

APPLICATION FOR ZONING ACTION

165<sup>00</sup>  
3 Copies

TO:

- Boone County Planning Commission
- City of Florence Board of Adjustment
- Boone County Board of Adjustment
- City of Union Board of Adjustment
- City of Walton Board of Adjustment
- Zoning Enforcement Officer

FOR:

- Zoning Text Amendment
- Comprehensive Plan Change
- Preliminary Plat Review
- Conditional Use Permit
- Concept Development Plan Change
- Preliminary Development Plan
- Change of Non-Conforming Use
- Design Review Board and Certificate of Appropriateness
- Zoning Map Amendment
- Planned Development Overlay Change
- Improvement Plat Review
- Final or Deed Plat Review
- Site Plan Review
- Historic District Overlay
- Appeal or Variance
- Sign or Zoning Permit

Applicant: ERLANGER WINDOW CLEANING, INC.  Owner  Agent

Address: 7 BANKLICK ST.  
FLORENCE, KY. 41042 Telephone: 606/371-4210

Location: (SAME)

Name of Property Owner: (SAME)

Address of Property Owner: (SAME)

Zoning District: C-2 Area in Acres: 0.416

Deed Book: 215 Page Number: 118 Group Number: 2043 A/B

Description of Request: DIMENSIONAL VARIANCE TO ERECT A GARAGE FOR OVER-NIGHT & WEEKEND PARKING OF SMALL SERVICE TRUCKS PRESENTLY USED IN THE EXISTING BUSINESS OPERATION ON THE PREMISIS.

Applicant's Signature: Kris Murell Erlanger Window Cng.

Property Owner's Signature: Kris Murell

FOR PLANNING COMMISSION USE ONLY

Application Fee: \_\_\_\_\_ Date Received: \_\_\_\_\_ By: \_\_\_\_\_

Referred To: \_\_\_\_\_ Meeting Date: \_\_\_\_\_

Action Taken: \_\_\_\_\_ Date of Action: \_\_\_\_\_

STAFF REPORT

APPLICANT: Erlanger Window Cleaning, Inc.  
LOCATION: 7 Banklick Street  
ZONED: Commercial Two, C-2  
DATE: October 9, 1985

The applicant is requesting a variance in the required side yard setback of the Commercial Two zoning district from ten feet to three feet to allow the construction of a garage for the business. The garage would be used for overnight and weekend parking of small service truck used in the operation.

The following addresses the four points for the board to consider under Article 2, Section 244. (see attached)

1. In terms of unique conditions, the board may want to consider the 71 foot lot width. The applicant has expressed a concern in the turning area required for his trucks and equipment. With a 10 foot setback and a 30 foot building the applicant would have 31 foot remaining to turn the vehicles.
2. Strict application of the regulations may prevent the applicant from providing the garage for his commercial vehicles and still have sufficient area for movement on the lot.
3. The current lot dimension existed prior to the adaption of the current regulations.
4. I can find no reasons that this variance would preserve or harm the public safety and welfare. In reviewing the area, I found that most of the buildings have setbacks less than the current requirements.

Respectfully Submitted,



Ralph Hopper  
Plans Examiner

FLORENCE BOARD OF ADJUSTMENTS

OCTOBER 9, 1985

8:00 P.M.

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Chairman Holland called the meeting to order. The roll call was taken by Staff Member Jeanne Huddleson. All five Board members present. Counselor Dale Wilson was also present.

The Board considered the Minutes of the Florence Board of Adjustment Meeting of September 11, 1985. Mr. Wilder noted the word "months" was left out of the motion on page three. Chairman Holland moved the Board approve the minutes with the above noted word addition. The motion was seconded by Mr. White. After discussion, the motion carried unanimously.

Conditional Use Permit

The request of Florence Auto Sales, Inc. (lessee) for a Conditional Use Permit for an automobile sales lot. This property is located at 203 Main Street, Florence, and is currently zoned Commercial Two.

Staff member Ralph Hopper presented a slide presentation on the subject and surrounding area.

Chairman Holland noted the request was considered at the September meeting of the Board and inquired if there was any reason why the Board should reconsider the request.

