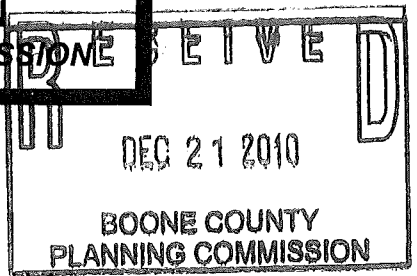


APPLICATION FORM

11-BOA-002-A

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 xx Florence Walton Union

(Check One)

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

3. Applicant's Name Whitney Stith

Phone Number 859-283-5560 Fax No. 859-283-5562

Applicant's Address 35 Shelby Street Florence Kentucky 41042

4. Description of Request: 1-Variance to Section 3321-# & Location of Access Points -Reduce frontage requirement from 500' to 168' 2-Variance to Section 3645 & 3620 - Reduce 10' wide perimeter buffer requirement

5. Name of Development Stith Wimsatt & Assoc. CPA

6. Location of Development 35 Shelby Street Florence, Kentucky 41042

7. Acreage Under Review 0.49

8. Lot Number and Name of Subdivision (if part of a subdivision) Lot 38 Ezra Fish Subdivision

9. Owner of Property Whitney & Gina Stith

Address of Property Owner 3090 Hathaway Road Union Kentucky 41091

11. Proposed Use(s) on Site Commercial Office

12. Total Square Footage of Existing and/or Proposed Buildings 6400+/-

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

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.

ORIGINAL Property Owner's Signature: Whitney Stith (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: Whitney Stith (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

**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 12-21-10 Fee Received \$1582.00 *R# 62058*
- 2. Is application complete?  Yes  No *ck*
- 3. Staff Reviewer \_\_\_\_\_
- 4. Scheduled Board Action Date \_\_\_\_\_
- 5. Board Action:  
                   **Approved**  
1/12/11 **Approved with Conditions** (See #6)  
                   **Denial** (See #7)
- 6. Conditions of Approval: SEE FBOA Meeting MINUTES  
AND C.L.U.R.
- 7. Reasons for Denial: \_\_\_\_\_

**Boone County Planning Commission  
Boone County Administration Building  
2950 Washington Street, Room 317  
P.O. Box 958  
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: 35 Shelby Street, Florence, Kentucky

ZONING: Commercial Two (C-2)

DATE: January 12, 2011

### PROPOSAL

The Applicant has submitted two (2) Variances so improvements that have already been made on site can be approved. The City of Florence sent the applicant a letter of violation on March 8, 2010 after they performed a post development site plan review (see attachments). The letter indicates that the landscaping, parking, handicapped parking, and second curb cut are not in compliance with the September 12, 2008 Site Plan that was approved by the Boone County Planning Commission. The following Variances have been submitted to resolve these issues:

- (1) Reduce the 500' road frontage requirement so the development can have two access points on Shelby Street. The request is to reduce the road frontage requirement from 500' to 168' to allow a second access point.
- (2) Reduce the 10' wide perimeter landscaping buffer requirements along Shelby Street (area adjoining the building addition) and the northwest property line. The submitted survey shows that the buffer yard along Shelby Street is 6' wide and the buffer along the northwest property line is a minimum of 2.81' wide. Staff would like to note that 10' wide landscape buffers were required by the Board as part of a December 11, 2003 Variance approval (see Site History and Meeting Minutes).

### APPLICABLE REGULATIONS

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.

Section 3221 of the Boone County Zoning Regulations states that a proposed development is permitted one access point for each 500 feet of site frontage.

Section 3223 of the Boone County Zoning Regulations states that whenever the use of a parcel of land changes, or two or more parcels of land are assembled under one purpose, plan, entity, or usage, the existing access permit(s) shall become void. The Planning Commission may require the reconstruction, relocation, or closure of the access point(s), based on the new property use. Any such new or reauthorized access point must be in compliance with all applicable sections of this regulation, and may require the submission of a traffic study in accordance with Section 3240 of this order.

Section 3620 of the Boone County Zoning Regulations states when a use adjoins a street, regardless of whether it is public or private, landscaping shall be required from Buffer Yard A (See Table #2). This landscaping is not required to be placed in a linear design, but shall be required to be dispersed throughout the street frontage and not clustered entirely at the ends of the property. This landscaping will provide screening for vehicular use areas, while also allowing flexibility for uses which require high visibility from street frontages. The required shrubs from Plant List C and E can be reduced by 50 percent if the buffer yard width is increased from 10 feet to 20 feet and can be eliminated if the buffer yard area is increased to 30 feet. However, in all cases the trees required from Plant List A, B, C, or D shall still be required.

Section 3645 and Buffer Yard Table #1 of the Boone County Zoning Regulations indicates that Buffer Yard A is required when a developing property is zoned C-2 and adjoins another property which is zoned C-2.

