

APPLICATION for ZONING ACTION

SIGN & SB

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
- Improvement Plan Approval
- 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
- Preliminary Plat Approval
- Final or Deed Plat Approval
- Site Plan Review
- Historic District Overlay
- Appeal or Variance
- Sign or Zoning Permit

Applicant: THOMAS J. BUOKE Owner Agent

Address: 2859 BANNING RD

CINTI OHIO 45239 Telephone: 513 923-3330

Location: 8104 KY HWY #42

Name of Property Owner: SHELL OIL CO

Address of Property Owner: 1129 MARISSBURG-CENTERVILLE DAYTON OHIO 45449

Zoning District: C-3 Area in Acres: 2.5409

Deed Book: _____ Page Number: _____ Group Number: _____

LEGAL DESCRIPTION
Description of the Request: FOR VARIANCE OF SET BACK (CODE 75') TO 60' FOR BLDG & SIGN HEIGHT (CODE 60') TO 100' FOR 17614 RISE SIGN

Property Owner's Signature: Thomas J. Buoke (agent)

Applicant's Signature: _____

Application Fee: 10000 5000 FOR PLANNING COMMISSION USE ONLY 150.00 Date Received: 12/7/84 By: [Signature]

Referred to: _____ Meeting Date: _____

Action Taken: _____ Date of Action: _____

BOARD of ZONING ADJUSTMENT and APPEALS CHECKLIST

MEETING: January 9, 1985

I. GENERAL INFORMATION

Applicant's Name: Thomas J. Budke (agent) for the property owner

Interest in Property: Shell Oil Corporation

Location and/or Address of the Property: 8104 U. S. Highway 42

Deed Book: 148 Page Number: 548 Group Number: 2040

Request of the Applicant: Requesting a variance from the required front yard setback of 75 feet and the required maximum height for a free-standing sign of 50 feet.

Present Zoning of the Property and the Affected Sections of the Regulations: Presently zoned Commercial Services, C-3 and affecting Sections 946(for the setback) and 1921 (for the free-standing sign)

Present Use of the Subject Property and the Adjoining Property(s):
Presently use as a self-serve gas station. Adjoining properties to the south and the east is commercial. To the north is some commercial, multi-family, and agricultural. To the west the adjoining land is multi-family and an unused commercial site.

FOR VARIANCE REQUESTS

1. What Variance is needed and to what Sections do they apply:

A variance is needed in the required front yard setback of 75 feet as required by Section 946 and Table one to a requested 60 feet for the principal building and a second variance is being requested in the maximum height for a free-standing sign requirement of 50 feet(section 1921) to a requested 100 feet)

2. What could be the unique conditions to justify the granting of the request: The existing building currently maintains a 52 foot front yard to the current Cashier's building. To the rear of the property(after the development as being requested) there is planned to be a steep slope with a 2 to 1 slope.

3. What reasonable use of the land will be denied if the request is denied: If denied, the property would have to be redeveloped on the plans. Dependent upon their engineering work, the property may not be able to be redeveloped.

4. Has the applicant caused these unique conditions? No, the abovenoted condition existed prior to the adoption of the new zoning regulations.

5. Will the variance, if granted, be detrimental or preserve the Public Welfare? Will it alter the essential character of the neighborhood? If granted, the variance would not nor would it preserve the Public Welfare. Since there have been variances granted in the front yard setback for other uses in this same area(ie. Chevron, White Castle, Rax Restaurant) the character of the area would not substantially change.

FLORENCE BOARD OF ADJUSTMENTS

JANUARY 9, 1985

8:00 P.M.

Chairman Holland called the Florence Board of Adjustment Meeting to order.

The roll call was taken by staff member Dee Ann Manley. Four members present: Messrs. Bolton, Wilder and Chairman Holland. Counselor Dale Wilson was also present.

The Board considered the Minutes of the meeting of the Florence Board of Adjustment Meeting of December 12, 1984.

Mr. Wilder stated that he wished to "correct" the Minutes on page 2 to specifically state reference to a fire lane around the building. Mr. Wilder also stated he wished to "correct" the Minutes to state that Mr. White in his motion and subsequent amendment had stipulated the ladder to be stored at the second level.

Mr. Wilder moved that the Board approve the Minutes of the Florence Board of Adjustment Meeting of December 12, 1984 with the "corrections" as he had proposed. The motion was seconded by Mr. Bolton. After discussion, the motion carried unanimously.

AGENDA ITEMS:

Conditional Use Permit Modification

A request of Robert Ryan, Jr. (option holder) for a Conditional Use Permit for the construction of a "Muffler Service Center" on an approximate $\frac{1}{2}$ acre lot located on the northeast side of Banklick Street, 86 feet southeast of U.S. 25-42 (Dixie Highway) in a Commercial Two, C-2 zoning district.

