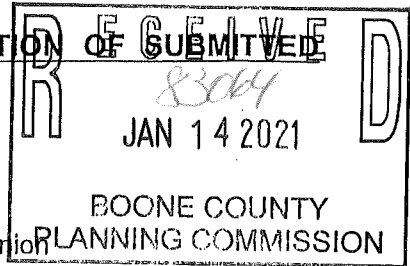


APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

FIVE (5) SCALED COPIES AND ONE (1) 11X17 REDUCTION OF DRAWINGS ARE REQUIRED

See Boone County Zoning Regulations



SECTION A (To be completed by applicant)

(Check One)

1. Boone [checked] Florence _____ Walton _____ Union _____

(Check One)

2. [checked] Conditional Use Permit _____ Variance _____ Appeal _____
[checked] Change in Non-Conforming Use

3. Applicant's Name Robert Wells
Applicant's Address 21 Spruce Dr
Florence KY 40047
City State Zip

Phone Number 859 393 2451 Fax No. _____ E-Mail Rob@wells-wel.com

4. Description of Request: Change of use from non conforming use to allow 12x10 trailer storage parking - SEE Attachment for additional items

5. Name of Development NUC Storage

6. Location of Development 21 Spruce Dr

7. Acreage Under Review 0.28 ACRO

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

9. Owner of Property # Lot 3 Sub Steve Dub Sub

Address of Property Owner 36 High School Ct Rob Wells Prop

10. City State Zip
Walton KY

Phone Number 859 393 2451 Fax No. _____ E-Mail Rob@wells-wel.com

11. Proposed Use(s) on Site Storage for business & personal

12. Total Square Footage of Existing and/or Proposed Buildings 1500 00

13. Current Zoning on Property SR-2

14. Deed Book 1132 Page No. 379 Group No. 2043 B

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? No per view provided

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: Rob Wells
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: Rob Wells
(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 1-4-21 Fee Received 15666.00 Receipt # 83064
2. Is application complete? 5 Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date 2/10/21
5. Board Action:
2/10/21 **Approved**
Approved with Conditions (See #6)
Denial (See #7)
6. Conditions of Approval: SEE 2/10/21 FBOA Meeting
MINUTES + CLR
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 - 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.

- ① Place vehicle on driveway.
- ② Right side of Building has a 30' x 10 slab.
Would like to put trailer on, with a
swinging gate to keep public from seeing.
- ③ Add a 10 x 12 already built shed to rear
right side of lot also blocked by gate.
- ④ 2 normal size rumble trash cans
and a gate left of front door.

① when loading and unloading.

From time to time I'd like to park outside
during the summer months. Over night. A van or
pick up truck

② 5X4 TRAILER: METAL

③ see map

④ see map

⑤ see map

STAFF REPORT

#1

APPLICANT: Robert Wells

LOCATION: 21 Spruce Drive, Florence, Kentucky

ZONING: Suburban Residential Two (SR-2)

DATE: February 10, 2021

0.28 ac +/-

PERTINENT SITE HISTORY

On August 6, 2019, Boone County Planning Commission Staff sent the applicant an email indicating the storage building at 21 Spruce Drive was a nonconforming use. Documentation had been submitted showing the building had been continuously used by various businesses for storage purposes since 1972. The businesses documented were nursery storage, building contractor storage, paint company storage, and pest control storage. Staff concluded the applicant could buy the building and use it in a similar fashion without further zoning approvals. The email indicated that no people or employees could be stationed on site and that any proposal to expand the building or parking lot, add offices or sales areas, or change the use of the building to another nonconforming use would be subject to a Change in Nonconforming Use application.

CURRENT PROPOSAL

The applicant is requesting a Change in Nonconforming Use to allow the following changes at the subject property:

- OK* A. Allow a 12' x 10' shed to be constructed in the rear yard of the property.
- No* B. A trailer to be stored on an existing concrete pad, which is located to the east of the building.
- OK* C. A swing gate to be attached to the front of the building to screen the proposed trailer from Spruce Drive.
- D. Outdoor storage of trash cans and a grill. *2 trash side + rear only*
- E. Overnight parking of a van or pickup truck on the property.

No overnight parking of van service

could Personal car

APPLICABLE REGULATIONS

- A. Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment is to grant changes in nonconforming uses as specified

in this order.

- B. Section 270 of the Boone County Zoning Regulations states that “it is the intent of this order to permit nonconforming lots, uses and structures to continue until they are no longer nonconforming. It is further the intent of this order that a nonconforming use or structure shall not be enlarged or extended beyond the scope and area of its operation at the time it became a legal nonconforming use, nor shall other uses or structures which are prohibited elsewhere in the same district be permitted on lots of nonconforming uses or structures.”
- C. Section 272 of the Boone County Zoning Regulations states where, at the time of the adoption of this order, legally established, uses of land exist which would not be permitted by regulations imposed by this order, the uses may be continued so long as they remain otherwise lawful, provided the Board shall not allow the enlargement or extension of a non-conforming use beyond the scope and area of its operation at the time these regulations were adopted.

KRS 100.253 allows the following:

1. The lawful use of a building or premises, existing at the time of the adoption of any zoning regulations affecting it, may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein.
2. The board of adjustment shall not allow the enlargement or extension of a non-conforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the board permit a change from one (1) nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification, provided, however, the board of adjustment may grant approval, effective to maintain nonconforming-use status, for enlargements of extensions, made or to be made, of the facilities of a nonconforming use, where the use consists of the presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.

SITE CHARACTERISTICS

- A. The approximate 0.28 acre property is located on the north side of Spruce Drive and has 62 feet of street frontage. The property contains an approximate 35' x 55'

concrete block building, with two garage bays and a man door. The driveway was recently converted from gravel to concrete. A small concrete pad exists on the east side of the building but does not connect to the driveway. It appears that some tree clearing recently occurred but there are a good number of mature deciduous trees along the rear property line.

SURROUNDING LAND USES AND ZONING

North: Single-Family Residential Dwellings Fronting on Manderlay Drive (R-1F)

South: Single-Family Residential Dwellings Fronting on Merravay Drive (SR-2)

East: Single-Family Residential Dwelling Fronting on Spruce Drive (SR-2)

West: Single-Family Residential Dwelling Fronting on Spruce Drive (SR-2)

STAFF COMMENTS

- A. On March 4, 2020, The City of Florence Code Enforcement Board heard an enforcement case involving the subject property. On June 17, 2020, the Florence Code Board determined the property was in compliance with the zoning regulations and the citation was dismissed (see attached meeting minutes).