Buffer Yard Table #2 of the Boone County Zoning Regulations defines Buffer Yard A as follows:

- 10 feet in width
- 5 small trees or 3 large/medium/or evergreen trees per 100 linear feet of buffer
- 30 small shrubs or 15 large shrubs per 100 linear feet of buffer

#### RELEVANT SITE HISTORY

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'. The Board imposed a condition which required a buffer to be installed the entire length of the Craddock property line. The buffer was to consist of 4' to 8' tall whites pines planted 10' on center.

12/11/03 – The Florence Board of Adjustment approved a Variance to reduce the rear yard setback requirement from 20' to 11' so a 2,077 square foot building addition could be constructed on lot 38 of Ezra Fish Subdivision. The Board imposed the following conditions on the approval:

1. The front, rear, and side property line of the lot is required to be screened with 10' wide landscape buffers (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).

9/12/08 – Boone County Planning Commission Staff approves a Site Plan application allowing a 2,077 square foot building addition and 11 parking stalls to be constructed on the subject site. The approved plans show that the site will have one curb cut and 10' perimeter landscaping buffers along Shelby Street and the northwest property line (see attachments).

3/8/10 – Dale Jesensky, Code Enforcement Officer, for the City of Florence sent the property owners a letter of violation regarding the Site Plan improvements that had been made on site (see attachments).

#### SURROUNDING LAND USES AND ZONING

Northeast: Shelby Street, Electrical Contractor Office, Single-Family Residence (C-2)

Northwest: Saf-T Auto Care (C-2)

Southeast: Single-Family Residential Dwelling Fronting on Center Street (C-2)

Southwest: Single-Family Dwellings on KY 18 and Oblique Street, and an Office (C-2)

#### SITE CHARACTERISTICS

The site is approximately 0.49 acres in area and has 168 feet of frontage on Shelby Street. The site contains a 6,413 square office building, 23 parking stalls, and two access points on Shelby Street.

#### STAFF COMMENTS

1. The City of Florence did a site inspection of the property on March 8, 2010 and found that the site did not comply with the Site Plan that was approved by the Boone County Planning Commission on September 12, 2008 (see attachments). Since that time, the applicant has been cited by the Florence Code Enforcement Board.

On October 8, 2010, Staff from the Planning Commission and City of Florence met with the applicant to review the improvements that had been made on site. The applicant was made aware that he could bring the site in compliance with the approved plan or attempt to get Variances approved for the second curb cut and landscape buffers.

2. Staff has the following comments:

- A. Shelby Street is a one-way street that runs between KY 18 and Main Street. As a result, motorists do not have to make left hand turning movements across traffic when entering or exiting the site.
- B. The site survey shows that the proposed one-way in curb cut is located approximately 21' feet from the automotive repair facility curb cut.
- C. The one-way in access point and a small portion of the driveway improvements are located on the automotive repair lot. The applicant will need to relocate this curb cut on his property or get an easement from the owner of the automotive repair facility. This comment will be a moot point if the Board does not grant the Variance to allow the second curb cut.
- D. The adjoining automotive repair facility signed a letter indicating they are willing to share a buffer yard with the office building (see attachments). While code allows this, a Variance is still required because the December 11, 2003 conditions required 10' wide buffers on the subject site.
- E. The required plantings in the street frontage buffer will be cut in half if the Board approves the Variance. The shared buffer with the automotive repair facility will be reviewed for code compliance if the Variance is approved.
- F. A new Site Plan will need to be submitted and approved if either Variance is approved.

3. The Board needs to consider the following Variance criteria carefully before acting on the requests:

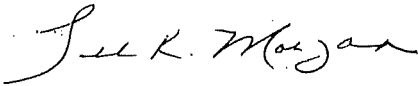
- A. The Board shall deny any request for a variance arising from willful violations of the zoning regulations. The applicant needs to explain why the approved Site Plan was not followed.
- B. Granting of the variances will not adversely affect the public health, safety or welfare, will not alter the 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.
- C. The strict application of the provisions contained in the regulations deprive the applicant of the reasonable use of the land or create an unnecessary hardship.

4. Staff recommends that the entire parking lot shall be striped in accordance with the Boone County Zoning Regulations if either Variance is approved.

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 act on the requests.

