

APPLICATION FOR ZONING ACTION

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

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

Applicant: Thomas O'Daniel Owner
Robert Brown Agent

Address: 7401 Dixie Highway
Florence, KY 41042 Telephone: 525-1707

Location: 7401 Dixie Highway, Florence, KY 41042

Name of Property Owner: Thomas O'Daniel

Address of Property Owner: 107 Schira Ct., Florence, KY 41042

Zone: _____ Area in Acres: 1/2 (Approx.)

Deed Book: 242 Page No.: 222 Group No.: 588

Description of Request: Approve building remodeling/improvement and construction of addition to existing building.

Property Owner's Signature: *Thomas O'Daniel*
Date _____ Applicant's Signature: *Robert Brown*

FOR PLANNING COMMISSION USE:
Application date and fee of \$ _____ Received: _____
Referred to: _____ For Meeting Date: _____
Action: _____ Date: _____

STAFF REPORT

APPLICANT: Mr. Robert Brown (applicant) for
Mr. Thomas O'Daniel (owner)

DEVELOPMENT: Building addition to General Tool
Rental, 7401 Dixie Hwy, Florence

LOCATION: Southeast corner of Dixie Hwy and
Shenandoah Drive

ZONE: Commercial Two (C-2)

DATE: December 10, 1986

REMARKS:

The applicant is requesting a Variance in the rear and side yard setbacks to expand an existing building on a 0.3 acre site. The existing business is for rental of tools and light construction equipment. The existing building is set back approximately 50 feet from Dixie Highway, 45 feet from Shenandoah Drive, and 28 feet from the rear and side property lines. The proposed building addition would maintain the existing setbacks from Dixie Highway and Shenandoah Drive, and would be set back 6.5 and 8.9 feet from the side and rear property lines respectively.

At the present time there are two accessory storage structures located at the rear of the lot between the existing building and Shenandoah Drive. There are also several pieces of various types of rental equipment stored outside, both on the subject lot and partially within the public right-of-way for Dixie Highway and Shenandoah Drive. The applicant has verbally indicated to staff that the purpose of the building addition, and thus the requested variance, is to create more indoor storage space which will permit him to clean up the exterior appearance of the lot.

The applicant presently has a Site Plan pending before the Boone County Planning Commission for the subject site. The Commission's action on the Site Plan has been deferred until action by the Board.

The property to the east is zoned Suburban Residential Two (SR-2) and is used for single family residences. There is a privacy fence, 6 feet in height, located between the residence and the subject property. A vacant lot, located directly east of the site is zoned Commercial Two (C-2). Property to the west and north, across Dixie Highway (U.S. 25) and Shenandoah Drive, respectively, is zoned SR-2.

The following reviews the four conditions the Board must

find for granting a dimensional variance:

1. The special circumstances arise from the size of the lot upon which the business is located. The subject parcel is approximately 110 feet deep by 120 feet wide. The current front yard setback requirement of the C-2 zone is 75 feet from the front lot line along Dixie Highway. The current rear yard setback required is 50 feet. The current setback requirements would create no buildable area on this existing lot.
2. The strict application of the current setback requirement would deprive the applicant of the ability to expand the existing building on the site. However, the current regulations permit a maximum intensity of 15,000 square foot of gross floor area per acre for uses in the C-2 zone, or 4,500 square feet for a lot of 0.3 acres. The applicant is requesting to expand the building to 3,300 square feet.
3. The special circumstances which this property is subject to are not the result of actions of the applicant taken subsequent to the adoption of the current zoning regulations. First, the existing lot and building were established prior to the adoption of the current regulations, and second, a considerable amount of the lot was taken for the recently completed widening of Dixie Highway.
4. If granted, a variance in the rear and side yard setbacks would not adversely affect the public health, safety, and welfare. Because the existing building already has pre-existing, non-conforming setbacks, staff does not foresee any additional problems with further encroachments into the side and rear yard areas. The existing lot to the south is currently vacant, and the existing residence to the east is setback approximately 12 to 15 feet from the property line, so there should remain sufficient clearance for emergency vehicles in case of fire. Also, with the existing privacy fence located between the proposed building expansion and the existing residence, the visual impact of the decreased rear-yard setback should be minimized.