Staff member Chip Block presented a slide presentation of the area and summarized his staff report. Mr. Block stated the property is presently undeveloped and the adjoining property to the southeast is undeveloped, while to the northeast (facing Dortha Ave.) is currently residential and to the southwest is currently commercial (law offices) and residential. Mr. Block noted that the future land use of the subject and adjoining tracts is commercial according to the Boone County Comprehensive Plan Land Use Map. Mr. Block stated the site plan submitted shows the construction of one building with 4 service bays, an office/waiting area,

January 9, 1985

PAGE TWO

and a storage area with a total of 14 off-street parking spaces to be provided. Mr. Block stated the plan indicates the continuing of the surface storm water drainage coming from the north and west of the site. Mr. Block noted no conditions to be recommended to the Board if the permit is granted. Mr. Block noted a special characteristic of residential to the rear (facing Dortha) and across the street. Mr. Block stated the site does receive the storm water drainage from adjoining land along Dixie Highway and along Dortha Avenue.

Mr. Bolton inquired of the storm water drainage of the problems in the area. Mr. Block responded the engineer, Mr. Walton, had indicated to him that plans have been submitted to the City of Florence Public Works Dept. and is subject to Public Works review.

Mr. Ryan explained additional storm water drainage measures and use of a catch basin.

Mr. Tom Huey, representing Mr. Cody owner of adjacent property, inquired of the type of structure to be built on the site. Mr. Ryan explained the proposed building measurements and would be according to required setback requirements.

Discussion followed of the Public Works review of the storm water drainage matters.

Mr. John Foote, adjacent property owner, inquired of the use of air guns and service bays.

Chairman Holland inquired if the site should have fencing around the site to buffer the commercial area from the residential area. Mr. Block responded there is a row of trees that currently provide screening and the applicant will provide additional shrubbery, and that little development will occur to the rear of the property.

Mr. Wilder moved that the Board grant a conditional use permit for the construction of a "Muffler Service Center" with the provision that the current screening remain and possible additional screening to buffer the commercial area from the residential properties. The motion was seconded by Mr. Bolton. After discussion, the motion carried unanimously.

Dimensional Variance

A request of Charles S. and Joyce D. Tappen for a Dimensional Variance from the required 37.5 foot setback to a requested minimum of 20 feet from the property lines along existing Steinberg Drive and the proposed extension Connector Drive for the purpose of the construction of a multi-tenant commercial building, in a Commercial Two, C-2 zone.

January 9, 1985

PAGE THREE

Staff member Chip Block presented a slide presentation of the subject and adjoining tract. Mr. Block related the applicant is requesting a variance in the required setback from the property lines along Steinberg Drive and the future extension of Connector Drive from the required 37.5 feet to a requested 20 feet. Mr. Block noted the property is currently undeveloped as are the adjoining properties to the west, south and east while to north is currently used commercially. Mr. Block explained a variance is needed in the required setback for a corner lot in the existing Commercial Two zone wherein regulations require that corner lots maintain one-half of the required front yard setback of the district. Mr. Block stated one unique condition to justify the granting of the request is the existing High intensity power lines that cross a part of the property which prohibit the construction of buildings within the easement area of the power lines and noted the condition existed prior to the new regulations. Mr. Block stated that reasonable use of the land would be denied if the request was denied in that the property would decrease in useable area for the construction of a building.

Chairman Holland inquired of the location of the high intensity wires. Mr. Block indicated the location of the high intensity wires as it crosses the property on the south side of the building which the building is located along the easement line as the building could not be built under the 150-ft power line easement. Discussion followed of the site. Mr. Block stated the 150-ft area cannot be used for building area but would be used for parking and so necessitated the variance request.

Mr. Charles Tappen, the applicant, introduced the architect Mr. Jerry Foote.

Mr. Foote explained fill and excavation plans for the site and drainage and swale difficulties. Mr. Foote stated the building is to be a four-sided building. Mr. Foote also noted a 30-foot green space to be located between the parking area and the Mall Road right-of-way, and also noted that 43% of the lot will remain green.

Mr. Tappen noted how the power line easement affected the design and proposed construction of the building. Mr. Tappen explained development plans of the area and the dominoe development along Connector Drive.

Chairman Holland inquired of the type of stores to be located in the building. Mr. Tappen responded the type of stores are yet undetermined.

Discussion followed of the proposed development and the limitations of the site.

January 9, 1985

PAGE FOUR

There was no audience support or opposition expressed.

Mr. Wilder requested an allowance of time to review the submitted letters from the applicant and architect. Counselor Wilson noted that the architect's letter reference to the Kentucky Revised Statutes of the allowance of variance for unusual circumstances.