Respectfully submitted,



Todd K. Morgan, AICP  
Senior Planner, Zoning Services

TKM/dw

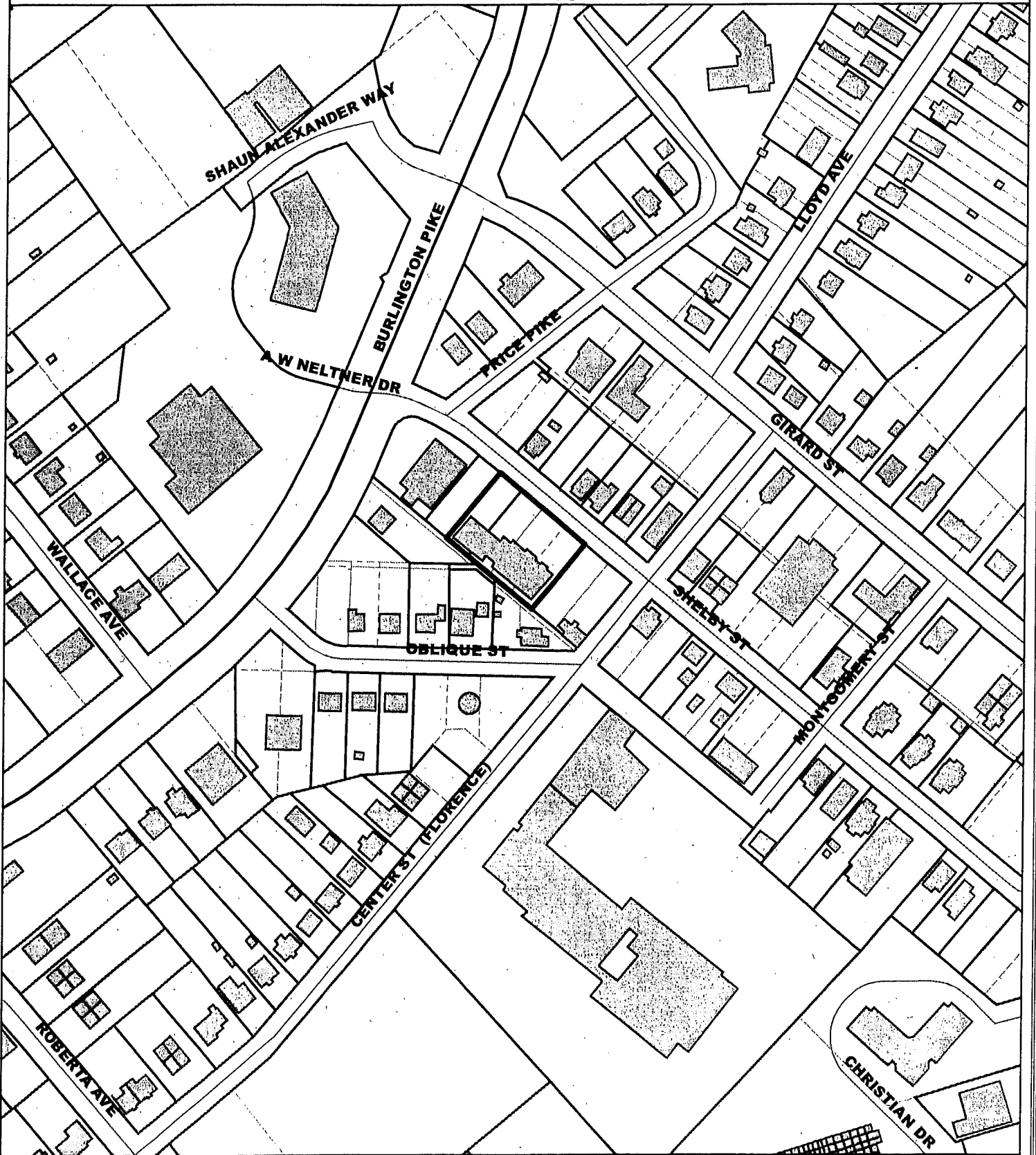
Attachments

- \*Site Vicinity Map
- \*Site Survey and Proposal
- \*2009 Aerial Map
- \*Zoning Map
- \*12/11/91 Florence B.O.A. Meeting Minutes
- \*12/11/03 Florence B.O.A. Meeting Minutes
- \*9/12/08 Approved Site Plan
- \*3/8/10 Letter From Dale Jesensky
- \*12/23/10 Letter From Gerald Montgomery
- \*Application



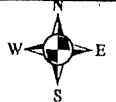
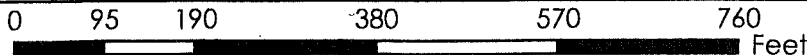
# SITE VICINITY MAP

www.boonecountygis.com



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**Boone County GIS - Putting Northern Kentucky on the Map**