Staff would like to note that the Board is acting on the proposed Change in Nonconforming Use application and has no jurisdiction in the code enforcement issues.

- B. Staff received some photos of the subject property from a resident that lives on Merravay Drive. These pictures are attached to the Staff Report.

- C. Staff would like the applicant to address the following:

1. Can the use of the building be defined? How often do business activities occur?
2. What would be stored in the 12' x 10' shed?
3. What size trailer is proposed to be stored on the concrete pad?
4. How often is the trailer used?
5. How many trash cans are proposed to be stored outside? Note – Staff observed two trash cans outside when taking pictures.
6. Is only one van or pickup truck proposed to be parked on site overnight? Why is this needed?

D. Staff has the following comments/concerns regarding the request:

1. Staff believes the proposed shed will expand the nonconforming use.
2. Staff believes the proposed trailer will expand the nonconforming use and not be adequately screened from the adjoining property to the east.
3. Staff does not believe having a grill or two residential style garbage cans outdoors is an expansion of the nonconforming use. Staff recommends that they should only be permitted to be stored in the side or rear yards.
4. Staff would like to hear the applicant's explanation as to why a van or pickup truck needs to be parked on site overnight.

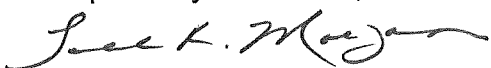
E. In reviewing the submitted application, the Board needs to analyze if:

1. The proposal is an enlargement or extension of the pre-existing nonconforming use; or
2. The proposal makes the pre-existing nonconforming use more objectionable than the established condition.

CONCLUSION

KRS 100.253 and Section 220 of the Boone County Zoning Regulations gives the Florence Board of Adjustment and Zoning Appeals the authority to act on the request.

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

TKM/tlb

Drop Box

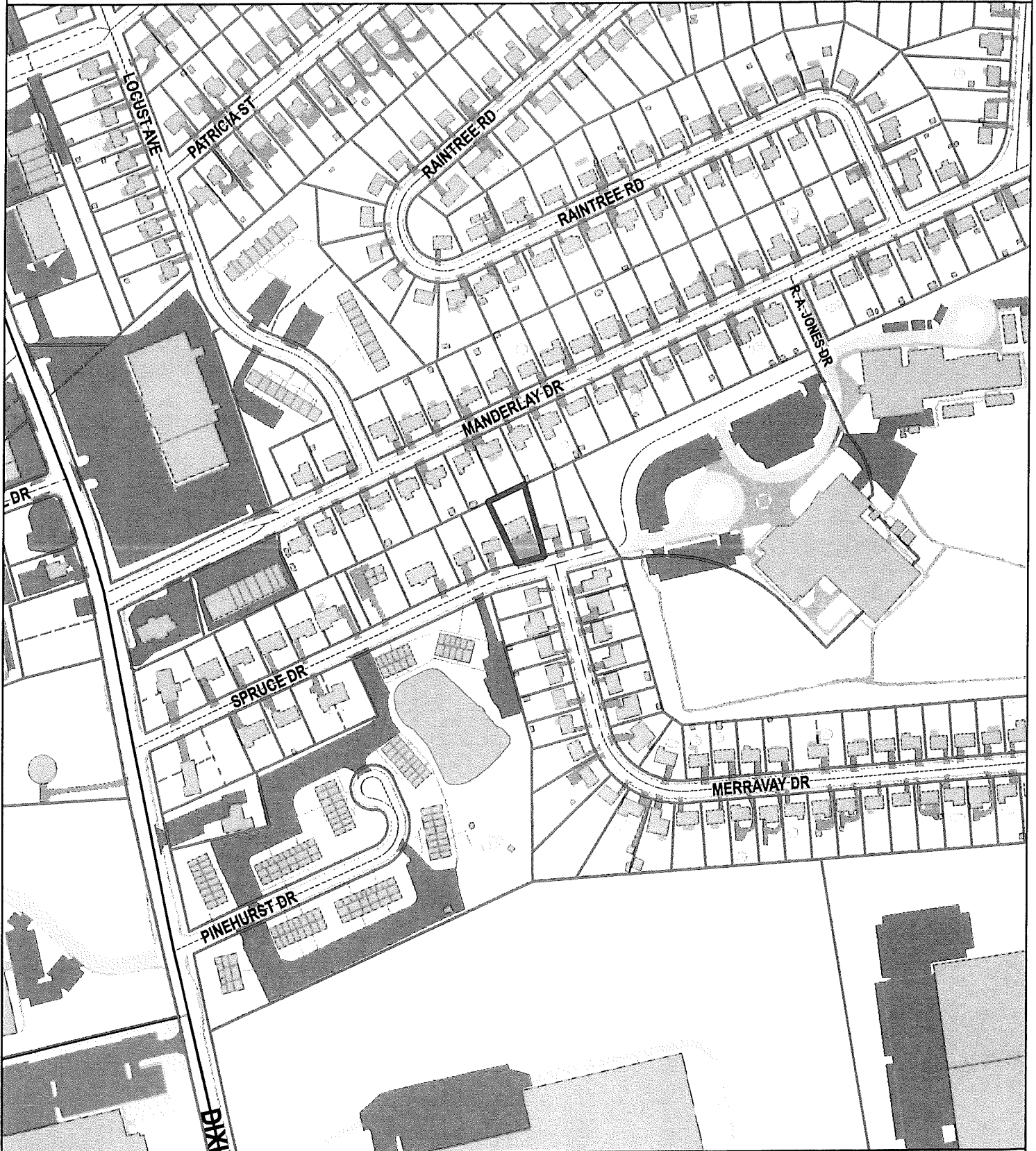
- ① Another picture from Neighbor
- ② Email from Rick Gendreau
- ③ Comments from Josh Hunt

Attachments

- *Site Vicinity Map
- *Application Materials
- *8/6/19 Zoning Determination and Supporting Documentation
- *3/4/20 and 6/17/20 Florence Code Enforcement Board Minutes
- *2020 Aerial Map
- *Zoning Map
- *Topographical Map
- *Pictures from Neighbor