Mr. Wilder moved that the dimensional variance be granted from the required 37.5 foot setback to a requested minimum of 20 feet from the property lines along Steinberg Drive and the proposed extension of Connector Drive for the reason of the unusual topography of the land and the electrical lines easement. The motion was seconded by Chairman Holland. After dicussion, the motion carried unanimously.

Sign Variance

A request of John B. David (Gold Star Chili) for property located at 7561 Mall Road, owned by H.A.I., Inc. for a variance to allow a second building mounted sign for their business at the above noted location.

Staff member Chip Block presented a slide presentation and the staff report and described the request is for a variance to allow a second building mounted sign for the business to face south toward a driveway leading into Central Hardware from Mall Road. Mr. Block also noted that the property has received a notice of violation for placement of the second building mounted sign prior to proper approvals. Mr. Block stated a variance is needed in the number of building mounted signs for a business according to Sect. 1912. Mr. Block explained the property fronts only Mall Road therefore permitting only one building mounted sign but the building gains its access not from Mall Road but from a private driveway leading into and serving Central Hardware. Mr. Block also noted that if the sign variance were granted it will nor will not preserve or affect the public welfare, and the character if the neighborhood might be changed by allowing more signs for one establishment.

Mr. John B. David stated that he was not aware of the requirement for a permit to add the second sign and stated he wished to make it clear to the Board that the did not intentionally attempt to erect the signs without any permits and were under the understanding that the sign company had obtained the necessary permits. Mr. David also stated that the applicant was also working under the assumption they were on a corner lot.

Mr. Wilder inquired of staff of the total square footage of signage permitted for the subject location. Mr.

Block inquired as to what the building width was. Mr. David responded 90 feet. Mr. Block responded, taking into account the assumption of a 90-foot building width, the signage permitted would be up to and including 120 sq. ft. Mr. Block explained his calculations and explained the applicant is proposing additional sign area.

Counselor Wilson noted the building gaining access not from Mall Road but from a private drive leading into and service Central Hardware might constitute a unique condition.

Discussion followed of the signs on the property, and the elements of corner lots and the development of the area.

Mr. David stated the second building mounted sign would actually be more beneficial to his business than the existing permitted sign facing Mall Road.

There was no audience support or opposition expressed.

Mr. Wilder commented that the access from the drive could be considered unique in that if that condition did not exist the applicant would have to gain access from "somewhere else", and stated that he can see the applicant's point of view from a practical standpoint.

Accordingly, Mr. Wilder moved that the Board grant the sign variance to permit a second building mounted sign in the interest of public safety. The motion was seconded by Chairman Holland. After discussion, the motion carried unanimously.

Dimensional Variance

A request of Thomas J. Budke (agent) for Shell Oil Corp. (property owner) for a Dimensional Variance from the required front yard setback of 75 feet to a requested setback of 60 feet and for a height variance from the maximum height permitted for a free-standing sign of 50 feet to a requested height of 100 feet for property located at 8104 U.S. Hwy. 42.

Staff member Chip Block presented a slide presentation and staff report on the subject and surrounding area. Mr. Block related the request is for two (2) variances: one for front yard setback from 75 to 60 feet required by Sect. 946 and Table 1, and the second being for a variance of height from the maximum height for a free-standing sign from 50 feet to 100 feet. Mr. Block stated the present use is as a self-serve gas station and described the use of

adjoining properties. Mr. Block noted the existing building currently maintains a 52 foot front yard to the current Cashier's building, and noted that to the rear of the property (after the proposed development) there is a planned steep slope with a 2 to 1 slope. Mr. Block explained that if the variance requests are denied the property would have to be redeveloped on the plans and dependent on engineering work the property may not be able to be redeveloped. Mr. Block also noted that the granting of the variance would not nor would it preserve the public welfare and that since other variances in the area have been granted in front yard setback requirements for other uses such as Chevron, White Castle, Rax Restaurant) the essential character of the area would not substantially change by the granting of the requested variances.

Chairman Holland inquired of why the applicant could not give up 15 feet. Mr. Leonard Walton, contractor and employee of Shell Oil Company, explained that the topography of the land and a swale to the rear necessitates the project as proposed. Mr. Walton related the site plan as submitted this date was submitted with the earlier rezoning of the subject property. Mr. Walton related that later engineering study of the site necessitated a change in the islands from those originally proposed and that extensive fill is required.

Mr. Lundquist of the Shell Oil Company indicated the difficulties on the topography of the site. The Board reviewed the site plan and area elevations, etc.

There was no audience support or opposition expressed.

Mr. Block stated the calculations for the amount of sign area for the free-standing sign.

Mr. Bolton moved that the Board grant the variance of the setback requirement from 75 feet to 60 feet for property located at 8104 U.S. Highway 42 for the reason of the unusual topography of the land to the rear of the site. The motion was seconded by the Chairman.

