

APPLICATION FOR ZONING ACTION

TO:

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

FOR:

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

Applicant: Ryan Homes Owner Agent

Address: 6203 Center Park Dr.

West Chester OH 45069 Telephone: 779-91-00

Location: Stowe Gate Subdivision (lot address) 60 Sorey Ct.

Name of Property Owner: Ryan Homes (lot 11)

Address of Property Owner: 6203 Center Park Dr.

Zoning District: SR-1/PD Area in Acres: 70' x 135'

Deed Book: 354 Page Number: 10 Group Number: 2039

Description of Request: Variance in front yard set back

needed

Applicant's Signature: Michael J. Moore

Property Owner's Signature: Michael J. Moore (Ryan Supv.)

Application Fee: 139.00 FOR PLANNING COMMISSION USE ONLY Date Received: 1-23-87 By: S.A.N

Referred To: Tom Meeting Date: _____

Action Taken: _____ Date of Action: _____

STAFF REPORT

DEVELOPMENT: Single Family Residence

APPLICANT: Ryans Homes, Inc.

LOCATION: Lot #11, Surrey Court, Stonegate Meadows Subdivision, Florence, Kentucky.

ZONE: Suburban Residential One/Planner Development Overlay (SR-1/PD)

DATE: February 11, 1987

REMARKS:

The applicant is requesting front yard Variance of four (4) feet in order to build 26 feet from the front property line. Article 17 of the Boone County Zoning Regulations requires a thirty (30) foot front yard setback. The subject property (Lot #11, Surrey Court, Stonegate Meadows Subdivision) is currently owned by Ryan Homes, Inc.

The following reviews the findings of fact which the Board must use when considering a dimensional Variance:

1. The applicant argues that the special circumstance involved with this request is the fact that a mistake was made when staking out the house location, and this was not done by Ryan Homes, Inc. This circumstance does not apply to other lots in the subdivision since they have been constructed or staked along the proper setback line. Staff could find no physical circumstances which are special to the property.
2. Strict application of the provisions of the zoning regulations would require that four feet of the garage be removed to bring the house into alignment with the other houses. This requirement would not deprive the applicant of a reasonable use of the land since the house still could be used for residential purposes, but it may limit the use of the attached garage.
3. The applicant argues that the special circumstance is "the result of a misapplication of the setback requirements" by an unspecified person.
4. If granted, the Variance would not adversely affect the public health and general welfare of the area, nor will it create a hazard or nuisance to the public. However, since the house has been constructed four feet out of

line with the other homes, the Board should consider whether or not the essential character of the neighborhood would be altered.

In a Planned Development, builders generally are granted some flexibility in adjusting the intensity of a development. However, the Improvement Plan for the Stonegate Meadows Subdivision indicated a 30 foot setback line. Therefore, each new house must be built behind this line.

As mentioned above, if the requested Variance is denied, the applicant would be required to remove the garage which was constructed within required front yard setback. If the Variance is granted, staff recommends no conditions.

Respectfully submitted,



Thomas W. Breidenstein
Zoning Enforcement Officer

TWB:mcb

 Ryan Homes, Inc.

6203 Centre Park Drive • Westchester, Ohio 45069 • Telephone: (513) 779-9100

January 29, 1987

Boone County Planning Commission
P.O. Box 97
Burlington, KY 41005

ATTN.: Mr. Gerald Newton

Dear Mr. Newton:

In accordance with Section 244, Application and Standards for Variances, we understand that there are four criteria that we must meet to receive a variance.

First, the requested variance is the product of special circumstances which do not generally apply to this subdivision or it's surrounding vacinities. This is the result of misapplication of the setback requirements in the construction of lot 11 in the Stonegate Meadows subdivision.

We feel that strict application of the provisions would create unnecessary hardship and expense in the construction without creating any benefit to the city, county, or surrounding property owners.

We also feel that this variance will not adversely affect the health, safety, or welfare, nor create a hazard or nuisance to the public. Nor will it alter the character of the general vacinity. This variance will only help to complete a home that is already in production on a timely basis.