Map Created: 01/01/2008

Boone County GIS  
ArcMap Document: 1.mxd



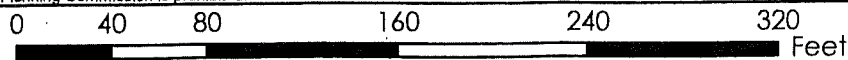
# 2009 AERIAL MAP

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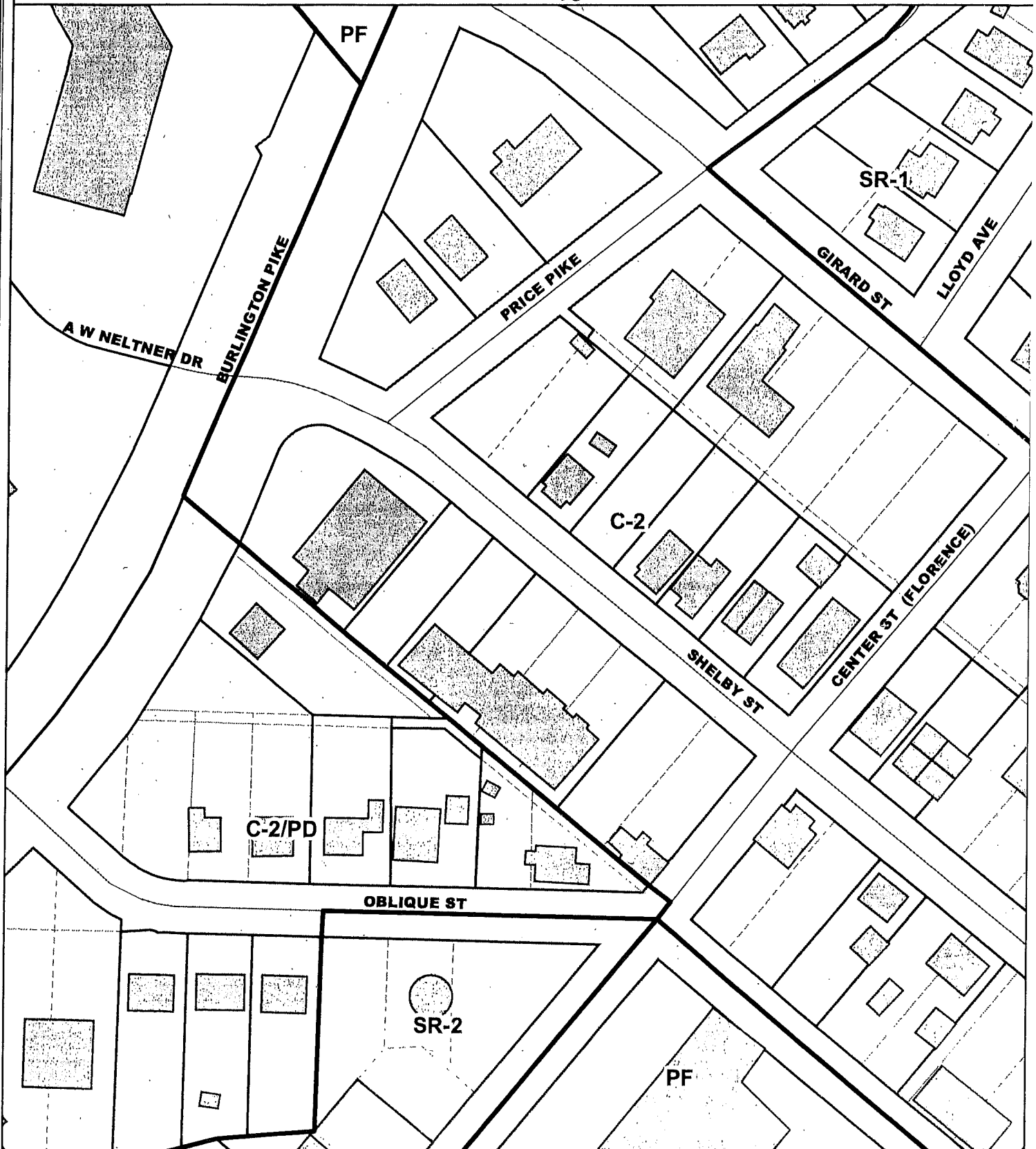
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**Boone County GIS - Putting Northern Kentucky on the Map**

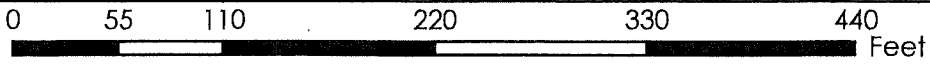
# ZONING MAP

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**Boone County GIS - Putting Northern Kentucky on the Map**

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

Ms. Evans questioned the height of the pole. Mr. Morgan responded that it is about the height of the house – approximately 25' - 30' tall. Ms. Evans stated that they will still be able to see the pole with an 11-foot gazebo. Mrs. Brown stated that there is a cupola on top of the 11-foot gazebo. She stated that the deck starts at 4.5 feet and they can hang plants on the gazebo to camouflage the pole. They have the pine tree the builder gave them, but a landscape professional told them that in order for a tree not to get entangled in the pole, they would have to place it towards the house – the tree would be about ten feet from the house. She stated that they are concerned about aesthetics and resale value.

Mr. Morgan stated that the Steppers to the rear have indicated that they do not object, there is a letter from the Smarts to the east (see Exhibit 1), and there is an empty lot on the west side. Mrs. Brown stated that the house that will go on the vacant lot will be closer to the street than their house is. Mrs. Shaffer noted that the gazebo is to be built on the side closest to the empty lot and the property owners to the east who consented are not affected by it.

The Chairman asked if there was anyone else present who wished to speak regarding this request. There was no response.