Mr. Larry Barnett, representing the Florence Auto Sales, stated that at the previous meeting the Board expressed reasons for the denial which the applicant felt they had addressed with a revised plan. Mr. Barnett then presented an artist's rendering of the proposed plans for the lot and indicated no access points from Dixie Highway. Mr. Barnett stated the only entrance would be at the rear of the property down by Roberts Tire Center. Mr. Barnett noted that one island would remain for lighting of the lot. Mr. Barnett noted the extensive landscaping plans and the entire pavement of the area. Mr. Barnett referred Commission members to the Sect. 263 of the zoning regulations and contended the proposed use actually lowers the traffic count through and from the property. Mr. Barnett assured that the proposed use would enhance the area which Mr. Bolton referred to as the gateway to the City of Florence.

Mr. Bolton noted that if the property is wall to wall cars the landscaping would not be able to be seen. Mr. Barnett indicated the parking layout and traffic flow. Mr. Barnett noted the lot would not hold the 50 car maximum.

Discussion followed of the blocked entrance and exits, parking, etc.

Mrs. Evelyn Kalp commended the Florence Auto Sales Ky. 18 location. Mrs. Kalp urged the approval of the proposed use.

Mr. Reynolds, co-owner, assured the proposed use would be as presented.

Chief Roberts, Florence Fire Dept., stated that while he is not opposed to the proposed use, he has sent communication to Highland Petroleum (owner of the subject property) with regard to the sealing of the tanks. Chief Roberts related that a letter of response from the responsible party for the property with regard to the tank sealing issue has never been received and therefore the issue is still unaddressed. Chief Roberts urged the issue of the tanks be addressed prior to anything being located on the property.

Mr. Barnett responded that should the Conditional Use Permit be procured the applicants would do whatever necessary to comply with Chief Robert's request.

Chief Roberts noted that Highland Petroleum as owner should be the responsible party to make the commitment.

Mr. Tom Jenkins, Budget Rent-A-Car, stated they also have a bid in to lease the property from Highland Petroleum as a car/truck rental location. Mr. Jenkins stated that the issue of sealing the tanks is a very complicated issue and that he felt their company would have the necessary expertise to deal with the sealing of the tanks. Mr. Jenkins contended that Highland Petroleum is also a sub-lessor.

Mr. White inquired if the tanks were still full of gas. Mr. Barnett responded they had not verified the matter as yet.

Mr. Wilder inquired of the requirements of the Kentucky Revised Statutes with regard to time limitations on the removal or sealing of the tanks. Chief Roberts responded that National Fire Prevention Code requires that a decision has to be made 90 days after the tanks are emptied or abandoned. Chief Roberts stated that it is an expensive process to take the tanks out and that most people seal the tanks with a "slurry" as an alternative. Chief Roberts stated he could not verify if the tanks are empty and neither could Highland Petroleum assure the tanks were empty.

Mr. Wilder inquired of legal counsel of who the responsible party would be for the tanks and their present and future condition. Counselor Wilson responded that the applicant before you has a right to request a conditional use permit and that with regard to the issue of the tanks the Board could place a time limitation within the Conditional Use Permit (9 months to a year) which would allow the Conditional Use Permit to be self-destructive. Mr. Barnett suggested a tank removal stipulation could be added.

Mr. White stated that since the station had been abandoned some time ago it would seem that all time limit of the 9 month to 1 year limitation would be exhausted. Chief Roberts agreed it would seem that the time limitation would be exhausted but that if a commitment were obtained from the owners the issue could be properly addressed.

Discussion followed of the actual and legal time for consideration of the facility as an "abandoned" facility. Mr. Barnett related that Highland Petroleum has a 14 year lease on the property from a woman who actually owns the property. Chairman Holland commented he felt the Board needed to find out who the responsible party for the tanks is.

Again, Mr. Barnett assured that the property would not be used as a car lot without the tanks being either taken out or filled within the period of time approved by Chief Roberts and the Florence Fire Department, or the State Fire Marshall's office.

Mr. Wilder inquired if the applicants were willing to make the tanks safe prior to start-up of the car lot. Mr. Barnett responded that would not be possible to do such a thing immediately. Mr. Wilder noted the public safety is a concern of the Board. Mr. Barnett responded the applicant would comply with all the laws as to the rendering of the tanks useless within a reasonable period of time. Mr. Barnett stated he would think that if the property were immediately hazardous to the health and welfare of the public that Chief Roberts would have a close order on the property. Mr. Barnett assured the applicants wish to ensure the safety of the property also and the applicant would work to that end.