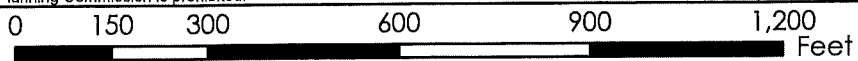
SITE VICINITY MAP

www.boonecountygis.com



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1 inch = 300 feet



Boone

APPLICATION FORM

**BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION**

FIVE (5) SCALED COPIES AND ONE (1) 11X17 REDUCTION OF DRAWINGS ARE REQUIRED

See Boone County Zoning Regulations

RECEIVED
83064
JAN 14 2021
BOONE COUNTY
PLANNING COMMISSION

SECTION A (To be completed by applicant)

(Check One)

1. Boone Florence Walton Union

(Check One)

2. Variance Appeal

3. Lois Evans
Ky.gov

4. Melissa Kramer

5. Eric Hall

6. Josh Hunt

7. * Brandi Roundtree

8. Robert Wells NKI

9. icloud.com

10. icloud.com

11. peachandcakeautosales@gmail.com

12. rgrieglerblacktop.com

13. icloud.com

DN
KY
ate 4009
Zip
E-Mail Robawells@icloud.com
MAN CONFIRMING SUB TO FOLLOW. 12/10
KLING - SEE ATTACHMENT FOR
5/20/2021 additional items
DR

if a subdivision)
SUB: STEW DUB SUB
Robawells Prop

non ct
icloud.com
ate Robawells@icloud.com Zip NKI
E-Mail Robawells@icloud.com
FOR BUSINESS & PERSONAL icloud.com

used Buildings 1500 00

Group No. 2043 B
NO

ist? No OR VER PROVIDES
owners with this request? yes

in accordance with the Boone County Zoning Regulations.

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

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

- ① Park vehicle on driveway.
- ② Right side of building has a 30' x 10 slab.
Would like to put trailer on, with a
swing gate to keep public from seeing.
- ③ Add a 10 x 12 already built shed to rear
right side of lot also blocked by gate.
- ④ 2 normal size Rumex trash cans
and a small left of front door.

(1) when loading and unloading.

From time to time I'd like to park outside
during the summer months. Over night. A van or
pick up truck

5X4 TRAILER METAL

see map

see map

see map

Boone County GIS Map

www.boonecountygis.com



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0 20 40 80 120 160 Feet

1 Inch = 40 feet



Boone County GIS - Putting



From: Rob Wells robawellsnki@icloud.com
Subject: IMG_03101.jpg
Date: Jan 8, 2021 at 9:28:21 AM
To: robawellsnki@icloud.com



Todd Morgan

From: Todd Morgan
Sent: Tuesday, August 06, 2019 11:12 AM
To: 'Rob Wells'
Subject: RE: Spruce - 21 Spruce Drive Florence

Rob,

The storage building at 21 Spruce Drive, Florence, Kentucky is a nonconforming use. Documentation has been submitted from the current property owners, Steve and Sharon Due, and a previous property owner, Dixie View Nursery, indicating the building has been continuously used by various businesses for storage purposes since 1972. The documentation received specifically mentioned nursery storage, building contractor storage, paint company storage, and pest control storage.

Based on this documentation, I informed you that you could purchase the building and use it solely for personal and/or business storage only without any zoning approvals. This means that no people or employees could be stationed on site. A proposal to expand the building or parking lot, add offices or sales areas, or change the use of the building to another nonconforming use would be subject to review by the Florence Board of Adjustment through the change in nonconforming use application process.

Please call or email me if you have any questions.

Sincerely,

Todd K. Morgan, AICP
Senior Planner, Zoning Services
Boone County Planning Commission
(859) 334-2196

-----Original Message-----

From: Rob Wells [<mailto:robawellsnki@icloud.com>]
Sent: Tuesday, August 06, 2019 9:49 AM
To: Todd Morgan
Subject: Spruce

Todd me and email saying

That it's OK to use that building for storage and basically for a shop Store or equipment in for the bank please Sent from my iPhone

Date: July 25, 2019

To: Tod Morgan
Boone County Planning Commission

From: Stephen and Sharon Due
998 Reigh Court Dr.
Union, KY 41091

RE: 21 Spruce Drive
Florence, KY 41042

Mr. Morgan,

We, Stephen and Sharon Due purchased 21 Spruce Drive from the owners of Dixie View Nursery in 2007. We have included a letter from Dixie View Nursery explaining their use of the property.

My business, Stephen Due Builder/Local One Realty, has used the right portion of the building since we purchased it for storage of building materials and a trailer. We also rented the remaining part of the building to Hensley Painting for the year immediately after Dixie View Nursery moved out and then to Complete Pest Control from the time Hensley Painting moved until the present time.

To address the reason that the building was not torn down, we originally had considered that but found it to be a much better structure than we originally thought and found it to be an asset to repair and keep. We did not know or intend that to be a condition of the approval of the subdivision.

Thank you,

A handwritten signature in black ink, appearing to be 'Stephen Due' and 'Sharon Due' joined together, written over a horizontal line.

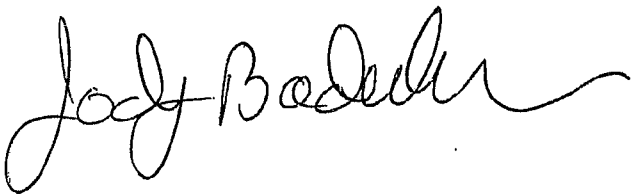
Stephen Due and Sharon Due
Owners

7/25/19

To whom it may concern,

This letter is to inform the Boone County Planning and Zoning, that the building at 21 Spruce Drive was operated as a storage building for Dixie View Nursery from 1972 till it was sold to Steve Dew. Also Paul Fedderes used half of the building for storage for his business as well.

Sincerely,

A handwritten signature in cursive script that reads "Jody Biedenharn". The signature is written in black ink and has a fluid, connected style.