If handled correctly, the proposed building expansion should have a positive effect on the essential character of the general vicinity by helping to remove the visual nuisance created by the present outside storage of rental equipment on the site.

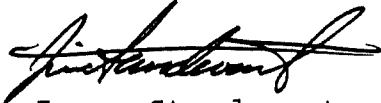
Should the Board decide to grant this Variance request, staff recommends the following conditions:

1. That the applicant agree to limit outside storage to

areas exclusive of the required parking and driveway areas as determined through Site Plan review by the Planning Commission.

2. That the applicant agree to provide any landscaping or screening improvements necessary to buffer the impact of the decreased building setbacks upon properties located to the south and east. Further details for these improvements to be detrimental by Site Plan review.

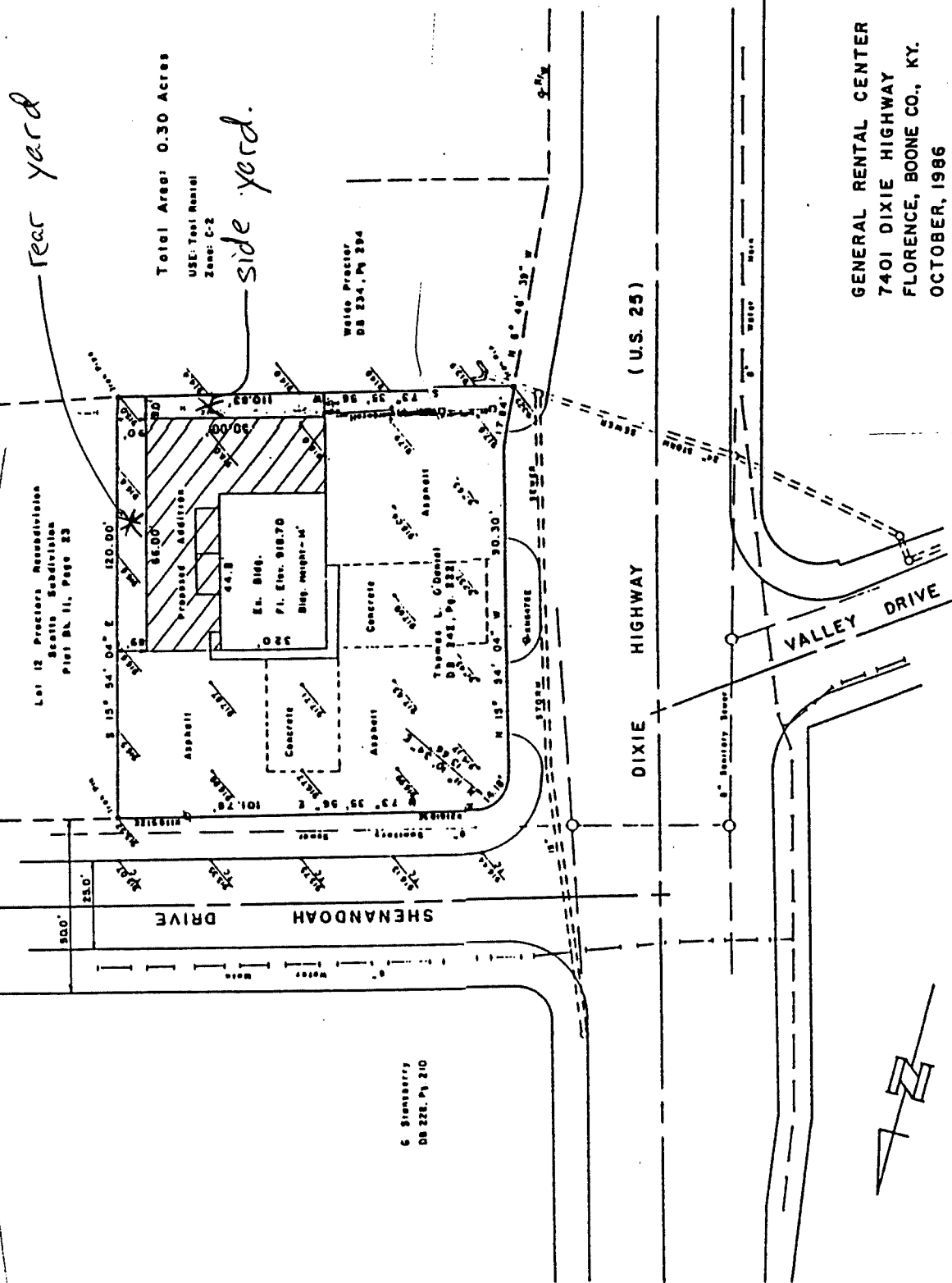
Respectfully submitted,



James Sturdevant
Plans Examiner/Planner



Thomas W. Breidenstein
Zoning Enforcement Officer



Total Area: 0.30 Acres
USE: Tool Rental
Zone: C-2

Rear yard

side yard.

Lot 12 Precincts Re subdivision
Scotts Subdivision
Plot BK 11, Page 23

Water Precinct
DB 234, Pg 294

Ex. B106.
Pt. Elev. 918.76
Blup. height - 44.8

6 Shensberry
DB 228, Pg 210

GENERAL RENTAL CENTER
7401 DIXIE HIGHWAY
FLORENCE, BOONE CO., KY.
OCTOBER, 1986
SCALE: 1" = 20'

RAYMOND ERPENBECK
CONSULTING ENGINEERS
4205 DIXIE HIGHWAY
ELSMERE, KENTUCKY 41018



Thomas O'Daniel
Robert Brown
Rear & side yard
Variances

12/10/86

FLORENCE BOARD OF ADJUSTMENT

DECEMBER 10, 1986

Chairman Charles Holland called the meeting to order. Roll call was taken by staff member Dee Ann Brewer. 4 members present. Staff members present were Mr. Thomas Breidenstein and Mrs. Dee Ann Brewer. Atty. Dale Wilson was also present.

Minutes of the November 12, 1986 Florence Board of Adjustment were considered. Mr. Wilder moved to approve the November 12, 1986 Florence Board of Adjustment Minutes as reviewed. The motion was seconded by Mr. White. The motion carried unanimously.

Chairman Holland proceeded to the items on the agenda.

Variance

A request of Thomas O'Daniel (owner) and Robert Brown (agent) for a side yard Variance of 6.5 feet and a rear yard Variance of 8.9 feet to allow the construction of an addition to the existing General Rental Center. The half acre site, located at the southeast corner of the intersection of U.S. 25 and Shenandoah Drive, Florence, is zoned Commercial Two.

Staff member Thomas Breidenstein presented a slide presentation of the proposed site and he presented the Staff Report. (See Staff Report)

Atty. Tom Nienaber, representing the applicant, stated the applicant wanted to take some of the equipment off the outside of the premises and place it inside the proposed building for security and appearance reasons. Atty. Nienaber stated they would try to eliminate the outside storage as much as possible but they would not eliminate equipment such as the trailer and the backhoe. Atty. Nienaber referred to the fence at the rear of the property and explained that when coming out towards the street, the fence bared off the property line approximately 6 feet. Atty. Nienaber stated they agreed to recommendations regarding the screening and landscaping and noted they would work with Planning and Zoning on the first recommendation regarding the outside storage in the parking areas and driveway aisles.

Chairman Holland inquired if there would be a double entrance. Atty. Nienaber stated no, there could be no drive thru on the site.