This is also not the result of careless or reckless construction applications, but is due to the fact that this is a new subdivision and the setback requirements could not be inspected as there were no surrounding houses to compare with.

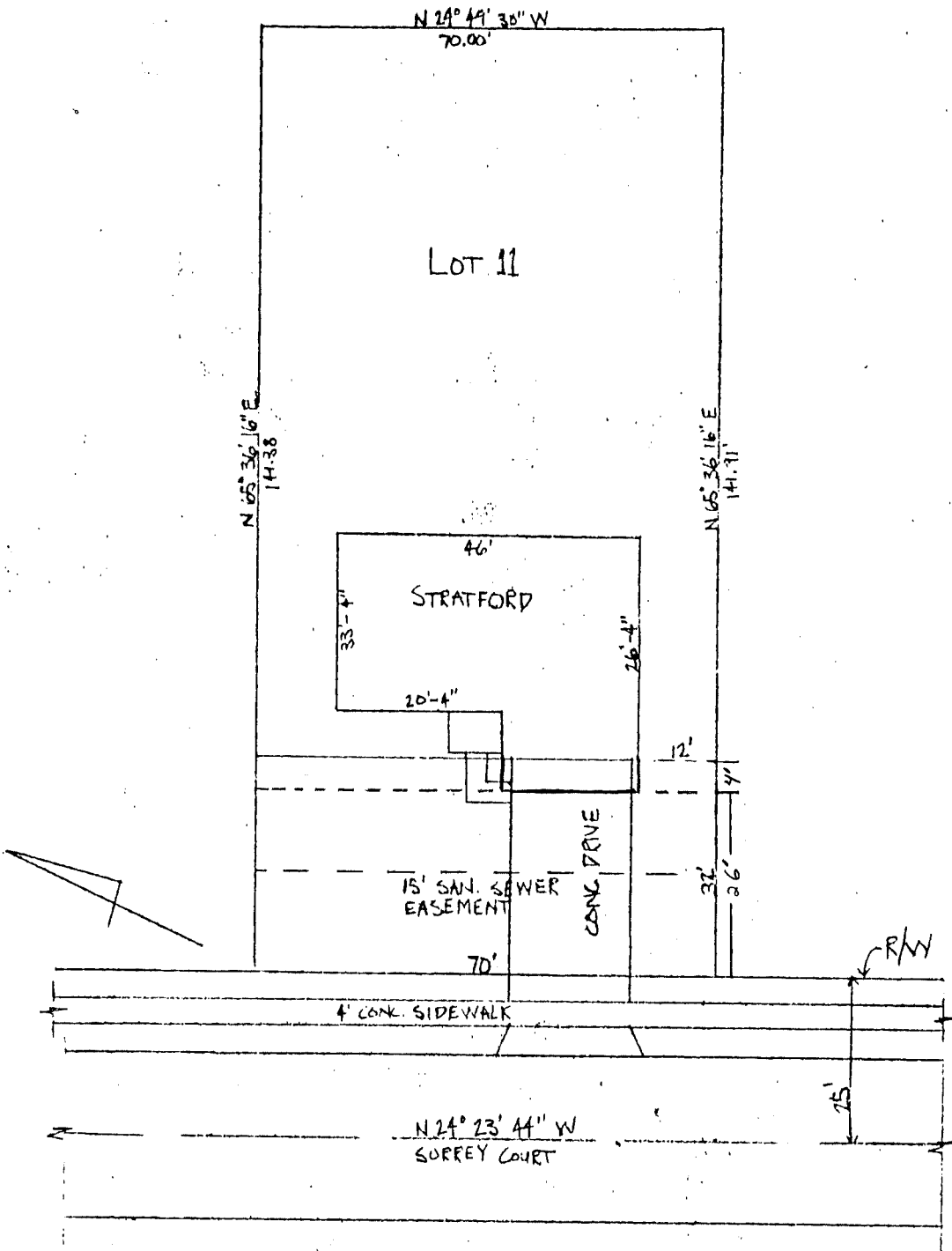
Thank you for your time and consideration.