Jody Biedenharn Secretary Dixie View Nursery

Jodydixie1511@gmail.com
859-466-1530

Todd Morgan

From: Todd Morgan
Sent: Friday, July 12, 2019 10:03 AM
To: 'Rob Wells'
Subject: RE: [BULK] - 21 Spruce Drive - Florence

Mr. Wells,

I received both emails and looked them over with the Zoning Administrator. We would like the current property owners to address the following:

1. Their letter indicates that they have used the building for storage since 2007. Was this their personal storage, mini-storage, or renting the building to business tenants? I would like them to be as specific as possible.
2. A Improvement Plan was approved in 2007 allowing a sanitary sewer main in Steve Due Subdivision. The plan contains a note indicating the existing garage is going to be removed from lot 3. Why wasn't this done.
3. Their letter indicates that they bought the property in 2007 and it was previously used by Dixie View Nursery to store construction and nursery equipment. Do the current owners know how long Dixie View Nursery owned the building and how the building was consistently used? Can they provide any documentation (pictures, deeds, invoices, utility bills, etc.)? This is important because we need to determine that the use of the building has nonconforming status per Section 100.253 (4) of the Kentucky Planning and Zoning Statutes. In order to make this determination, we will need documentation that the building has continuously been used as a storage building since January 1, 2005.

I will be able to advise you on the zoning process for the property once I receive the requested information from the property owners.

Sincerely,

Todd K. Morgan, AICP
Senior Planner, Zoning Services
Boone County Planning Commission
(859) 334-2196

-----Original Message-----

From: Rob Wells [<mailto:robawellsnki@icloud.com>]
Sent: Thursday, July 11, 2019 3:26 PM
To: Todd Morgan
Subject: [BULK]
Importance: Low

Date: July 9, 2019

**To: Tod Morgan
Boone County Planning Commission**

**From: Stephen and Sharon Due
998 Reigh Count Dr.
Union, KY 41091**

**RE: 21 Spruce Drive
Florence, KY 41042**

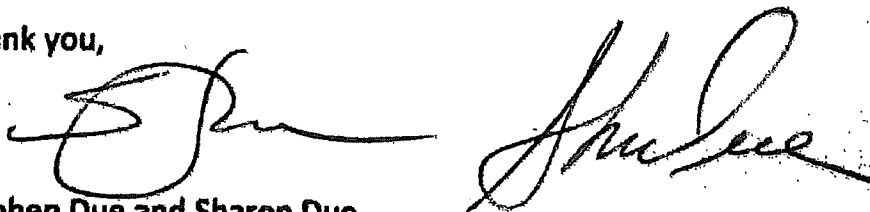
Mr. Morgan,

We, Stephen and Sharon Due purchased 21 Spruce Drive from the owners of Dixie View Nursery in 2007. When we purchased the property, it was being used for storage of construction and nursery equipment. We were told by the previous owners that it had been used for storage in the nursery business for many years.

The building has been continuously used for storage ever since our purchase date in 2007.

Please let us know if you have any additional questions or concerns.

Thank you,

The image shows two handwritten signatures in black ink. The signature on the left is for Stephen Due, and the signature on the right is for Sharon Due. Both signatures are written in a cursive, flowing style.

**Stephen Due and Sharon Due
Owners**

ROB WELLS. NWE Northern WY INSPECTIONS
INC.

MY PLAN IS TO CLEAN THE BURNING UP.
POSSIBLY DO CONCRETE LOT OR ASPHALT.
MAKE A DRIVE FOR MYSELF IN FRONT
LEFT. AND USE THE 1ST DOOR TO THE
LEFT FOR MY SHOP. TO STORE EQUIPMENT
AND TRUCK. I ALSO WOULD LIKE TO
RENT OUT 1 BAY TO A HVAC MAN.
FOR THE SAME PURPOSE. ON NORMAL DAYS
WE WOULD ONLY BE AT THIS BUILDING FROM
8-9 - AM THEN OFF TO JOB. ON SOME
OCCASIONS I WOULD MEET A
CLIENT AT THIS LOCATION TO GO OVER
OUR REPORTS. WE FOUND DURING INSP.
WE WOULD LIKE TO EVENTUALLY TAP
SEWER AND RUN A WATER LINE INTO
BUILDING FOR A RESTROOM.



**CODE ENFORCEMENT BOARD
MINUTES: WEDNESDAY, MARCH 4, 2020**

The City of Florence, Kentucky Code Enforcement Board met at 10:00 a.m. on Wednesday, March 4, 2020 in the Council Chamber of the Florence Government Center with Code Enforcement Board Chairman, Jim Johnson presiding.

CALL TO ORDER & ROLL CALL

Chairman Johnson called the meeting to order and requested a roll call. Present were the following four (4) Board members: Lance Howard, Rick Rowland, Bill Sharp, and Jim Johnson. Board Member David Spille was absent.

Also present: Hugh O. Skees, Attorney; Melissa Kramer, Assistant City Clerk; Jeremy Kleier, Code Enforcement Administrator; Mike Macaluso, Code Enforcement Officer; Brian DeCarlo, Code Enforcement Officer; Randy Childress, Fire Marshall; Kevin Duncan, Police Officer. In the audience: Nick Gregory, contesting; Attorney, Linda Novakov, contesting; Logan Latoski, contesting; Attorney, Greg McDowell, contesting; Robert Wells, contesting; Robert Hayeck, contesting; Donald Klein, contesting; Michael Lipps, contesting case; Alan Naylor, contesting; Victoria Mendez, contesting; Nephi Mendez, contesting.

APPROVAL OF MINUTES:

February 5, 2020

Chairman Johnson called for a motion to approve the minutes of the February 5, 2020 meeting of the Code Enforcement Board. Board Member Sharp noted a correction to the minutes on page three. Upon correction of the minutes, Board Member Sharp motioned to accept the corrected minutes with a second from Board Member Howard. **Motion carried by unanimous vote.**

SWEARING IN:

The Code Enforcement Officers were sworn in by Chairman Johnson.

CONTESTED CASE:

**Contested Case #2019-413-OC
4895 Houston Road**

**City of Florence vs. Nick Gregory
Multiple Citations**

Officer Macaluso presented the case as follows: Property located at 4895 Houston Road. On 6/26 sent letter for non-compliance with occupational license; 8/28 followed up with the finance department and no change, issued 1st citation; 1/2/2020, re-inspected with finance department and no change, issued 3rd citation. Three citations were issued between 6/26/19 and 1/2/2020; 1/31 received notification Mr. Gregory was in compliance and wanted to contest. 3 citations issued in the amount of \$500.00, no liens.