Chairman Holland inquired of any support, opposition or comments on the proposed request. Hearing none, Mr. White stated he agreed that the applicant needed to add onto the building and that the area needed a thorough cleaning up. Mr. White moved to approve the request of Thomas O'Daniel (owner) and Robert Brown (agent) for a side yard Variance of 6.5 feet and a rear yard Variance of 8.9 feet to allow the construction of an addition to the existing General Rental Center located at the southeast corner of the intersection of U.S. 25 and Shenandoah Drive, Florence, Kentucky based upon the applicant agreeing to eliminate the outside storage excluding the heavy equipment and trailers and landscape the site and clean up to meet the highway and the surrounding area and with the recommendations included within the Staff Report. The motion was seconded by Mr. Wilder.

Chairman Holland inquired if Atty. Nienaber had any problem with the recommendations within the Staff Report. Atty. Nienaber stated no, other than he did not have any idea where the required parking or driveway areas would be and he noted that was their only concern. Mr. Breidenstein stated the parking requirements had not been calculated but would come under Site Plan Review.

Chairman Holland noted his concerns of the storage sheds on the site and inquired if the applicant would be allowed to sell the sheds with a rental. Atty. Nienaber stated yes. Mr. Breidenstein stated he had no problem with the storage sheds on the site as long as they did not interfere with the parking spaces. Atty. Wilson pointed out that if the areas for required parking were used for the shed then the applicant would have to come back before the Planning Commission. Atty. Nienaber stated they understood those conditions.

After further discussion, the motion carried unanimously.

Variance

A request of Mahavir Enterprises for a rear yard Variance of 17 feet, 10 inches to allow an accessory structure to be used for principally permitted uses. The 1.56 acre site, located at the intersection of U.S. 42 and Village Drive, is owned by Pravin Shah and is zoned Commercial Two, C-2.

Mr. Breidenstein presented a slide presentation of the proposed site and the surrounding area.

Mr. Anil Shah, representative for the applicant, introduced himself and made himself available for any questions.

Mr. White inquired what type of commercial business would be used in the building. Mr. Shah stated the building was vacant at the present time. Mr. Breidenstein explained that a television

repair shop had rented the building but had since then vacated it and now the building was empty. Mr. White stated he would not like to see a type of repair business go in the building that would be a nuisance to the adjoining property owners whose homes were so close to the building.

Chairman Holland inquired if there was a potential client for the building. Mr. Shah stated no, not at the present time.

Mr. White inquired if the building had the proper wiring for a commercial use. Mr. Breidenstein stated no, but Mr. Pravin Shah stated he would remodel the building to meet the requirements.

Chairman Holland inquired if the building did not get rented out what would the applicant put in the building. Mr. Tom Helson, Realtor for the applicant, explained that the previous owner of the building had intended to rent it out for an auto repair business but Mr. Helson noted that was a use the Board did not want to see go in the building. Chairman Holland inquired if the variance was not allowed what would the applicant use the building for. Mr. Breidenstein stated the building could be used for lawn equipment storage.

Mr. White inquired if the adjoining property owners had been notified of the proposed request. Mr. Breidenstein stated no, notification was not required for a Variance. Mr. White stated he thought the Board had agreed that if a Variances affect the neighbors they should be notified. Atty. Wilson stated that adjoining property owners for a conditional use permit were to be notified but not for a variance.

Mr. Wilder stated he did not feel it was the Board's responsibility to make right a deception by the previous owner. Mr. Wilder agreed that the adjoining property owners should be notified of the proposed request.

Atty. Wilson stated that if the applicant had no objection, a deferral could be granted so that the adjoining property owners could be notified and given the opportunity to attend the next meeting and discuss the uses appropriate for a C-2 zoning.

Chairman Holland agreed also that the adjoining property owners should be notified and given the opportunity to discuss the proposed request.

After further discussion, Chairman Holland moved to defer until the January 14, 1987 Board meeting, the request of Mahavir Enterprises for a rear yard Variance of 17 feet, 10 inches to allow an accessory structure to be used for principally permitted uses located at the intersection of U.S. 42 and Village Drive, Florence and that the adjoining property owners be notified of

the proposed request by registered mail and that a fee of \$4.00 per adjoining property owner be paid by the applicant. The motion was seconded by Mr. White. The motion carried unanimously.

Conditional Use Permit

A request of Curtis James Investments for a Conditional Use Permit to allow the construction of a franchise, fast-food, drive-in restaurant (Burger King). The 1.78 acre site, located at the southwest corner of KY 18 and Mall Road is owned by Drs. Markesbery and Ammon and is zoned Commercial Two.

Staff member Tom Breidenstein presented a slide presentation of the proposed site and presented the Staff Report. (See Staff Report)

Mr. White referred to Article 5 which addressed attempts to tie Houston/Donaldson Roads into Mall Road and inquired if the corner could be taken by a bridge or tunnel to tie them in together. Mr. Breidenstein stated he was aware that possible solutions to the traffic problem in the particular area had been discussed but he had not seen any plans. Mr. Breidenstein stated he assumed that area would be greatly affected.

Atty. Gary Edmundson, representative for Curtis James Investments and Drs. Ammon and Markesbery stated there is 90 feet from the current right-of-way back to the proposed building. Atty. Edmundson introduced the other members representing the project: Mr. Curtis Smith and Mr. Jim Borg, partners of the proposed project and Mr. Ray Merkel and Ms. Barbara Wells, Architect for the applicants. Atty. Edmundson pointed out the current access points going into the property and described the turning movements of those accesses. Atty. Edmundson stated he felt the applicant's could work out some kind of radius turning movements to provide a shared access with the adjoining property, Bonanza. Atty. Edmundson explained there was an agreement between the current owners of the property and the City of Florence which entitled them to two accesses onto Mall Road. Atty. Edmundson addressed the issue of traffic congestion on Mall Road and KY. 18 and noted that congestion would be relieved with the new ramps going in from I-75 which were to be built within a year or so. Atty. Edmundson made himself available for any questions and stated the applicants were aware of all the conditions outlined in the Staff Report and they agreed to those conditions.

Atty. Dale Wilson requested the applicants to further describe the access ways on Mall Road, how close they would be to each other, and the current turning movements on Mall Road. Ms.

Barbara Wells, Architect for the proposed project, described the access points onto Mall and into the proposed site.

Mr. Wilder inquired if the vehicles coming out of the proposed site were permitted to make left hand turns onto Mall Road. Ms. Wells stated yes.

Mr. White expressed concern of cars going around the curve and then stopping suddenly to turn into the entrance to the Burger King restaurant.

After further discussion, Mr. Wilder stated he had a big problem with the traffic. Mr. Wilder stated he wished there was a connector road or something else planned a long time ago to alleviate the traffic problems everyone was fearful of. Mr. Wilder stated that anyone turning left or right onto Mall Road was taking their life into their own hands. Mr. Wilder stated he did not like what was being proposed regarding the access in and out of the Burger King site. Mr. Wilder stated that before he would give his vote on the proposed request he wanted to see what the Kentucky Department of Highway was going to say about the traffic problems at the particular site. Atty. Edmundson stated that a Conditional Use Permit was being brought before the Board for action and that the traffic problems would be addressed at the Site Plan Review stage. Mr. Wilder stated he disagreed that the traffic problem was not the Board's concern also because the public's safety and welfare according to the regulations had to be taken into consideration.

Atty. Wilson explained that the applicant's could not get approval for Site Plan Review without the Conditional Use Permit.

Mr. White stated that no matter what type of business went onto the property the two accesses would still be there.

Mr. White referred to condition #7 regarding the design to vehicular approaches to the property which would create an interference with traffic on surrounding thoroughfares. Again, since a principally permitted use was included on the site plan, the Board cannot consider the plan. Vehicular approaches will be considered during Site Plan Review. Mr. White stated he was somewhat confused by that statement. Mr. Breidenstein explained again that since the plan included a retail building, which is principally permitted, the Board can only consider the Conditional Use and not the Site Plan.