Sincerely,



Mike Moore
Construction Supervisor

MM/tlb

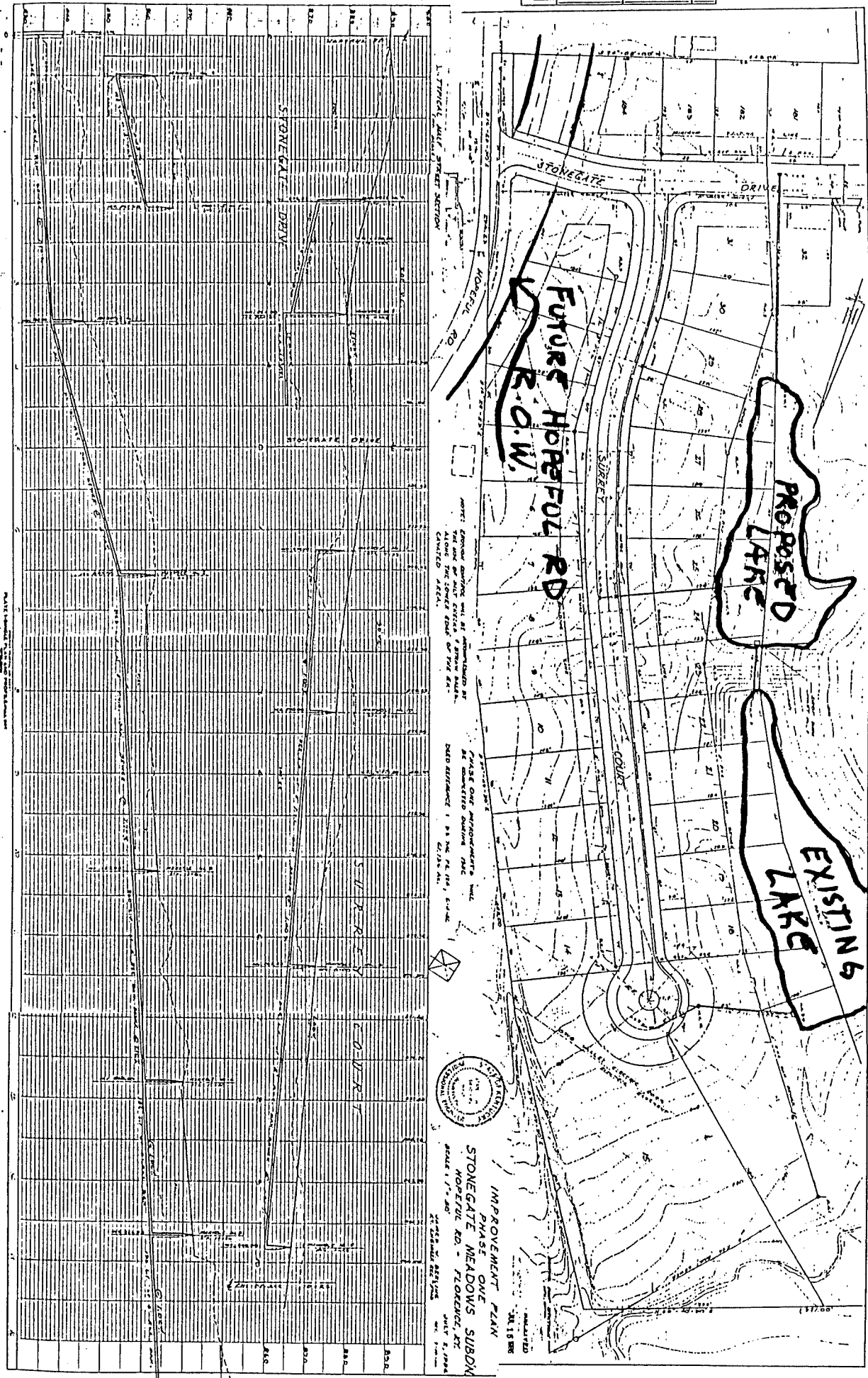


PLOT PLAN
 FOR
 RYAN HOMES INC.
 LOT 11 STONEGATE MEADOWS SUB, SECT. 2
 FLORENCE, KENTUCKY
 SCALE - 1" = 20' SEPT. 29, 1986

VIDX & VIDX, P.S.C.
 CIVIL ENGINEERS
 ERLANGER, KY.