There being no further discussion, **Mr. Schneider moved to grant the Variance as proposed. He stated that this is an unfortunate situation and from eye level the Variance will accomplish what they want to accomplish. Mr. Pieper seconded the motion. A vote on the motion found Ms. Evans, Mr. Sparks, Mr. Schneider, and Mr. Pieper in favor. Mrs. Schaffer was opposed. The motion carried by a vote of 4 to 1.**

2. **The request of Whitney Stith for a Variance to reduce the rear yard setback requirement for an addition to an existing office building which is located at 35 Shelby Street. The addition is being proposed on the south side of Shelby Street between 35 Shelby Street and 7209 Burlington Pike (Lot #38 of Ezra Fish Subdivision), Florence, Kentucky. The property is currently zoned Commercial Two (C-2).**

Staff Member Todd Morgan presented the Staff Report which included a review of the attachments. (see Staff Report).

Mr. Ray Erpenbeck, Engineer, introduced Mr. Stith. Mr. Erpenbeck stated that they are requesting a Variance to reduce the rear yard setback from 20 feet to 11 feet, which matches the existing building constructed in 1991-92. He stated that the front yard is controlled by the parking. They have to provide the proper amount of parking in order to do the expansion, which means that they will have to double load the parking lot. With the buffer yard along Shelby Street and the double wide parking area, there is room for a 38-foot building which is close to the minimum acceptable for a good office arrangement. They are keeping the rear

setback line the same as the existing building and equal to the Variance granted in 1991. They will meet all the buffer yard requirements on the side and in the front.

In response to questions from the Board, Mr. Stith stated that the proposal is for an expansion of his CPA business. The building was constructed in 1994 and they took possession in 1997. They expect the expansion to provide sufficient space for the next five to ten years. There are ten full-time employees and two part-time employees. They currently have nine or ten parking spaces, but he bought the additional lot and some of the vehicles are parked there, especially during tax time when he likes to reserve a lot of the parking spaces for customers. He needs additional parking. There is security lighting on the building under the eaves and a security light on a pole. There will be no additional lighting and the he will move the existing pole over.

In response to questions from Mrs. Schaffer, Mr. Morgan stated that there are single-family residences across the street. He stated that the parking requirement for a building this size is one space for every 250 square feet of office. With the addition, there will be 6,413 square feet of office space and they will need 24 – 25 parking space which is what they have. If the light is moved, Staff can look at the intensity in regard to the effect on the residences across the street, or the Board can require a photometric plan with the Site Plan. Normally the requirement is 1.0 foot candles or less at the property line when there is an office with adjoining residential use. Mr. Stith stated that the property across the street has been for sale for a couple of years and is proposed for commercial use. That property will not stay residential when it is sold. Mrs. Schaffer responded that it is residential now.

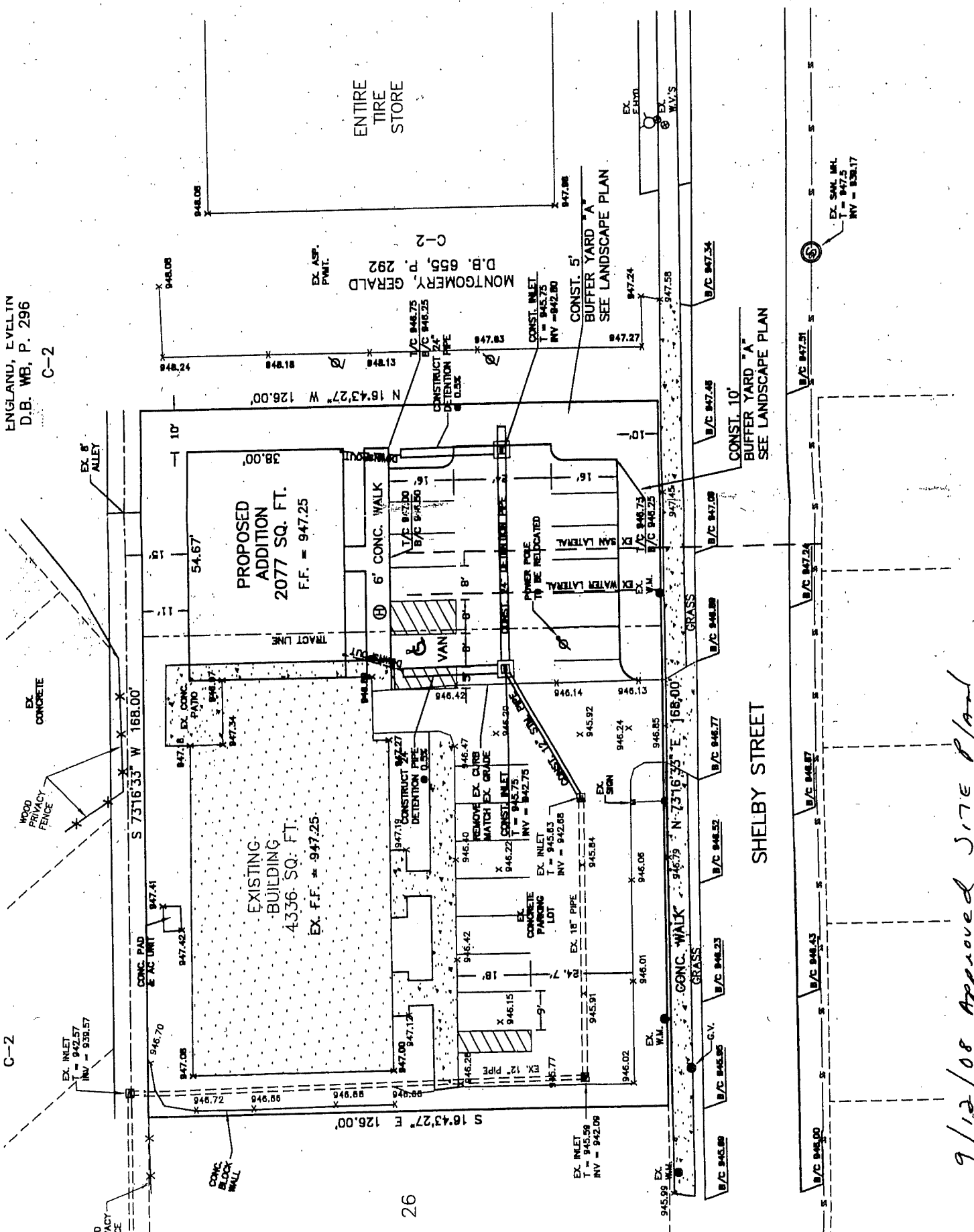
In response to a question from Mr. Pieper, Mr. Erpenbeck stated that there will be no changes to the sign. He stated that they are only asking for an 11-foot Wavier of the rear property line. He stated that there is an alley behind the property. They would be eleven feet off the property line and fifteen feet off the center of the alley. The "alley" is covered with grass. Mr. Morgan stated that it is a paper alley.

There being no further discussion, **Mrs. Schaffer moved to grant the Variance with the conditions that (1) they meet the landscaping/screening requirements per Staff Comment #3; (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; and (4) there is to be no additional signage or access. The motion is based on the Staff Report and the applicable Boone County Zoning Regulations, and the finding that the application meets the criteria necessary for granting a Variance as it does not adversely affect the public health, safety or welfare or alter the essential character of the general vicinity. Mr. Sparks seconded the motion and it carried unanimously.**

DEVELOPER: WHITNEY SITH  
3090 HATHAWAY ROAD  
UNION, KENTUCKY 41091

Civil Engineers  
Land Surveyors  
Erpenbeck

39 SHELBY STREET  
DE BUILDING ADDITION

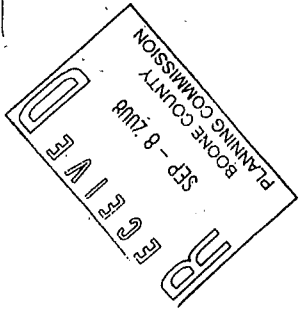
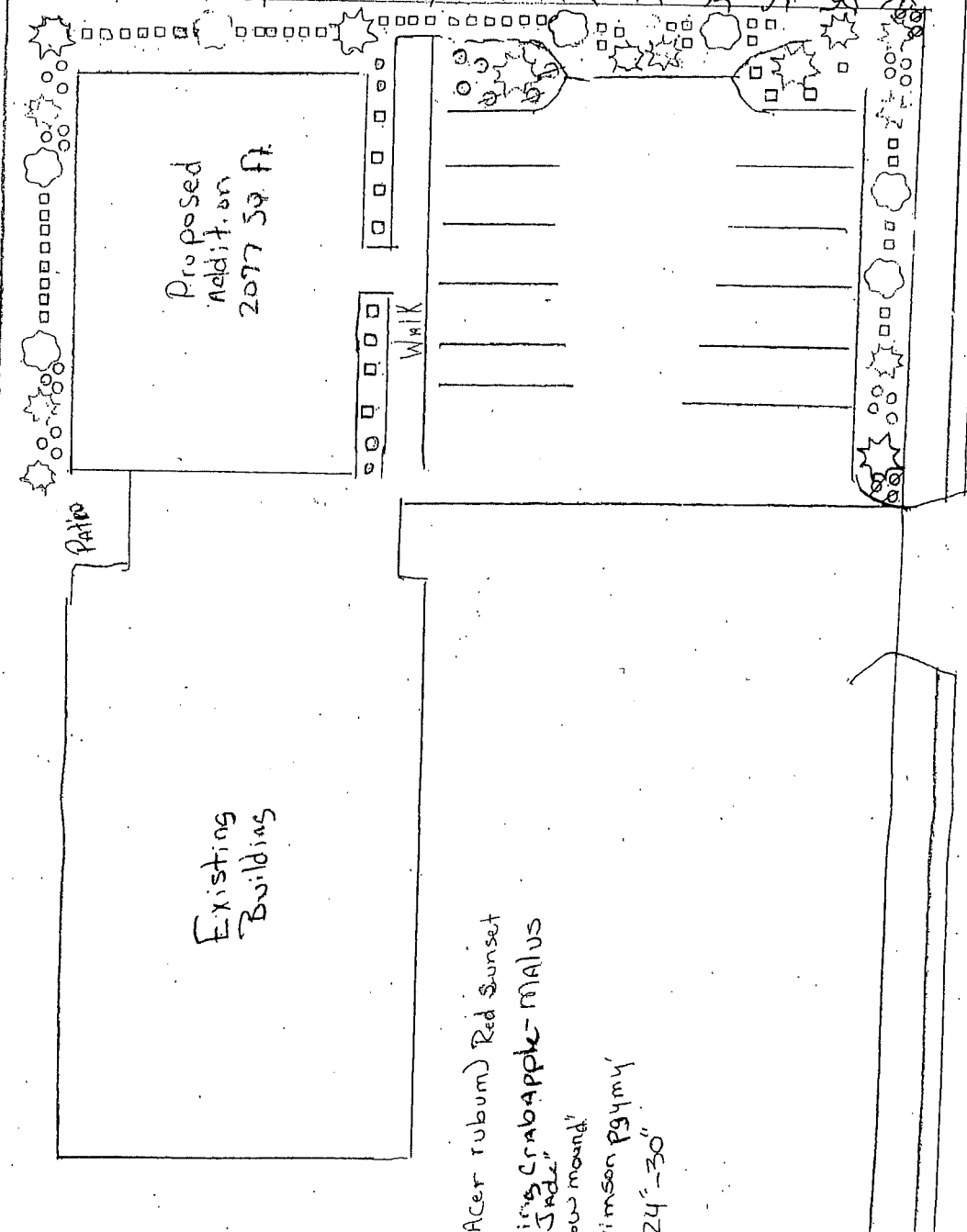


9/12/08 Approved Site Plan

405  
1950

Alley

W. Franklin St. Ex. Tree



### Qty + Plant Legend

| Size    | Qty | Plant Legend                                  |
|---------|-----|---|
| 2"      | 7   | 2" Maple (Acer rubrum) Red Sunset             |
| 1 3/4"  | 14  | 1 3/4" Flowering Crabapple - MALUS 'Red Jade' |
| 3 gal   | 27  | Spirea 'Snowmound'                            |
| 3 gal   | 9   | Barberry 'Crimson Pygmy'                      |
| 24"-30" | 35  | Burn Bush 24"-30"                             |

Trimble Landscape  
859 586-9785

Shelby Street

Building Contractor  