Chairman Holland inquired of the audience's support, opposition or comments on the proposed request.

Ms. Jennelle Markesbery, wife of Dr. Markesbery, explained the reason why they were selling their property to the particular applicant proposing the request.

Mr. Wilder referred to Section 263, Article 7 of the regulations regarding the vehicular approach and he stated the vehicular approach of the proposed request was not in conformance with the regulations.

Mr. White stated Drs. Ammon and Markesbery are as much a part of the community as the rest of the citizens and noted the corner of KY. 18 and Mall Road had a bad traffic problem there presently and the proposed request would add to that problem. Mr. White felt that sooner or later the County would have to do something about the traffic problem at that corner but stated he felt the doctors should be given some consideration with selling their property.

Dr. Markesbery explained they were given the two accesses because they traded some easements, a lake and a right to some of their land with the City of Florence in the past.

After further discussion on routing the traffic through the accesses into the site, Mr. White inquired if the first access on Mall Road could be eliminated temporarily. Atty. Wilson stated that was something that would come up at Site Plan Review. Further discussion followed on temporarily eliminating the first curb cut.

Mr. Breidenstein stated he felt that eliminating the first curb cut closest to the intersection of Mall Road and KY. 18 was a much better proposal.

Mr. Wilder inquired of specifically having a "no left turn" at that entrance. Atty. Edmundson stated he did not see how that would be feasible.

Atty. Wilson clarified for the Board that the access point closest to KY 18 could be eliminated and the access point next to Bonanza could be widened and improved and hopefully become a joint access and improvements made on the median on Mall Road.

Mr. White inquired of the four recommendations within the Staff Report. Atty. Edmundson stated he had no problems with the four recommendations within the Staff Report.

Further discussion followed on where a connector road could go for the site.

Mr. Borg requested clarification on the signage. Mr. Breidenstein explained that directional signs could not contain any advertising on them. Mr. Breidenstein noted the signage would also come under the Site Plan Review stage.

After further discussion, Mr. Wilder moved to approve the request of Curtis James Investments for a Conditional Use Permit to allow the construction of a franchise, fast-food, drive-in restaurant (Burger King) located at the southwest corner of KY. 18 and Mall Road based upon the conditions outlined in the Staff Report and that condition #2 of the Staff Report be eliminated and the following be added in place of condition #2: "That the northern most access be deleted and the southern most access be the in and out onto Mall Road and hopefully to encourage the southern most access to become a joint access through Site Plan Review and the City of Florence Public Works." The motion was seconded by Mrs. Lanigan. The motion carried unanimously.

Administration

Mr. Breidenstein informed the Board that the City of Florence had approved the new 1986 Boone County Zoning Regulations and copies of the regulations had been distributed to each Board member. Ms. Brewer noted an insert regarding the Office Two zone on page 10-4.

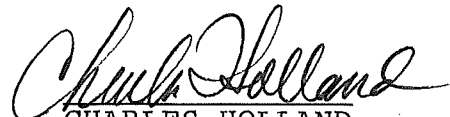
Mr. Breidenstein noted a letter form C. W. Henne to himself regarding a sign variance to allow a larger sign to sell property at Turfway and I-75.

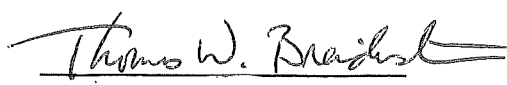
Mr. Wilder noted the new sign for the Florence Estate Apartments was not illuminated presently as required in the approval for the sign. Mr. Breidenstein stated he would check into the matter.

Hearing no further comments, Chairman Holland moved the meeting adjourn. The motion was seconded by Mr. White. The motion carried unanimously.

APPROVED:

ATTEST:


CHARLES HOLLAND
CHAIRMAN


THOMAS W. BREIDENSTEIN,
ZONING ENFORCEMENT OFFICER