Mr. Wilder inquired if there could be any kind of a water problem. Mr. Block responded that currently the Planning Commission is reviewing storm water retention and other elements of the site plan review level of the Planning Commission which is within the Planning Commission's purview, and also the City of Florenc Public Works.

After discussion the motion carried unanimously.

Chairman Holland moved that the Board grant the variance from the required height limitation of 50 feet to 100 feet for property located at 8104 U.S. Hwy 42. The motion was seconded by Mr. Wilder. After discussion, the motion carried unanimously.

Dimensional Variance

A request of Dr. & Mrs. J. R. Fooe for a dimensional variance in the required setback of 75 feet for a front yard in a Commercial Two, C-2 zone to a requested 30 feet for a 0.28 acre tract located on the southeast corner of Dixie Highway and Banklick Street.

Staff member Chip Block presented a slide presentation of the subject and surrounding area. Mr. Block summarized the staff report. Mr. Block stated the applicant is requesting a variance from the required front yard setback of 75 to 30 feet. Mr. Block stated it should be noted that the submitted site plan shows a 36+ foot setback from the Banklick property line, which is required to be 37.5 feet. Mr. Block explained the property is currently being used for law offices with the remainder of the land as undeveloped and described the present use of the adjoining areas of the northeast as existing commercial with the Kocolene station and the recently proposed muffler shop, and to the north, west and southwest is commercial use, while to the southeast (facing Banklick) is existing residential. Mr. Block explained the need for the variance in the C-2 zone which applies to Section 926 of the zoning regulations and that the required setback from Banklick is according to Section 1721 of the zoning regulations. Mr. Block stated the only unique condition he found to justify the granting of the request are the varied setbacks of other area businesses, such as Schwartz's Drug Store, Nationwide and the Bank. Mr. Block also noted that if the request was denied the applicant would be restricted from constructing any addition due to the existing setback of the current building. Mr. Block also noted that no detrimental effects would occur to the public if the variances is granted since the building would not block vehicular visibility at the intersection and with the existence of several other buildings at a similar setback the character of the area would not essentially change.

Anthony Ruscovi, architect of the property and representing Dr. Foote, presented a preliminary site plan for the Board members review. Mr. Ruscovi indicated the required 8 parking spaces given the number of square footage of the building area coming off of Banklick Street. Mr. Ruscovi contended that the front yard setback requirement represents a hardship on a 0.28 acre site. Mr. Ruscovi stated plans of the applicant to landscape and green the area along Dixie Highway.

January 9, 1985

PAGE EIGHT

Mr. Block stated the plan as submitted by Mr. Ruscovi is a little bit different than the plan submitted with the application and asked Mr. Ruscovi if the front yard setback was still to 30 feet. Mr. Ruscovi stated the recently submitted plan still requires a variance to 30 feet but that a variance to 35 feet might suffice.

Mr. Block again showed the slides to refamiliarize Board members with the area and recalled for Board members their previous granting of a variance for a second sign to Schwartz's Drug. Discussion followed of the blockage of the Schwartz's Drug Store sign.

Chairman Holland commented that perhaps Schwartz should be notified. Counselor Wilson noted that notice of the agenda items are published in the papers.

There was no audience support or opposition expressed.

Discussion followed of the proposed building for the site.

Mr. John W. Foote noted that the subject lot was originally made up of two lots where one of the houses had been torn down. Mr. Foote stated that if the building were still existent on the lot that would block the building mounted sign of Schwartz anyway.

Mr. Wilder stated he would like to see the staff verify the footage approximations of the applicant. Mr. Block stated the property had not yet been submitted to the Planning Commission for site plan review, but that the applicant still goes through site plan review which is beyond the purview of the Florence Board of Adjustment.

Mr. Wilder stated that "in accordance with Sect. 243 because the shape of the lot would cause an undue a hardship of what exists now versus what could exist" he would move that the Board grant the variance from the required front yard setback of 75 feet to 35 feet. The motion was seconded by Mr. Bolton. After discussion, the motion carried unanimously.

Admininstration

Counselor Wilson displayed the Proclamation prepared for Tom Schreiber and suggested the Board approve the Proclamation.

January 9, 1985

PAGE NINE

Mr. Wilder recommended that the Proclamation be submitted to the Dixie News for publication.

Chairman Holland moved that the Board approve the Proclamation of the service of Tom Schreiber and to publish the Proclamation in the Boone County Recorder. The motion was seconded by Mr. Wilder. After discussion, the motion carried unanimously.

Chairman Holland moved that the Board adjourn. The motion was seconded by Mr. Bolton. After discussion, the motion carried unanimously.



Charles Holland, Chairman

Attest:


