the discrepancy.

Mitch Light, Assistant Zoning Administrator and Enforcement Officer, presented the Staff Report (see Staff Report). He advised that the Florenzas wanted to purchase the property if they could run a chiropractic office on the site.

Counselor Wilson addressed Kentucky law in regard to similar types of situations. He advised that Mitch Light as Zoning Enforcement Officer has no authority to let this pass and say that it is going to be allowed; nor does Mr. Wall, the Zoning Administrator. The matter has to come before the Board. Counselor Wilson advised that he has a copy of the deed where Mr. and Mrs. Forlenza paid \$70,500 and bought the property in February. In good faith, they thought they were buying commercial property. He stated that there is a 1991 case from Berea, Kentucky that talks about the concept of "honest error" or "blameless error". This case is very similar -- the map used to determine zoning was wrong and the Building Permit was issued, but it turned out that the property was not in a commercial zone. Litigation ensued while a matter was pending before the Board of Adjustment. The Court of Appeals said that in a situation like this the Doctrine of Honest Error can apply -- when an administration official in good faith in the performance of his duties makes an wrong/blameless interpretation and the property owner relies on it. He stated that if the sale of the Forlenza property had not occurred, the matter would not be before the Board because they would not have relied on the information. The Board cannot allow a use the zoning does not allow, but sitting as an Appeals Board and finding that "honest error" would apply, the Board cannot change the zone, but can say that under these circumstances and in the concept of fairness, the owner would have vested rights to proceed. There is no blame to assess.

Counselor Wilson advised that there is an old Kentucky case where an applicant intentionally misrepresented something to a public official and, relying on that intentional misrepresentation, the official issued a permit that was illegal. When it came out that there was intentional misrepresentation, the applicant had to tear down the building. Counselor Wilson stated that he does not know of any facts that put this case in that posture.

Mr. Ashcraft questioned what would happen if the building were to be sold to someone else for a different purpose. He stated that the provision almost runs to the Forlenzas personally and not with the land. Counselor Wilson advised that the property may get rezoned as part of the county-wide update. Assuming that the zoning would remain Residential and the Board applies the "honest error" doctrine, they can proceed with this commercial use. If they want to change the use, they would have to ask for a change from one non-conforming use to another.

Mr. Siemen stated that their position was summed up by Mr. Light and Counselor Wilson. He presented a handout to the Board, which he reviewed -- noting on the second page the location of the paper street. He stated that the map is marked incorrectly and 7312 Dixie Highway is where 7314 is on the map -- which reaffirms that this was an honest error. There was no purposeful or intentional misrepresentation by anyone. He stated that their argument is one of equity and estoppel.

Mr. Ashcraft noted that the Florenzas paid a commercial price for residential property. He asked if they would be willing to sign a Waiver that there will not be any complaint or action for any monetary loss they might suffer as a result of the property remaining residential upon the sale. He stated that he does not want the Florenzas to say that the Board permitted them to use the property and they paid the price relying on commercial zoning and, therefore, they want to sell the property as commercial.

Mr. Siemen advised that the Florenzas intend to open a chiropractic office, but they are not chiropractors. They provide the physical plant and office for a chiropractor and help him set up. After 36 months, if things go as planned, they turn the business and real estate over to the chiropractor.

Counselor Wilson stated that if the Florenzas say they do not have a problem with it, he feels comfortable in defending an action if the second person comes in and says "I have a loss" and wants to sue because he knew what he was getting and was not misled by honest error. He would have entered into another transaction with the Florenzas and would not have a basis on which to sue.

Mr. Ashcraft asked if it would be appropriate to record in the deed records an agreement by the Florenzas. Counselor Wilson asked if the Florenzas were willing to do that. Mr. Siemen stated that he believes they would be, but he will have to consult with them.

Mr. Ashcraft stated that his concern is that a subsequent owner might say "I want Commercial use because my predecessor had it". He noted that there could be an error on top of an error. A real estate agent might list the property as Commercial.

Counselor Wilson advised that to bring an action the person has to show that they had a vested right or expectancy to have the commercial activity. The only people he believes could possibly have an argument would be the Florenzas. Someone taking from them would not have that right. Mr. Siemen advised that an action by the buyer in that case would be against the Florenzas, not the city.

Mr. Wall stated that a CLUR, signed by the Florenzas, could be filed that sets forth the understanding. Mr. Ashcraft suggested that their counsel draw it up, subject to Counselor Wilson's approval. Counselor Wilson stated that he is not comfortable with this as "honest error" either applies or it doesn't.

Chairman Holland stated that the problem is that the Florenzas bought 7312 Dixie Highway and thought it was 7314 Dixie Highway and zoned Commercial.

Mr. Light advised that 7308 Dixie Highway is not on the map prepared by the City of Florence, so the property on the north of Fair Street is 7308 and to the south it is 7312. 7308 moved everyone up a house and that is where the error began.