William L. T. Inc.

Whitney St. th  
39 Shelby Street  
Flannery B.

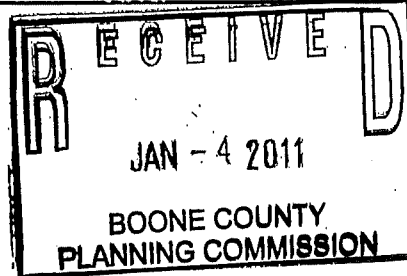
9/12/08 Approved Site Plan



## PUBLIC SERVICES DEPARTMENT

March 8, 2010

John and Gina Stith  
3090 Hathaway Road  
Union, KY 41091



RE: Post Site Plan Review for Stith Wimsatt & Associates, 35 Shelby Street, Florence, Kentucky.

Dear Sir or Madam:

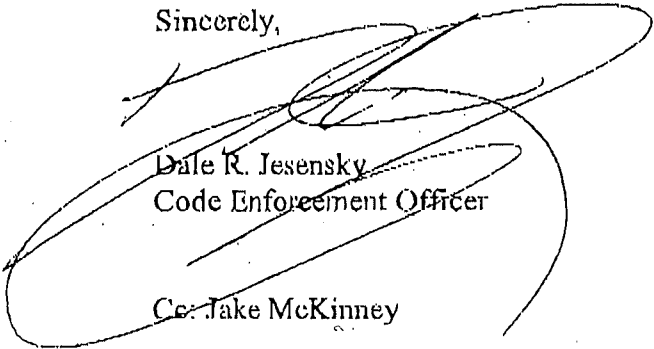
Recently, in accordance with Article 30, Section 3006, of the Boone County Zoning Regulations I conducted a post development site inspection for the above referenced location. The regulations state that all requirements of an approved plan must be completed within six months of the Certificate of Occupancy being issued by the Boone County Building Department. My inspection revealed the following deficiencies:

- (1) Landscaping not installed per approved plan
- (2) Parking not installed per approved plan
- (3) Handicap parking not installed per approved plan
- (4) Second curb cut not on approved plan

Therefore, as per the approved site plan, you are required to correct the above-mentioned deficiencies. All work is to be completed per approved plan or submit a new site plan approved for any changes. Changes must meet applicable requirements in order to be approved, and myself contacted for a final inspection thirty (30) days after receipt of this letter. You may contact me with any questions, concerns, or to arrange an inspection date at (859) 647-5416.