Chairman Holland noted that Highland Petroleum as related by Mr. Jenkins is not the owner of the subject property. Mr. Barnett commented that Highland Petroleum does have a lease for 14 years and they are the responsible party for the tanks. Mr. Barnett stated that the applicants would not go in to the location on a condition that the Chief would not like and that the applicants would do everything in their power to conform with whatever the Board would like to see accomplished with regards to the tanks.

Discussion followed of the process of sealing the tanks.

Mr. Wilder inquired if Chief Roberts had an opinion with regard to the tanks being sealed prior to the proposed use commencing operation. Chief Roberts stated his feeling was that the tank issue should be removed or filled prior to a business going in on the location other than a use of a service station. Chief Roberts related that upon the advice of the State Fire Marshall's office communication was sent to Highland Petroleum in this regard. Chief Roberts stated he felt a commitment should be obtained with regard to the tanks.

Mr. Bolton noted that if the applicant would stripe the lot his concerns would be sufficed.

Chairman Holland suggested the item be tabled until a letter of commitment could be attained. Counselor Wilson suggested the applicant be asked the effect such an action could have on the applicant. Mr. Barnett expressed concern of the winter months approaching. Mr. Barnett suggested the Board place conditions on the permit in the alternative.

Mr. White inquired if it would be proper to require the applicants to make certain the tanks were rendered safe prior to the commencement of business which would allow the physical renovation to begin but prohibit business operation until the issue of safety is resolved.

Counselor Wilson added the Board could ask the applicant if he understands the condition and attain his agreement to be bound such a condition.

Mr. White moved the Board approve the Conditional Use Permit for property located at 203 Main Street on the condition that a commitment be obtained from the applicants prior to the commencement of business at the location rendering the tanks fully safe and useless according to the State Fire Marshall's office and local fire department, and with the condition that the lot be striped according to city specifications for the proper placement of cars.

Mr. Barnett inquired if the condition would not include any extensions the State Fire Marshall's office may grant. Mr. White stated that extensions would still prohibit the start-up of business.

The motion was seconded by Mr. Wilder.

Chairman Holland stated he would request that limit be placed on the number of cars allowed. Counselor Wilson noted the applicant has assured he could not accommodate the 50-car limit. Mr. Bolton stated that if striped according to city specs the lot could only accommodate 35 cars. Mr. Reynolds responded the lot would only accommodate 32 cars.

Discussion followed of the parking accommodations on the lot according to city specs.

Mr. Hopper related the zoning requirements and the deviation from normal parking space size as the property is considered a storage area. Chairman Holland stated he does not consider the proposed use a storage area.

Chairman Holland suggested the motion be amended to stipulate a maximum of 35 cars to be placed on the lot under the Conditional Use Permit.

Mr. White as the maker of the motion agreed to the amendment, and Mr. Wilder as the second agreed.

A roll call vote was taken on the motion.

Ayes: Messrs. Bolton, White, Wilder and Mrs. Lanigan, and Chairman Holland.

### Dimensional Variance

The request of Fred Burch (agent) for a Variance in the required frontage. This property is located at the corner of Spicewood and Highridge, Florence, and is currently zoned Suburban Residential Two.

Staff member Ralph Hopper presented a slide presentation and staff report on the subject and surrounding area. Mr. Hopper related the applicant is requesting a variance in the required frontage for two lots in an SR-2 zoning district to permit the construction of two duplexes on the lots. Mr. Hopper stated the four points for Board consideration under Article 2, Sect. 244 of the zoning regulations as follows: 1) In terms of unique conditions on the property the Board may want to consider that these lots were approved as part of the subdivision prior to the adoption of the current zoning regulations; 2) there are other duplexes in the same SR-2 zoning district and the Board granted a variance for a lot on Drexel last year on a pre-existing lot frontage from 60' to 50'; 3) the dimensions of this lot were developed at the time plat approval was given for the subdivision before the adoption of the current regulations; and 4) he could find no reasons that the request would preserve or harm the public safety and welfare or change the essential character of the neighborhood.

Mr. Fred Burch, applicant, related his experience of previous duplex developments and explained plans for the proposed duplex construction. Mr. Burch explained that as the Board is concerned of essentially changing the character of the neighborhood he had prepared a plat highlighting in blue the locations of duplexes currently located throughout the neighborhood on the same lot sizes as his request. Mr. Burch also presented pictures of area duplexes.

Mr. Bolton inquired of the duplex under construction of the applicant on Highridge. Mr. Burch presented pictures of the duplex on Highridge which did not require a variance in lot size. Mr. Burch passed the plat around. Mr. Bolton inquired if the abutting property owners were notified. Mr. Hopper responded in the affirmative.

Mr. Burch noted there are several two-family homes in the area which would not essentially change the character of the neighborhood.

Mr. Roy Kidd, a nearby property owner, explained that other area residents have 62½ foot of frontage. Mr. Kidd stated he would not be adverse to the placement of two single-family residences on the location or even one duplex but stated he felt the intensity of two duplexes was great. Mr. Kidd alleged he had previously owned the lot.

Mrs. Lillian Kidd expressed concern of the traffic in the area.

Mr. Larry Jergens stated that he had purchased the property five years previous and at that time there were no duplexes in the area. Mr. Jergens noted there are some duplexes "further down". Mr. Jergens urged the preservation of the area as single family residence. Mr. Jergens expressed concern of the traffic in the area being heavy.

Mr. Burch responded that off-street parking of two spaces for each of the four dwelling units as provided in the drawings.

Mr. Jergens stated he felt that any increase in traffic would be detrimental to the neighborhood.

Chairman Holland noted that correspondence had been received from Jerry Trisch, 6740 Highridge, stating opposition to the proposed variance. Chairman Holland submitted the letter to the staff for the record.

Mrs. Jenny Mayfield, 6727 Highridge (directly across from the proposed site), stated that the traffic concerns does not and should not pertain to the subject lots. Mrs. Mayfield stated the parking on the street is another issue completely. Mrs. Mayfield noted that if single family residence were placed at the location one could not assure that each residence could not have four or five cars. Mrs. Mayfield noted and commended Mr. Burch for his provision of off-street parking.

Mr. Burch related that the traffic flow and area parking problems were addressed on the site plan as since the property is on a corner one of the two driveway areas would enter off of Spicewood with the other drive area entering off of Highridge. Mr. Burch commented that in sum a two-family is a principally permitted use in the area as there are several others currently in the area. Mr. Burch assured that he does build quality projects.

Mr. Bolton noted that he had viewed the location and inquired if the new owner of the Mayfield property was notified. Mr. Hopper responded that only the current owners of the property are notified. Mr. Mayfield stated the new owners were notified and they were not adverse to the duplexes.

Mr. Wilder requested Mr. Hopper show the slide of the area. Mr. Hopper obliged and redescribed the area for the Board members.

Mr. Wilder inquired of the changes between the originally submitted plan and the revised plan. Mr. Burch explained that he had hoped to turn the lots to face Spicewood which would have 75' frontages but then the rear yard setback could not be met.

Mr. Kidd interrupted and inquired why the Board would even consider a variance at all. Mr. Wilder noted the Board is attempting to find a compromise. Mr. Wilder inquired if Mr. Kidd had seen the proposed drawings. Mr. Kidd responded no. Mr. Wilder showed Mr. Kidd the drawings.

Mr. Kidd again stated his opposition to the placement of two duplexes on the site and the granting of a variance.

Mr. Bolton moved that the Board deny the variance on the basis that the city of Florence is approaching "50% of multi-family housing". The motion was seconded by Mr. White.

A roll call vote was taken on the motion for denial.

Ayes: Messrs. Bolton, White and Mrs. Lanigan, and Chairman Holland.  
Nay: Mr. Wilder.

#### Conditional Use Permit

The request of Susan Travis (agent) for Roses a la Carte for a Conditional Use Permit for a wholesale florist business. this property is located at 7529 Sussex Drive, Florence, and is currently zoned Office Two.

Staff member Ralph Hopper presented the a slide presentation and staff report on the subject and surrounding area. Mr. Hopper stated the applicant is requesting a Conditional Use Permit to allow the operation of a wholesale florist business. Mr. Hopper described the building is currently being used for offices. Mr. Hopper related that since the building exists a site plan was not included but the applicant did submit a copy of the floor plan which indicates they will occupy approximately 706 sq. ft of office space on the lower level of the building. Mr. Hopper stated the Comprehensive Plan Land Use Map indicates

the future land use for the subject and adjoining properties to the south and east as commercial. Mr. Hopper explained the drawing and floor plan.

Mr. Ralph Norcio, applicant, explained the wholesale operation of the receipt of roses and supplying smaller amounts to local convenience stores. Mr. Norcio related that there is basically no on-site storage of the roses. Mr. Norcio stated there is no retail sale to the public and that the operation is strictly a wholesale supply operation. Mr. Norcio stated the Roses a la Carte enterprise was encouraged to locate in the area by an employee of the business who is familiar with the Florence area.

Mr. Wilder inquired of the number of trips to and from the site per day. Mr. Norcio responded to start off there will be one delivery vehicle and one delivery person with plans for expansion to possibly three vehicles. Mr. Norcio indicated that any larger operation would necessitate another location.

Chairman Holland inquired if the applicant understood that a greenhouse could not be placed on the site. Mr. Norcio responded he understood and related the enterprise is not in the business of actually growing the flowers or keeping them for any extended period of time.

There was no audience support or opposition expressed.

Mr. Wilder stated his interpretation of the zoning regulation section as referenced by Mr. Hopper pertains to a retail floral establishment. Mr. Hopper commented the regulation does not stipulate retail or wholesale use but rather simply excludes greenhouses or outside storage or growing units. Mr. Wilder inquired of what category florists with outside storage or greenhouses would fall under. Mr. Hopper responded that he would surmise that with the greenhouses they would probably be required to be in more of an agricultural zone as opposed to a commercial area.

Chairman Holland inquired if the flowers are refrigerated on site. Mr. Norcio responded the flowers are flown in and are not refrigerated in coolers but that refrigeration may later be required. Chairman Holland inquired if when refrigeration is added the applicant would proceed to another location. Mr. Norcio responded that if refrigeration were added it would only be for temporary refrigeration of the roses.

Chairman Holland moved that the Conditional Use Permit be granted for a wholesale florist business to be located at 7529 Sussex Drive, Florence on the condition the use remain solely a wholesale operation. The motion was seconded by Mr. Bolton. After discussion, the motion carried unanimously.

Dimensional Variance

The request of Erlanger Window Cleaning for a Variance in the required side yard setback. This property is located at 7 Banklick Street and is currently zoned Commercial Two.

Staff member Ralph Hopper presented a slide presentation and staff report on the subject and surrounding area. Mr. Hopper stated the applicant is requesting a variance in the required side yard setback of the Commercial Two zoning district from ten feet to three feet to allow the construction of a garage for the business which will be used for overnight and weekend parking of small service trucks. Mr. Hopper related the four points of consideration for Board consideration as contained in the staff report. Mr. Hopper added that the applicant has contacted him and apprised him that some of the equipment on the service trucks is lengthy and the proposed variance would allow adequate turnaround of the vehicles with such equipment. Mr. Hopper noted that a letter from the applicant stating his reasons for the request was among Board members' materials for their review.

Mr. Rick Merrell, owner of Erlanger Window Cleaning, explained the lot runs deep and the area at present is "dead space" wherein the variance would allow the property to be useful and would provide ease of turnaround. Mr. Merrell explained the business wants very much to house the service vehicle to protect their service vehicles from the elements.

Chairman Holland inquired of what is located on the rear of the lot. Mr. Merrell responded that the only thing on the rear portion now is fill dirt and gravel and rock brought in to attempt to fill a low spot. Mr. Merrell related the Erlanger Window Cleaning has been in business for 22 years with 10 years on Banklick Street and he noted they have always tried to upgrade the property.

There was no support or opposition expressed.

Mr. White moved that the Board approve the variance for property located at 7 Banklick Street based on the unique condition of the site. Mr. White commended Mr. Merrell for his improvement of the area. The motion was seconded by Mr. Holland. After discussion, the motion carried unanimously.

Administration

Mr. Bolton commended staff members Ralph Hopper and Jeanne Huddleson for their prompt service on the Minutes of the previous meeting and the upcoming agenda materials.

Mr. Wilder related that the Northern Kentucky Area Planning Commission did recently hold a seminar which he found very helpful which defines and explains the Kentucky Revised Statutes which pertain to land use plus additional information. Mr. Wilder noted the next seminar will address strictly Board of Adjustment applications and that he would strongly recommend that the other Board members take advantage of the opportunity. Counselor Wilson noted that some of the sections of Sect. 100 of the Kentucky Revised Statute are being reviewed by the State legislature.

Mr. Wilder moved that the meeting adjourned. The motion was seconded by Chairman Holland.

  
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Attest:

  
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