Nicholas Michael Gregory (Nick Gregory) appeared and stated he spoke with other team agents regarding the license. He is a team agent and does not have any sales. Was unaware he needed a license and unable to pay right away due his application. He is now in compliance. Mr. Gregory requested reduction or dismissal of the fines. Mr. Sharp motioned to dismiss the citations. Mr. Howard followed with a second. **Motion carried by unanimous vote.**

CITY OF FLORENCE CODE ENFORCEMENT BOARD
MINUTES OF MARCH 4, 2020
Page 2

Contested Case #2019-117-ZG
15 New Uri Avenue
Contested by Attorney, Linda Novakov

City of Florence vs. JCNK Properties
Multiple Citations

Case had previously been ruled upon and needed to reopen. Board Member Rowland moved to reopen with a second from Board Member Sharp. **Motion carried by unanimous vote.**

Officer Macaluso presented the case as follows: Several complaints received from neighbors due to the property being rented out. Subpoenaed property owner at the July 3, 2019 Hearing and the property owner was unaware of the issue. Case was continued to allow property owner time to evict the tenant. Property owner did not appear at the September 4, 2019 hearing and violations were upheld. Property is currently in compliance.

Attorney Linda Novakov appeared on behalf of JCNK Properties. Property is a rental and her client was unaware the previous tenants were renting rooms. Previous tenants have been evicted. The property is currently rented to a husband and wife, long term with a lease option. Ms. Novakov requested the liens be released against the property. Mr. Sharp motioned to dismiss the liens with the exception of the city expense in the amount of \$413.00. Mr. Rowland followed with a second. **Motion carried by unanimous vote.**

Contested Case #2019-408-OC
4895 Houston Road

City of Florence vs. Erma Schadler
Multiple Citations


Erma Schadler did not attend the meeting. Officer Macaluso requested continuance for an additional month to get in contact with Ms. Schadler. Mr. Howard motioned to continue the case 30 days to the April hearing. Mr. Sharp followed with a second. **Motion carried by unanimous vote.**

Contested Case #2020-38-PM
2 Wallace Avenue
Contested by Logan Latoski

City of Florence vs. Mary Warford
Citation #BD-2020-14

Officer DeCarlo presented the case as follows: Received a complaint regarding an unlicensed vehicle and trash/debris on the property. 1/7 observed disabled truck in driveway and trash/debris in the back of the truck and along the right side of the property; 1/8 sent a letter; 1/17 no change; 1/20 inspected property and truck was repaired, trash and debris remained; 1/27 issued 1st citation for trash/debris; 1/23 received a message from Logan. He had not received any prior notification of the violations. Explained the options of contesting the citation and coming into compliance. On 2/4, trash/debris was removed; 3/3 property is still in compliance.

Logan Latoski appeared and stated he did have some trash/debris. He is the resident at the property and was unaware of the citation. Mary Warford owns the property but does not live there. Once he received the citation, he came into compliance. Mr. Latoski requested reduction or dismissal of the fines. Mr. Rowland motioned to dismiss the citations. Mr. Sharp followed with a second. **Motion carried by unanimous vote.**


Contested Case #2020-88-OC
21 Spruce Drive
Contested by Robert Wells

City of Florence vs. Northern
Kentucky Inspection Incorp.
Citation #MM-2020-113

Officer Macaluso presented the case as follows: Property located at 21 Spruce Drive; presented an email pertaining to the case; 12/5 received complaint a business was being operated in a residential 2 zone with commercial equipment blocking the street; inspected the property and observed a concrete truck pouring a driveway and sign painted on the building "NKI"; sent letter for operating a business in the area and the sign; 12/16 called Todd Morgan with the Boone County Planning Commission and was updated on the property. Mr. Morgan had been in contact with Mr. Wells. Mr. Wells would only be able to use the facility for storage, dropping off and picking up items, not operating a business; 1/19 received complaint from neighbor with regard to the business operating all hours of the night; 1/21 inspected the property and observed several commercial trucks and sign remained; one of the complaints received was a downspout in disrepair on the property, inspected the downspout and in compliance; 2/4 inspected the property and observed a commercial truck and people coming in

CITY OF FLORENCE CODE ENFORCEMENT BOARD
MINUTES OF MARCH 4, 2020
Page 3

and out of the main door. Believed they were operating a business and proceeded with issuing a citation for operating a commercial business within a residential zone. Issued a citation for the sign on the building. While observing the building, it appeared three employees were loading ladders on a truck and a caulking gun. Received notification on 2/5, Mr. Wells would contest the citation.

Robert Wells and Attorney, Greg McDowell, appeared on behalf of Mr. Wells. Mr. Wells did not believe he was doing anything wrong. He uses the building for storage. He is currently rehabbing the building and started with the outside. Since the outside is finished, he is now working on the inside. Trying to repair and make the building nice for storage. He had photos of the building before and after. The gentlemen he bought the building from still has items inside the building. The white trailer stored at the building is currently being used for materials to build shelves inside. Mr. Wells believed all was okay while he was cleaning up the outside. Now rehabbing the interior and having issues. Mr. Wells operates a business as a house inspector and pest control. The pest control business is operated out of 71 Cavalier Blvd., Pest Guard Pest Control. Does a lot of business out of his truck, not in an office.

Officer Macaluso noted the occupational license has an address of 1408 N. Main Street, Williamstown, Kentucky. Mr. Wells stated his pest control business is operated at Cavalier and rents space at the Cavalier location.

Chairman Johnson inquired if the Board Members had any questions. Chairman Johnson inquired from Mr. Wells for any further comments. No response received. Therefore, Chairman Johnson called the Witness, Denny Pope.

Witness, Denny Pope, stated he spoke to Officer Macaluso regarding the business. Mr. Pope was concerned regarding the traffic occurring at all hours of the day and night. Mr. Pope had photos from December through February. Trucks are parking on the street and the past Sunday, police were called due to one of the service trucks parked the wrong way. Mr. Pope also has photos of the building occupants moving items, late at night, seven days a week. The business is advertised on the internet as 21 Spruce Drive, 24/7 service, NKI. Mr. Pope has witnessed service trucks, private contractors and pickup trucks coming in and out of the building all day long. Mr. Pope stated the trailer is being used for storage and has also observed two dollies. He observed a gas powered machine running a few months ago while the garage door was open. Mr. Pope states it is a business. When he first observed the building, he thought they were sprucing it up. Had no idea a business would be operated out of the building. Mr. Pope appeared to represent all of the neighbors which have expressed concern.