Thank you in advance for your cooperation and I look forward to hearing from you.

Sincerely,



Dale R. Jesensky  
Code Enforcement Officer

Cc: Jake McKinney

December 23, 2010

Florence & Boone County Board of Adjustments  
8100 Ewing Boulevard  
Florence, Ky. 41042

Dear Sir/Madam:

Please be advised the landscape and property buffer known as the "shared buffer" between my property and the "Stith" property suffices. A dense natural buffer exists on the side of my property and the "set back" as installed between property lines does not affect the "workings" of my property nor does it add any privacy or any additional aesthetic value.

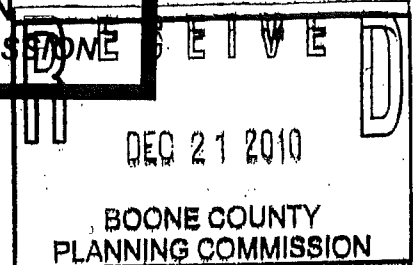
Respectfully,



Gerald Montgomery  
Owner Saf-T Auto Care  
(Goodyear Tire Store)  
7209 Burlington Pike  
Florence, Ky. 41042

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   xx   Florence            Walton            Union

(Check One)

2.            Conditional Use Permit   2   Variance            Appeal

           Change in Non-Conforming Use

3. Applicant's Name Whitney Stith

Phone Number 859-283-5560 Fax No. 859-283-5562

Applicant's Address 35 Shelby Street  
Florence Kentucky 41042

City State Zip

4. Description of Request: 1-Variance to Section 3321-# & Location of Access Points  
-Reduce frontage requirement from 500' to 168'  
2-Variance to Section 3645 & 3620 - Reduce 10' wide perimeter buffer requirement

5. Name of Development Stith Wimsatt & Assoc. CPA

6. Location of Development 35 Shelby Street Florence, Kentucky 41042

7. Acreage Under Review 0.49

8. Lot Number and Name of Subdivision (if part of a subdivision)  
Lot 38 Ezra Fish Subdivision

9. Owner of Property Whitney & Gina Stith

Address of Property Owner 3090 Hathaway Road Phone No.           

10. Union Kentucky 41091  
City State Zip

11. Proposed Use(s) on Site Commercial Office

12. Total Square Footage of Existing and/or Proposed Buildings 6400+/-

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           

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.

ORIGINAL Property Owner's Signature: *Whitney Stith*  
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: *Whitney Stith*  
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

COPY

CLUR #11-FBOA-002-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Whitney & Gina 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 Wimsatt & Assoc. CPA

4. DEED BOOK 818

PAGE NO. 368

GROUP NO. 2041B

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:

Variances (2)

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  
2950 WASHINGTON STREET, ROOM 317  
P.O. BOX 958  
BURLINGTON, KENTUCKY 41005

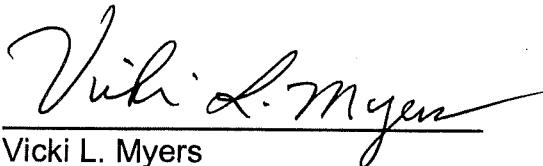
  
\_\_\_\_\_  
SIGNATURE OF COMPLETING OFFICIAL

Todd K. Morgan, Senior 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 21 day of January, 2011.

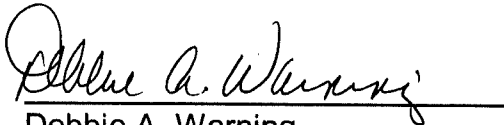


Vicki L. Myers  
NOTARY PUBLIC, State at Large

My commission Expires:

April 17, 2011

This instrument was prepared for recording purposes only by:



Debbie A. Warning  
Boone County Planning Commission  
2950 Washington Street, Room 317  
P.O. Box 958  
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Variances (2) approved by the Florence Board of Adjustments and in accordance with the current zoning in effect as of January 12, 2011 Certificate of Land Use Restriction (#11-FBOA-002-A), for Whitney & Gina Stith, Property Owner(s).

The following conditions will apply:

- 1) The entire parking lot shall be striped in conformance with the Boone County Zoning Regulations.
- 2) The one-way in access point shall contain a directional sign or pavement marking.
- 3) The owner of the adjoining automotive repair facility shall submit an easement agreement allowing the driveway encroachment on his lot.
- 4) The applicant and the owner of the automotive repair facility shall submit a shared buffer yard agreement.

The approved Variances (2) as well as the preceding conditions apply to the property described in:

DEED BOOK 818 PAGE NO. 368 GROUP NO. 2041B