Mr. Siemen advised that 7312 Dixie Highway on the Florence map is C-2.

Mrs. Bonnie Gardner stated that she is the last property in the commercial zone. The only reason she wanted to be present was to protect herself. Fair Street is a paper street. She wants to make sure that the Florenzas will have some facilities for parking because if they use Fair Street to park, it cuts her off from getting to her parking lot. Mr. Ashcraft advised that they do not have the right to use Fair Street for a parking area.

Mr. Ewing advised that he knows Sam Forlenza and asked if he is any relation to these people. Mr. Siemen advised that the Florenzas are from New Jersey. Mr. Ewing stated that he does not know if he should not vote due to a conflict of interest.

Bonnie Garner asked if the proposed parking becomes part of the Conditional Use. Mr. Light advised that it is part of a minor Site Plan they have submitted.

Counselor Wilson advised that the Fair Street right-of-way has not been closed. It is not someone's parking lot -- it is a public right-of-way.

Mr. Light stated that the best thing to do would be to close Fair Street so that both property owners get half of it. Mrs. Garner advised that it benefits them both to leave it as a paper street so that they can both get in and out. If it is closed and divided, there will not be enough room for either of them to get in and out. She has instructed her lessees not to park on Fair Street.

Mr. Light reviewed the Staff Concerns (see Page 2 of the Staff Report).

Counselor Wilson advised that Fair Street was paved by someone other than the city some years ago. Mrs. Garner stated that it was paved in 1974.

Mr. Ashcraft asked if Mr. Siemen has the authority to agree to the conditions. Mr. Light advised that the minor Site Plan has not yet been approved. Counselor Wilson advised that the Board would not be imposing the conditions. If the Board finds "honest error", then at the minor Site Plan Review the Commission could impose the conditions. The minor Site Plan Review is not in front of the Board at this time.

Mr. Ashcraft, having reviewed the facts and taken all of the evidence into consideration, moved that the Board find that an honest error was made and that Mr. and Mrs. Forlenza be granted the Commercial use as set out in Mr. Rolfes' letter, subject to their execution of that document. Mr. Pieper seconded the motion and it carried unanimously.

Mr. Siemen asked if the motion was conditional upon the signing of #12 in the packet. Mr. Ashcraft stated that he was assuming they had signed it. Mr. Siemen advised that they have not signed it. Mr. Ewing stated that they will not get an Occupational License unless they sign. Mr. Siemen advised that they have an Occupational License that was granted in March. A condition of the document was that a favorable ruling be obtained from the Board of Adjustment. Counselor Wilson advised that they do not have to sign it.

Mr. Ashcraft withdrew "subject to their execution of that document" from his motion. Mr. Pieper seconded the amendment.

Chairman Holland moved to strike Mr. Ashcraft's motion entirely. Mr. Ewing seconded the motion and it carried unanimously.

Mr. Ashcraft, having reviewed the facts and taken all of the evidence presented into consideration, moved that the Board find honest error and grant the Florenzas the commercial use of the property as a non-conforming use. Mr. Pieper seconded the motion and it carried unanimously.

OTHER BUSINESS:

1. By-Laws: Counselor Wilson advised that the By-Laws are being updated. Copies were distributed previously to the Board. He stated that the Board should review the document and take action at the next meeting.

2. Election of Officers:

Mr. Ashcraft moved to elect Charles Holland as Chairman by acclamation. Mr. Ewing seconded the motion and it carried unanimously.

Mr. Ashcraft moved to elect James Ewing as Vice Chairman by acclamation. Chairman Holland seconded the motion and it carried unanimously.

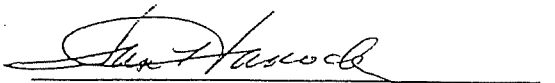
There being no further business to come before the Board, the meeting was adjourned by unanimous consent at 10:10 P.M..

APPROVED:



Charles F. Holland, Chairman

Attest:



Jan Hancock, Recording Secretary

7312 U.S. 25, FLORENCE

BOONE COUNTY CHIROPRACTIC

Office Copy

"SHADOWBOX" FENCE OR TREE LINE 50'

EXISTING FENCE TO BE REMOVED ALONG THIS LINE

SHRUB LINE

FAIR ST. IS "DEAD-ENDED"

PROPOSED NEW PARKING SPACES

4 ~~5~~ 18'x9' 2

EXISTING 2 24" TREE TO REMAIN

4 SPACES W/1 BEING HANDICAPPED RIGHT OF WAY

"PARKING LOT" 2

122'

2-STORY BLDG. 1400 S.F.

SIDEWALK

PROPERTY LINE 2

EDGE OF STREET

STREET USED FOR PARKING BY ADVANCED TECHNICAL SYSTEMS

HANDICAPPED RAMP 2

EXISTING DRIVENAY, TO BE HANDICAPPED SPACE REMOVED

TELEPHONE POLE

~~NEW RAMP HANDICAPPED ACCESS~~

"FAIR ST."

SEWER & GAS

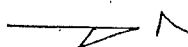
← US 25 →

APPROVED

Staff [Signature]

Date 5/15/95

SCALE: 1" = 20'-0"



Boone County Planning Commission

42,381 50 SHEETS 3 SQUARE
42,382 100 SHEETS 3 SQUARE
42,383 200 SHEETS 3 SQUARE
NATIONAL

City of Florence

PUBLIC SERVICES

April 13, 1995

Ms. Gayle Forlenza
7312 Dixie Highway
Florence, KY 41042

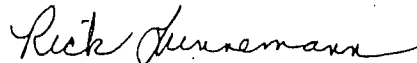
Dear Ms. Forlenza:

This letter is written in reference to the Boone County Chiropractic office to open soon at 7312 Dixie Highway (U.S. 25). Specifically, in reference to your request to utilize the old plated Fair Street right-of-way to access your site.

Public right-of-ways, whether improved or unimproved, are available for use by the general public. However, public right-of-ways shall not be blocked or obstructed in a way that would hinder complete access to the right-of-way at all times.

If you have any questions please feel free to call me at 647-5416.

Sincerely,



Richard J. Lunnemann
Code Administrator

View of Property & Fair Street Right-of-Way



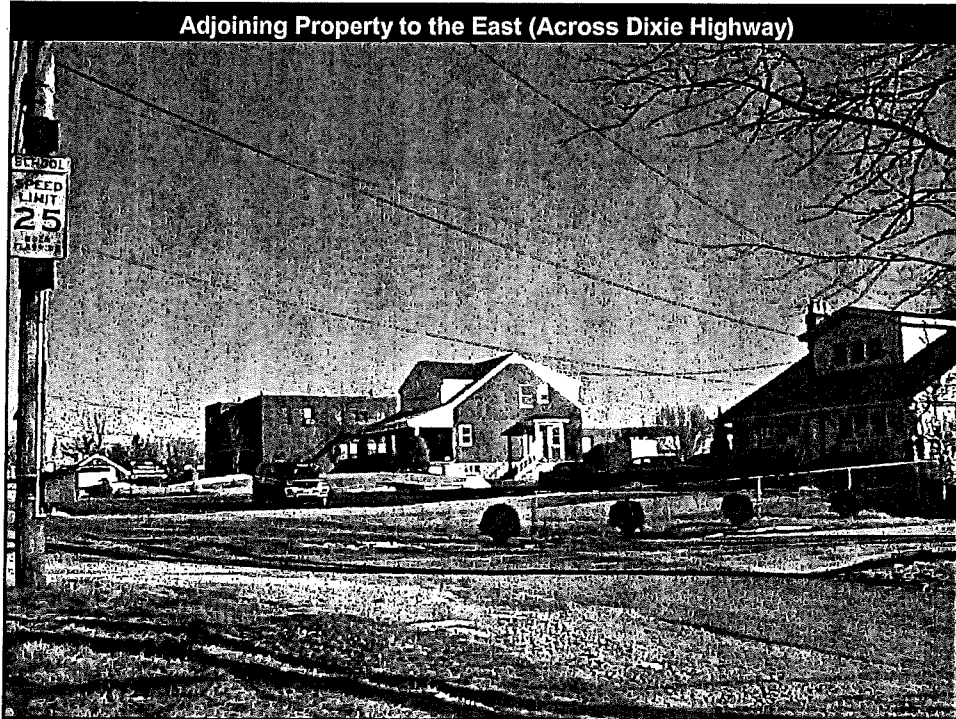
View of Property From Fair Street Right-of-Way



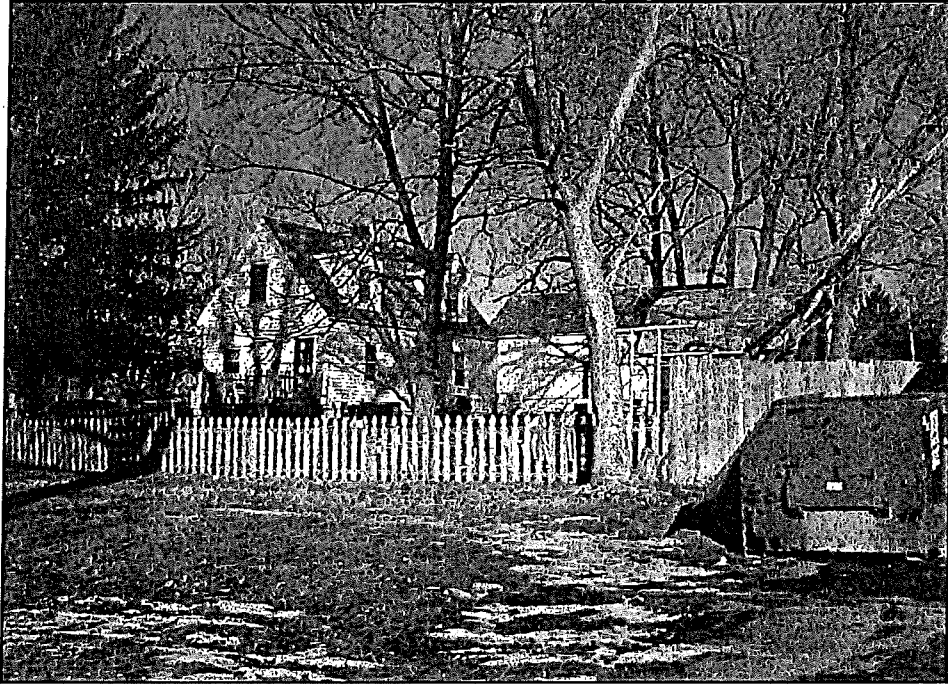
View of Property & Adjoining Properties to North and South



Adjoining Property to the East (Across Dixie Highway)



View Northwest From Rear Property Line

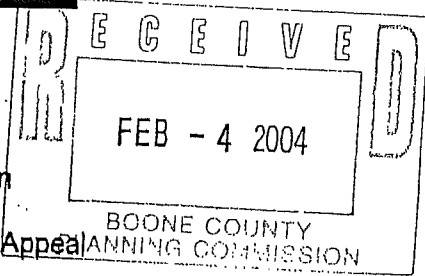


View West From Rear Property Line



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)

1. Boone Florence Walton Union

(Check One)

2. Conditional Use Permit Variance Change in Non-Conforming Use

3. Applicant's Name Cynthia A. DeZarn

Phone Number 513-471-6145 Fax No. _____

Applicant's Address 520 Purcell Avenue

Cincinnati OH 45205

City State Zip

4. Description of Request: Operate telemarketing/telephone sales office.

5. Name of Development 7312 Dixie Highway

6. Location of Development 7312 Dixie Highway, Florence, KY 41042

7. Acreage Under Review _____

8. Lot Number and Name of Subdivision (If part of a subdivision)

Lots 24 & 25 in North Kentucky subdivision in Florence

9. Owner of Property Todd and Cynthia Fischer

Phone Number of Owner 859-371-5888

10. Address of Property Owner 10658 Chenery Cove

Union KY 41091

City State Zip

11. Proposed Use(s) on Site Office

12. Total Square Footage of Existing and/or Proposed Buildings + 1,500 sq. ft.

13. Current Zoning on Property SR-2

14. Deed Book 797 Page No. 659 Group No. 2042

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? Y

17. Have you submitted a list of adjoining property owners with this request? Y

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: Cynthia A. DeZarn

Property Owner's Signature: Todd Fischer
Cynthia A. Fischer

(over)

COPY

CLUR #04-FBOA-001-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Todd and Cynthia Fischer
10658 Chenery Cove
Union, KY 41091

2. ADDRESS OF PROPERTY

7312 Dixie Highway
Florence, KY 41042

3. NAME OF SUBDIVISION OR
DEVELOPMENT (if applicable)

4. DEED BOOK 797

PAGE NO. 659

GROUP NO. 2042

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)

X Other: Change in Non-Conforming Use

___ 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

Todd K. Morgan

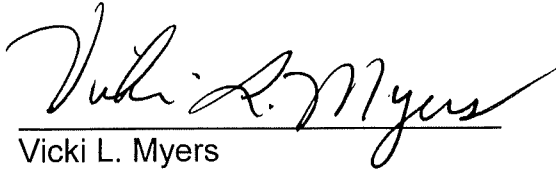
SIGNATURE OF COMPLETING OFFICIAL

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 3 day of March, 2004.



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 Change in Non-Conforming Use approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of February 25, 2004 Certificate of Land Use Restriction (#04-FBOA-001-A), for Todd and Cynthia Fischer, Property Owner(s).

The following conditions will apply:

- 1) A minimum six-foot privacy fence is to be installed on the rear property line.
- 2) The sign is to be removed from the property.
- 3) The dumpster is to be removed from the right-of-way.
- 4) There is to be no additional outdoor lighting.
- 5) The hours of operation are to be 8 AM to 5 PM Monday thru Friday.
- 6) This Change in Non-Conforming Use (telemarketing/telephone sales/advertising) replaces the previous Change in Non-Conforming Use (Medical Services) and is the only use approved in the building.

The approved Change in Non-Conforming Use as well as the preceding conditions apply to the property described in:

DEED BOOK 797

PAGE NO. 659

GROUP NO. 2042