Attorney Greg Dowell questioned Mr. Pope:

Attorney Dowell: Have you ever been inside the premises and observed any activity inside the premises?
Witness Pope: No, I have not been inside.
Attorney Dowell: Are you aware of the letter Todd Morgan sent to Officer Mike? Have you seen any correspondence from Todd Morgan with the BCPC?
Witness Pope: No, I have not.
Attorney Dowell: Are you aware Mr. Morgan shared with this Code Enforcement Board the property was to be used for nonconforming storage purposes? Are you aware?
Witness Pope: Michael mentioned it to me.
Attorney Dowell: With regard to activity, my client has just explained that they were rehabbing that building? Answer yes or no.
Witness Pope: I heard that.
Attorney Dowell: Now would you agree that the building is in much better condition today than when my client purchased.
Witness Pope: I would disagree.
Attorney Dowell: I am going to show you pictures of before and after. You would disagree that the building looks better?
Witness Pope: I would disagree. The concrete driveway looks better.
Attorney Dowell: Has a new roof, does it not?
Witness Pope: Yes.

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Attorney Dowell: Has been painted throughout, correct?
Witness Pope: It's been painted.
Attorney Dowell: You can see the windows were originally boarded up and now you can see that has block windows. So we can agree that the last several months there has been improvement.
Witness Pope: I disagree.
Attorney Dowell: Have you ever been inside building? Mr. Wells just told this Board he was remodeling because of the condition inside. You do not have any personal knowledge to dispute this?
Witness Pope: No.

Board Member Howard questioned Officer Macaluso with regard to a Florence Occupational License for NKI. Officer Macaluso stated there is a license and reviewing due to the location marked as various.

Board Member Howard questioned Mr. Wells with regard to a home inspector, what materials needed to be stored inside the building? Mr. Wells stated he stored his motorcycle, cables, ladders, and generators, whatever he wants. Mr. Wells has no employees.

Board Member Howard questioned Mr. Wells with regard to people coming in and out of the building. Mr. Wells stated he is unable to control and has no one else other than the people working on the building.

Board Member Howard questioned how much longer Mr. Wells needed to finish the rehab of the building. Mr. Wells was unsure of how much more time.

Officer Macaluso confirmed NKI pays payroll. Mr. Wells denied having employees. Board Member Rowland noted the payroll was possibly for Mr. Wells. Mr. Wells stated he is the president of the company and pays payroll for himself, he writes himself a check once a month.

Mr. Wells is requesting dismissal of the \$100.00 fine. Mr. Wells did not believe he had done anything wrong. Chairman Johnson questioned Mr. Wells with regard to the sign. Mr. Wells stated he painted the sign as a notification for people dropping off material.

Officer Macaluso stated the property is residential two, single family dwelling, and is considered pre-existing nonconforming for a storage facility. Prior to NKI, a nursery was at the building.

Officer Macaluso had evidence that proved a business is operating at the location including the testimony of Mr. Pope and research he performed. When the citations were issued, a man had been there working since December. Warning letter was sent on 12/5, no response and issued citation on 2/4/2020. Mr. Wells stated he did not get the mail and only received the citation after it was hand delivered by someone working on the shelves at the building. Mr. Wells stated he has no employees at the location other than himself.

Chairman Johnson questioned with regard to completion of the work. Mr. Wells requested more than 30 days continuance. The prior owner had 37 days left to remove remaining items as part of the lease agreement. Mr. Wells requested 90 days to come into compliance. Officer Macaluso requested the sign be removed and scaffolding be removed from the property during the 90 days. Mr. Wells stated the scaffolding had already been removed and he would have the sign removed. Mr. Wells also agreed to control the trucks coming and going on the property. Attorney McDowell stated there was a sign on the building previously and discussed a change of face application with Mr. Morgan at BCPC. Attorney McDowell requested the allowance to look into having the sign changed and 90 days to have the sign changed or removed. Officer Macaluso spoke with Mr. Morgan and no sign was on the building and would not be approved due to residential. Photograph revealed no sign on the building in April of 2019. Officer Macaluso directed Mr. Wells and Attorney McDowell to the county for the sign. Mr. Howard motioned to continue the case 90 days to the June hearing to allow Mr. Wells time to come into compliance with the sign, traffic, and scaffolding. Mr. Rowland followed with a second. Chairman Johnson requested a Roll Call Vote. The Board approved 4-0, motion carried. **Motion carried by unanimous vote.**

**Contested Case # 2020-3-ZG
46/48 Surrey Court
Contested by Robert Hayeck**

**City of Florence vs Julie Ann Eckler(Rash)
Citation #BD-2020-03**



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Klein felt he should have been given the opportunity to clean. Chairman Johnson stated he was informed by the citation. Mr. Klein did not feel he was given ample time.

Chairman Johnson informed Mr. Klein the city does have the right to hire someone to clean the property if it is a nuisance. Officer Macaluso stated notice of violation was sent and they have the legal right to remove the trash and debris. Original letter was sent for demolition permit and continued to work with Mr. Klein. Following the demolition, the contractor left debris. Therefore, the city had to take corrective action to the nuisance following the demolition.

Mr. Klein requested relief from the citations and fines. Mr. Rowland motioned to dismiss the citations and uphold the city expense in the amount of \$378.88. Mr. Howard followed with a second. **Motion carried by unanimous vote.**

Continued Case # 2020-53-ZG
32 Russell Street

City of Florence vs Michael Lipps
Multiple Citations

Officer DeCarlo presented the case as follows: Previous hearing, tenant still had vehicles in grass. Observed property since that time and vehicles have been removed. Currently in compliance. Mr. Rowland motioned to dismiss the citations. Mr. Howard followed with a second. **Motion carried by unanimous vote.**

Continued Case #2019-95-PM/ZG
7912 Dream Street
Represented by Attorney, David Steele & Joe Massa

City of Florence vs. Arc Café USA
Multiple Citations

Officer Macaluso presented the case as follows: Observed the property several times over the past few months and have noticed progress. Spoke with Mr. Massa prior to the meeting. Light pole has been reinstalled, front sidewalk and brick pavers have been removed and concrete replaced. Only issue remaining is the parking lot and the building still needs to be repainted. Also, there is a cylinder which has been installed on the rear of the property and requires a permit. Officer Macaluso informed Mr. Massa he will need to contact Boone County PVA for a permit for the cylinder.

Attorney, David Steele, appeared on behalf of Joe Massa and Arc Café-Captain D's. Attorney Steele stated most of the work has been done and difficulty getting work done due to COVID-19. Joe Massa was sworn in. Mr. Massa stated the building will be painted on June 22, 2020 and the parking lot is scheduled for June 29, 2020. Mr. Massa has contracts in place. Had the worked set to be performed the end of March and due to the pandemic, was canceled.

Mr. Howard motioned to continue to the August hearing. Mr. Rowland followed with a second. **Motion carried by unanimous vote.**

Continued Case #2020-88-ZG
21 Spruce Drive
Represented by Attorney, Greg McDowell and Robert Wells

City of Florence vs. Northern Kentucky Inspection Incorp.
Citation #MM-2020-113

Officer Macaluso presented the case as follows: Inspected the property on 6/16 and property is in compliance. The trailer has been removed and have observed the van once in the past several months. Property owner is currently following the zoning regulations. Sign has also been painted over. As of right now, property is in compliance.

Attorney Gregory McDowell and Robert Wells appeared on behalf of the Northern Kentucky Inspection Incorp. Mr. Rowland motioned to dismiss the citation. Mr. Howard followed with a second. **Motion carried by unanimous vote.**



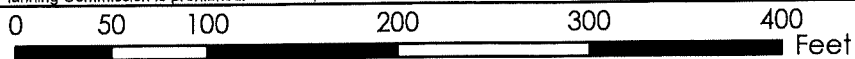
2020 AERIAL MAP

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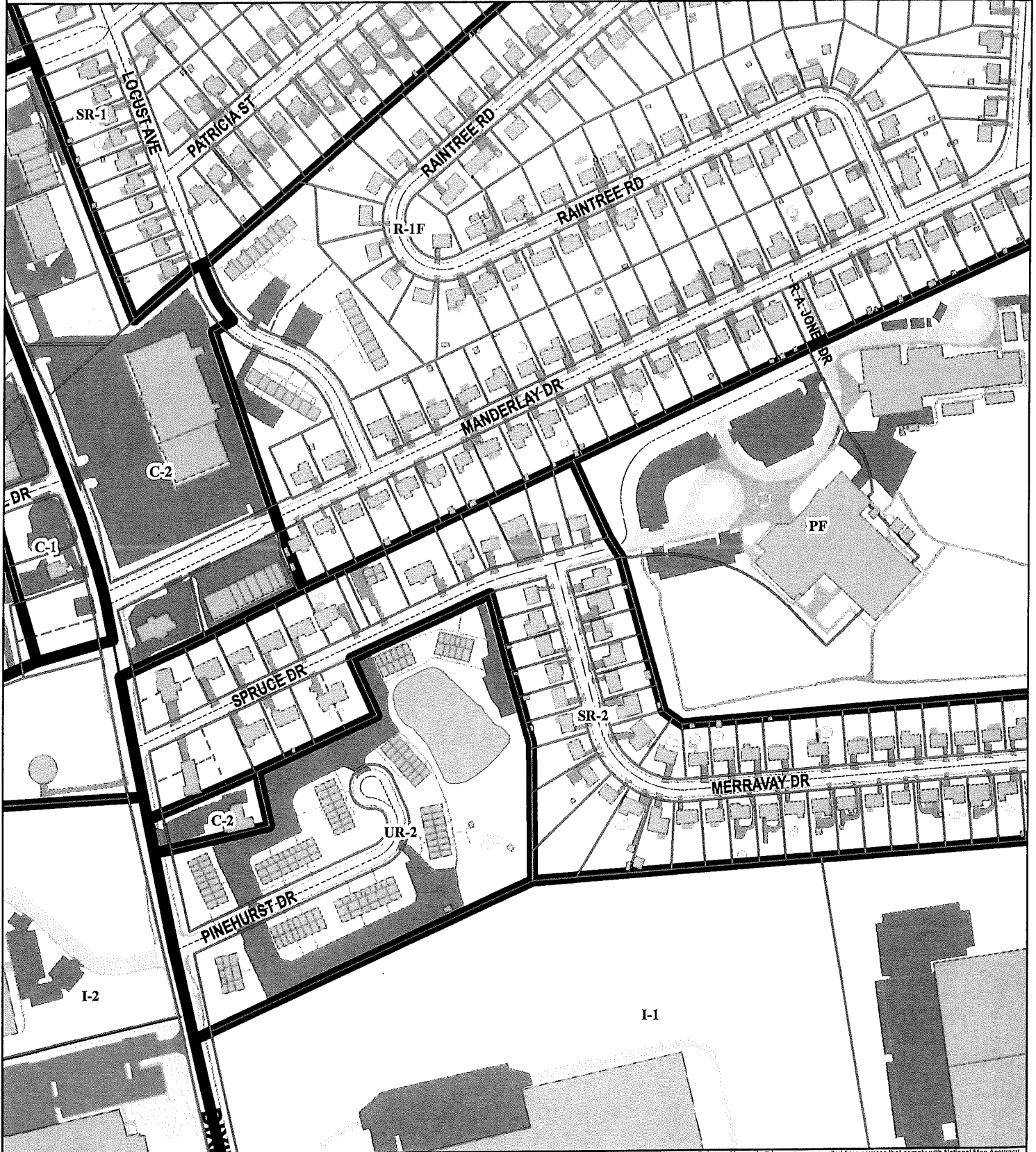
1 inch = 100 feet



Boone County GIS - Putting

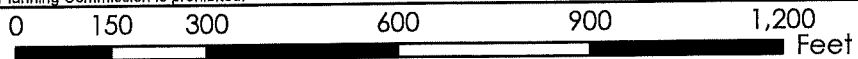
ZONING MAP

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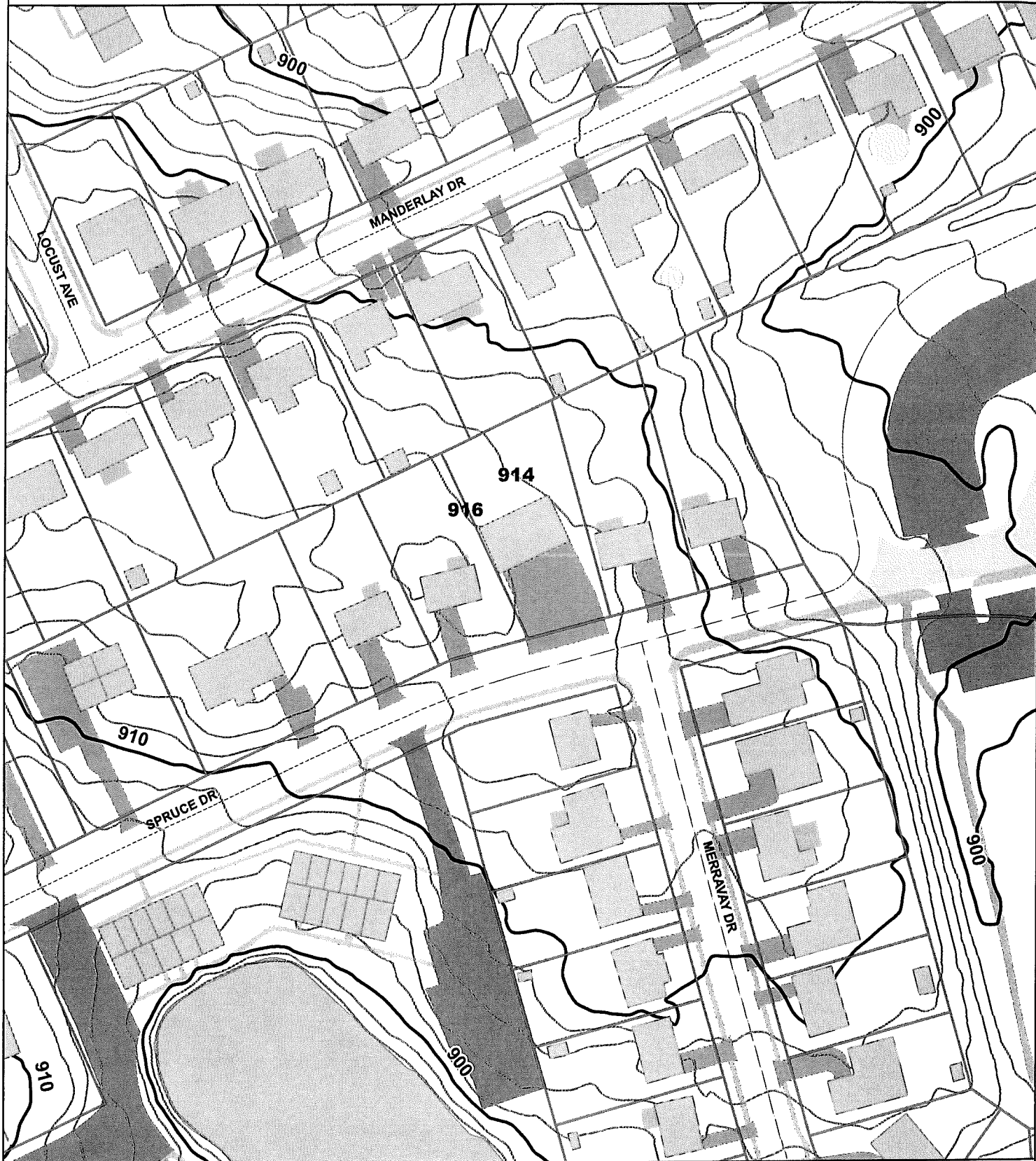
1 inch = 300 feet



Boone

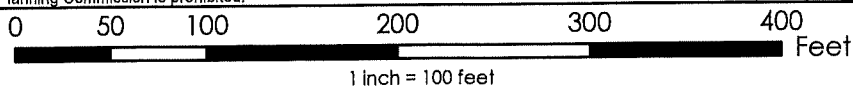
TOPOGRAPHICAL MAP

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Boone County GIS - Putting Northern Kentucky on the Map







CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Northern Kentucky Inspections Inc.
21 Spruce Drive
Florence, KY 41042
2. ADDRESS OF PROPERTY
21 Spruce Drive
Florence, KY 41042
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Robert Wells
4. DEED BOOK 1132 PAGE NO. 379 GROUP NO. 2043B
5. TYPE OF RESTRICTION(S) (Check all that apply)
- Zoning Map Amendment: Conditional Use Permit
From To
- Development Plan Conditional Zoning
- Subdivision Plat Other: Change in Non-Conforming Use
(Not Recorded)
- Variance
6. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION
2950 WASHINGTON STREET, ROOM 317
P.O. BOX 958
BURLINGTON, KENTUCKY 41005



SIGNATURE OF COMPLETING OFFICIAL


Todd K. Morgan, AICP – Senior Planner
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 10 day of February, 2021.



Treva L. Beagle
Notary ID 588897
NOTARY PUBLIC, State at Large

My commission Expires:
November 12, 2021

This instrument was prepared for recording purposes only by:



Ronica Wuest
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 change in non-conforming use approved by the Florence Board of Adjustment and in accordance with the current zoning in effect as of February 10, 2021 Certificate of Land Use Restriction (#21-FBOA-002-A), for Robert Wells, Property Owner(s).

The following conditions will apply:

1. The 12'x10' shed can be constructed in the rear yard of the property as proposed.
2. The trailer shall not be stored outside.
3. A swing gate can be attached to the front of the building as proposed.
4. Two trash cans and a grill can be kept outside but they must be stored to the sides or rear of the building.
5. The overnight parking of any service vehicle is prohibited on the driveway. Service vehicles include but are not limited to vans, pickup trucks, box trucks, etc. One automobile may be stored on the driveway overnight.

The approved change in non-conforming use as well as the preceding conditions apply to the property described in:

DEED BOOK 1132

PAGE NO. 379

GROUP NO. 2043B