PROFILE	
DATE	PROJECT
SCALE	DESCRIPTION
BY	CHECKED
APP'D	DATE

PLAN	
DATE	PROJECT
SCALE	DESCRIPTION
BY	CHECKED
APP'D	DATE



**STONEGATE MEADOWS
PHASE ONE 7-16-86**

NOTE: ELEVATION SHOWN ON ALL POINTS IS IN FEET AND INCHES UNLESS OTHERWISE NOTED.

PHASE ONE IMPROVEMENTS WILL BE COMPLETED DURING THE YEAR ENDING 12/31/86.

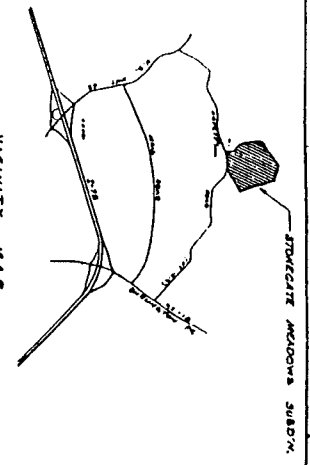
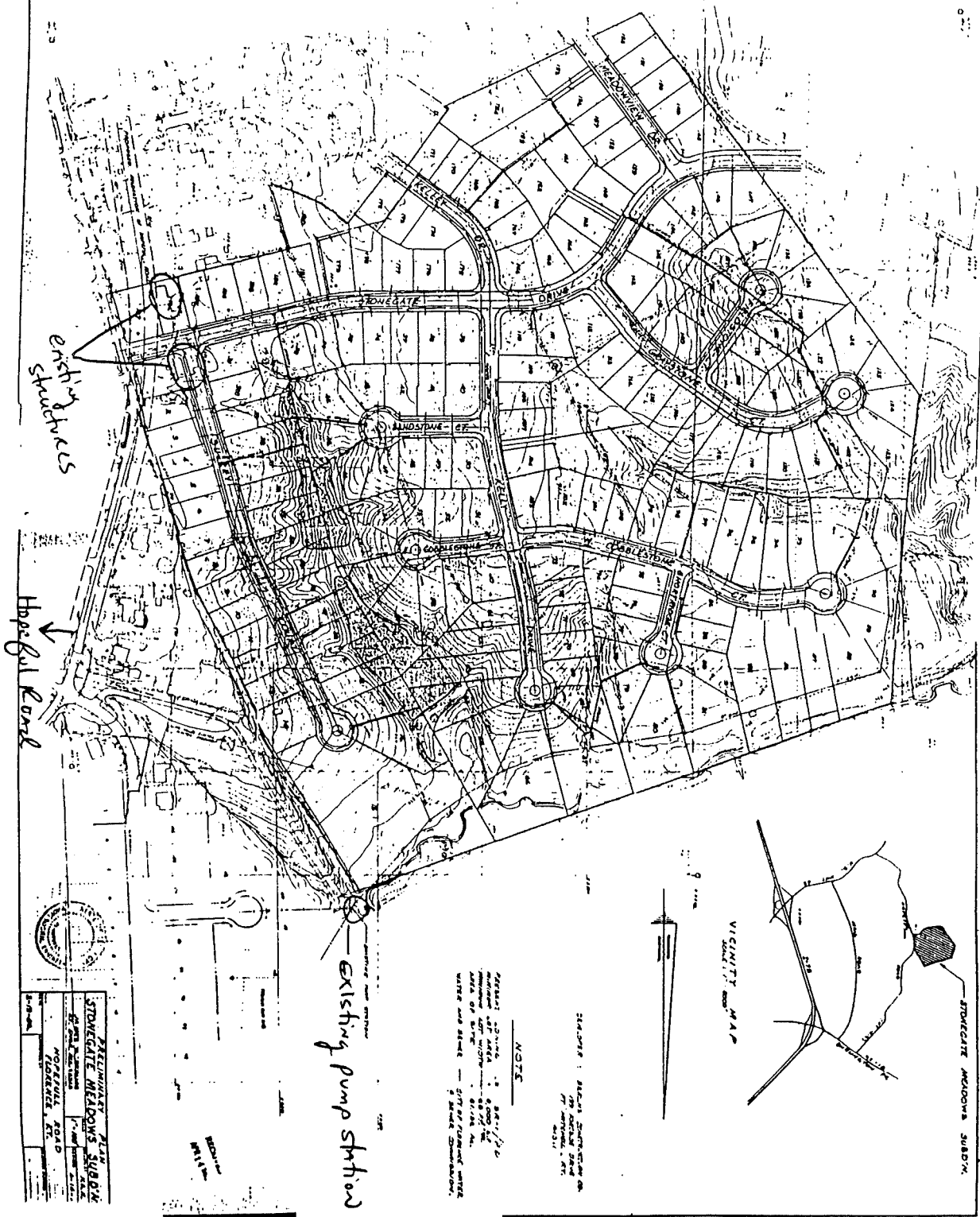


IMPROVEMENT PLAN
PHASE ONE
STONEGATE MEADOWS SUBDIVISION
HOPEFUL RD. - FLORENCE, FL
SCALE: 1" = 40'
DATE: 7-16-86

STONEGATE MEADOWS SUBDIVISION

NOTES:

1. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
 2. THE TOTAL AREA OF THIS SUBDIVISION IS 10.00 ACRES.
 3. THE TOTAL AREA OF THE PLOTTED LOTS IS 10.00 ACRES.
 4. THE TOTAL AREA OF THE OPEN SPACES IS 0.00 ACRES.
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PREPARED BY JAMES H. SMITH ENGINEER 12345 MAIN ST. ST. LOUIS, MO. 63101	
PROJECT STONEGATE MEADOWS SUBDIVISION DATE 10/1/2011 SCALE AS SHOWN PROJECT NO. 12345	
APPROVED BY JAMES H. SMITH DATE 10/1/2011	

FLORENCE BOARD OF ADJUSTMENT

MEETING MINUTES

FEBRUARY 11, 1987

7:30 P.M.

Chairman Charles Holland called the meeting to order. Roll call was taken by staff member Barbara Reffitt. Five members were present. Chairman Holland stated that the record should show Mr. Raymond Ashcraft had been sworn in by Atty. Dale Wilson as a new member of the Florence Board of Adjustment. Staff members Tom Breidenstein, Kevin Costello and Barbara Reffitt were present. Atty. Dale Wilson was also present.

Minutes of the January 14, 1987 Florence Board of Adjustment meeting were considered. Chairman Holland moved the January 14, 1987 Florence Board of Adjustment Minutes be approved. The motion was seconded by Mr. Roger Wilder. The motion carried unanimously.

Chairman Holland proceeded to the items of the agenda.

Front Yard Variance

A request of Ryan Homes for a front yard Variance of four (4) feet in order to build 26 feet from the front property line. The 9933 square foot lot, located on Surrey Court in the Stonegate Meadows Subdivision, is zoned Suburban Residential One with a Planned Development Overlay.

Mr. Tom Breidenstein presented a slide presentation of the site and the surrounding area. Mr. Breidenstein presented the Staff Report. (See Staff Report)

Chairman Holland inquired if Mr. Berling was present to represent Ryan Homes.

Mr. Viox stated he was representing Ryan Homes.

Chairman Holland inquired if Ryan Homes was sub-leased to Berling Construction, why would we receive a letter from them.

Mr. William Viox stated Mr. Jim Berling was the Engineer and Charles Berling was the developer of the subdivision.

Atty. Dale Wilson stated this was probably the first time a situation like this had come before the Board of Adjustment, and stated most of the time it was just a straight zone with concrete, precise setbacks that a person is seeking a Variance

for. He also stated with this instance there is a Planned Development Overlay. With the Planned Development Overlay, the zoning regulations anticipate and expect that these setbacks will not be strictly followed. He also stated the only reason this is before the Board of Adjustment is because the Improvement Plan showed a setback of 30 ft. Atty. Dale Wilson stated that Jim and Charles Berling stated this was intended as a guide, not a set standard for front yard setback.

Chairman Holland inquired if Mr. Berling had the right to bring the house forward as far as he wants.

Mr. Viox gave a brief background of Stonegate's projects. He stated about six years ago his firm representing Eagle Savings and Loan presented to the Planning and Zoning Commission a zone change to Planned Development Overlay for Stonegate at that time, and it was going to be a mixed use of Planned Development with townhouses in certain sections and single family dwellings in other sections. The builder at that time would have been Doerger Homes. However, after they had received approval from both Planning Commission and City Council, Mr. Doerger became ill and had to retire from the business. Time passed by and Berling Construction Company bought the property from Eagle and came to the Planning Commission to make a change in that concept plan. Under the original concept plan the townhouses on private streets would be set about 20 feet from the street and single family houses would be set at varied setbacks based on topography. The purpose for these setbacks was to save the trees and not to strip the land as would happen under the rigid guidelines of the normal subdivision regulations. Mr. Charles Berling decided the townhouses were not needed and came back with a single family Planned Development concept. Jim Berling, the Project Engineer, felt that when he put the line for the front yard setback it was the only suggested set back. When Mr. Viox started staking homes for Ryan, they tried to have an average of 32 ft. and those houses in that area do meet that average. He stated the rear lines basically lined up with the rear of those other houses. He stated basically the garage was protruding just a little from the other homes. Mr. Viox stated he directed Ryan Homes to go before Staff, which they immediately did, and alerted them where the house was sitting. At that time the Staff discussed whether they needed to send them to the Board of Adjustment of whether they were going back to the Technical Committee and ask for a minor change in the Concept Plan. He also stated the Staff's stand was that because a setback line was on the drawing, they should come before the Board of Adjustment to seek the Variance. He stated Mr. Berling feels that it was a suggested line and in future sections they would want to vary some of those set backs, rather than to have to grade the site where the land drops off, and project the houses back and forth some small amount in order to save the trees and save the natural vegetation.

Chairman Holland asked if there were any questions from the Board Members.

Mr. Ashcraft asked if this is for Lot 11 only. Mr. Viox stated that was so.

Chairman Holland stated it was hard to make them tear it down since it was of considerable value already built. He also stated that since the Board might have some leeway with this Planned Development Overlay, he felt the Board could bend a little bit. Chairman Holland asked if there was anyone in the audience who wanted to speak in opposition of this, and since there was none, Chairman Holland made a motion that the Board grant a four foot Variance to build with a set back to be 26 ft. from the property line in question. Mr. Roger Wilder seconded the motion.

Chairman Holland stated he wanted to ask Mr. Viox before the vote was taken to work with Staff, so that they would not have to come before the Board with each and every house.

Chairman Holland asked if there was any further discussion on this. Roll call vote was taken:

AYES: Messrs. White, Ashcraft, Wilder, Mrs. Lanigan and Chairman Holland.

NAYS: None

The motion carried unanimously.

Sign Variance

A request of United Signs, Inc. (agent) for La-Z-Boy Showcase Shoppe for a modification of a previously approved Sign Variance. The 2.28 acre site, located at 7701 Mall Road, Florence, is zoned Commercial Two (C-2) and is owned by Elliott Hilsinger.

Mr. Tom Breidenstein briefly presented a slide presentation of the site and the surrounding area. Mr. Breidenstein presented the Staff Report. (See Staff Report)

Chairman Holland asked who would like to speak for La-Z-Boy.

Mr. Mike Cassidy of United Sign Company stated he had a brief slide presentation to give first. He stated the marketing concept and the signs were incorporated with the television and radio advertisements. He stated they needed something to identify with the retail outlet. After much discussion, he stated they would like to have another mounted sign on the building, but knew he couldn't. He stated they would prefer to

have the freestanding sign taken down rather than give up one sign on the building.

Mr. Ashcraft asked if they could have flood lights shining upon the building at night so that it could be seen from Mall Road. Mr. Cassidy stated he would rather not have the flood lights.

Chairman Holland stated he could not understand why La-Z-Boy would want to take down the freestanding sign which is illuminated and could be easily seen at night.

Mr. Roger Wilder asked if La-Z-Boy could bring the freestanding sign down to monument size which would bring it down from approximately 15 ft. to 8 ft. with shrubs planted around the bottom and do away with the one building mounted sign.

Mr. Wilder asked the owner of La-Z-Boy if 70% of the people passing were planned purchases and 30% impulse purchases. Mr. Cassidy stated that was correct. Mr. Wilder also stated he felt the freestanding sign was far more visible than the mounted signs.

After further discussion, Chairman Holland stated he agreed with Mr. Wilder that the sign in the northeast corner probably does not need to be there to increase business. He felt the people passing would see the freestanding sign more easily than the mounted sign.

Mr. Tom Breidenstein stated in the Staff Report he suggested that should the Board modify the original variance, the suggestion would be to remove the freestanding sign. The original intent of the Mall Road area before 1980 was to have monument type signs, low rise signs and wall mounted signs. He then suggested that the freestanding sign be lowered so that it be monument size. At present it is 15 ft. high. He also stated if lowered, the sign would then be 8 to 8-1/2 ft. high.

Chairman Holland asked if there was anyone in the audience in opposition to this request.

Mr. Willard Rusk stated one question he had was that it appeared to him if they received a permit for one sign, then they should erect one sign, yet they want to put up two signs you cannot see until you are right upon the building site. He felt it was not feasible. He stated that United Sign Company went ahead and had three signs made up and erected without coming in and asking for a variance. He felt since they were a sign company they should know the items that should be taken care of first.

Mr. Cassidy stated he came in the Planning and Zoning Commission practically on a weekly basis, and this was just

something that happened too late.

Chairman Holland asked if there was any further discussion.

Mr. Wilder made a motion that the freestanding sign be lowered to a monument type and that the northeast corner sign be removed and the other two signs remain and the monument type would be 3 feet above grade as Mr. Breidenstein had stated earlier.

Mr. Ashcraft stated he felt the freestanding sign with the modification that Mr. Wilder had stated should be removed and the two mounted signs be left as is.

Atty. Dale Wilson stated that perhaps before voting on one or the other, they should ask the applicant which they preferred to do.

Mr. Elliott Hilsinger, owner, asked if they could keep the two mounted signs they now have, or could they have 3 building mounted signs and no freestanding sign. Mr. Cassidy then stated if they had the option of 3 building signs and no freestanding sign, they would choose the first option.

Chairman Holland asked them again if they were sure they wanted to take down the illuminated sign and keep the other mounted signs. Mr. Cassidy stated yes. Chairman Holland asked them if they would like to think about this and come back in March. Mr. Cassidy and Mr. Hilsinger stated no they would prefer to make a decision this evening.

Mr. Ashcraft asked if he could amend the motion made by Mr. Wilder that if the applicant so chooses to keep the freestanding sign and lower it and then remove the sign on the northeast corner of the building, or keep the three mounted signs and remove the freestanding sign. Therefore, they would have two options to think about.

Chairman Holland stated they would be permitted to have 60 days in which to make their decision, and asked Mr. Ashcraft if wanted to amend his motion. Mr. Ashcraft said yes. Mr. Earl White seconded Mr. Ashcraft's amended motion.

Chairman Holland asked that a roll call vote be taken on this request.

AYES: Messrs. White, Ashcraft, Wilder,
Mrs. Lanigan, and Chairman Holland.

NAYS: None

The motion carried unanimously.

Rear Yard Variance

A request of M. David Damron (agent) for a rear yard setback Variance of 8 feet and a landscaped buffer Variance of 7 feet in order to build a MAACO auto body shop. The 1.442 acre site, located at the corner of Industrial Road and Carole Lane, Florence, is zoned Commercial Services (C-3) and is currently owned by Sarah Loomis (with a sales contract to Ron Arendell pending).

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

Chairman Holland asked that Mr. Damron explain why they needed 9,922 square feet. Mr. Damron presented the layout and the Concept Development Plan showing the lines of the layout and why they needed the additional 7 feet for the building site. He stated it would push everything back 7 feet in order to have a better layout for the standard MAACO building.

Chairman Holland asked how many bays they would have. Mr. Damron stated there would be 6 twenty foot bays.

After further discussion, Mr. Ron Arendell came forward and explained the reason for the additional need of square footage was to have more parking spaces and a nicer looking layout of the building site. He also stated he wanted to put block around the building, which was completely metal, so that the line of the roof would be straight.

Chairman Holland asked if there was any further discussion from the Board members.

Mr. Ashcraft asked if Mr. Arendell was building this in a conventional method the way MAACO states he must build this. Mr. Arendell stated the plans that MAACO sent him were 120 ft., and he would be the owner of the building and lease it back, so since he is the owner of the building, he was interested in the studies and noted if this MAACO shop did not succeed, he would have the option to lease it to someone else.

Mr. Arendell did state the building is 3 ft. longer than the plans MAACO sent him.

Chairman Holland asked if there was any further questions.

Mr. Willard Rusk stated four council members viewed the site and they objected to not having a full rear yard on the back side between the commercial property and the residential property, and without proper buffering. He stated he felt the building should

go parallel to Industrial Road and still give them the setbacks on this.

Chairman Holland asked if there was any further discussion.

Atty. Dale Wilson stated that the question raised by Mr. Rusk and Mr. Arendell regards whether or not the building could be moved forward 8 feet. The current zoning of the property is conditioned upon maintaining the 75 feet setback. If the concern is moving the building forward so the rear yard variance need not be necessary, that the condition of the zone change of 75 ft. would have to be addressed. The condition of the zone change would have to go before the Planning Commission to see if that is a major change.

After further discussion, Mr. White wanted to make a motion to keep Mr. Arendell from coming back, and asked if it was possible through the Site Committee to move the building 8 feet, in case the Technical Committee said no. Mr. White made a motion that the Board grant variances of 8 feet in the rear yard setback and 7 feet on the minimum landscaped area. Mr. White stated he walked the area and it is in a hole, and he felt that with the 4 feet difference in grade, a buffer of 6 feet being put in, and with the natural berm around there, he would make a motion that the Board does allow the 8 feet variance in case The Technical Committee doesn't allow the building to be moved forward. Mr. Tom Breidenstein asked if this included the conditions imposed as stated in the Staff Report. Chairman Holland agreed with Mr. Breidenstein and seconded Mr. White's motion.

A vote was taken for this request.

AYES: Messrs. White, Ashcraft, Wilder Mrs. Lanigan and Chairman Holland.

NAYS: None

The motion carried unanimously.

Chairman Holland stated since there was no further business, he would make a motion the meeting be adjourned. Mr. White seconded the motion.

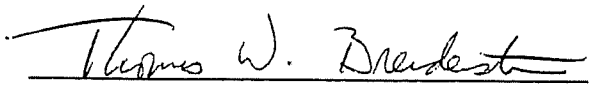
The meeting adjourned.

APPROVED;



CHARLES HOLLAND
CHAIRMAN

ATTEST:



Thomas W. Breidenstein,
Zoning Enforcement Officer