

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: Dennis Bailey, President on behalf of Bailey's Gulf Minute Mart, Inc.

- Owner
- Agent

Address: 1081 Carpenters Trace Villa Hills, KY 41016 Telephone: 331-4853

Location: 7670 Burlington Pike, Florence, KY 41042

Name of Property Owner: Bailey's Gulf Minute Mart, Inc.

Address of Property Owner: 7670 Burlington Pike, Florence, KY 41042

Zoning District: C-3 Area in Acres: ± 1/3 acre

Deed Book: 320 Page Number: 207 Group Number: 2041

Description of Request: property line distance variance to install a car wash on premises of existing service station with an existing property line variance. Purpose being to allow applicant to use his land in equivalent manner of completing service station.

Applicant's Signature: X Dennis Bailey PRESIDENT ON BEHALF OF

Property Owner's Signature: Bailey's GULF MINUTE MART INC.

FOR PLANNING COMMISSION USE ONLY

Application Fee: 165.00 Date Received: 2/11/86 By: RA - JH

Referred To: \_\_\_\_\_ Meeting Date: March 12, 1986

Action Taken: \_\_\_\_\_ Date of Action: Deadline for App. is 2/21/86

CITY OF FLORENCE BOARD OF ADJUSTMENT  
VARIANCE REPORT  
MARCH 12, 1986

APPLICANT: Dennis Bailey, President on behalf of Bailey's Gulf Minute Mart, Inc.

LOCATION: 7670 Burlington Pike, Florence, KY.

ZONED: Commercial Services, C-3.

REMARKS:

The applicant is requesting a Variance in the required setback in the front and rear yards of the Commercial Services, C-3 district in order to install a car wash on the site under review. The zoning regulations require a 75 foot front yard setback and a 20 foot rear yard setback. The applicant is requesting a Variance to 55.5 feet in the front yard setback and to 7.0 feet in the rear yard setback. (see attached site plan)

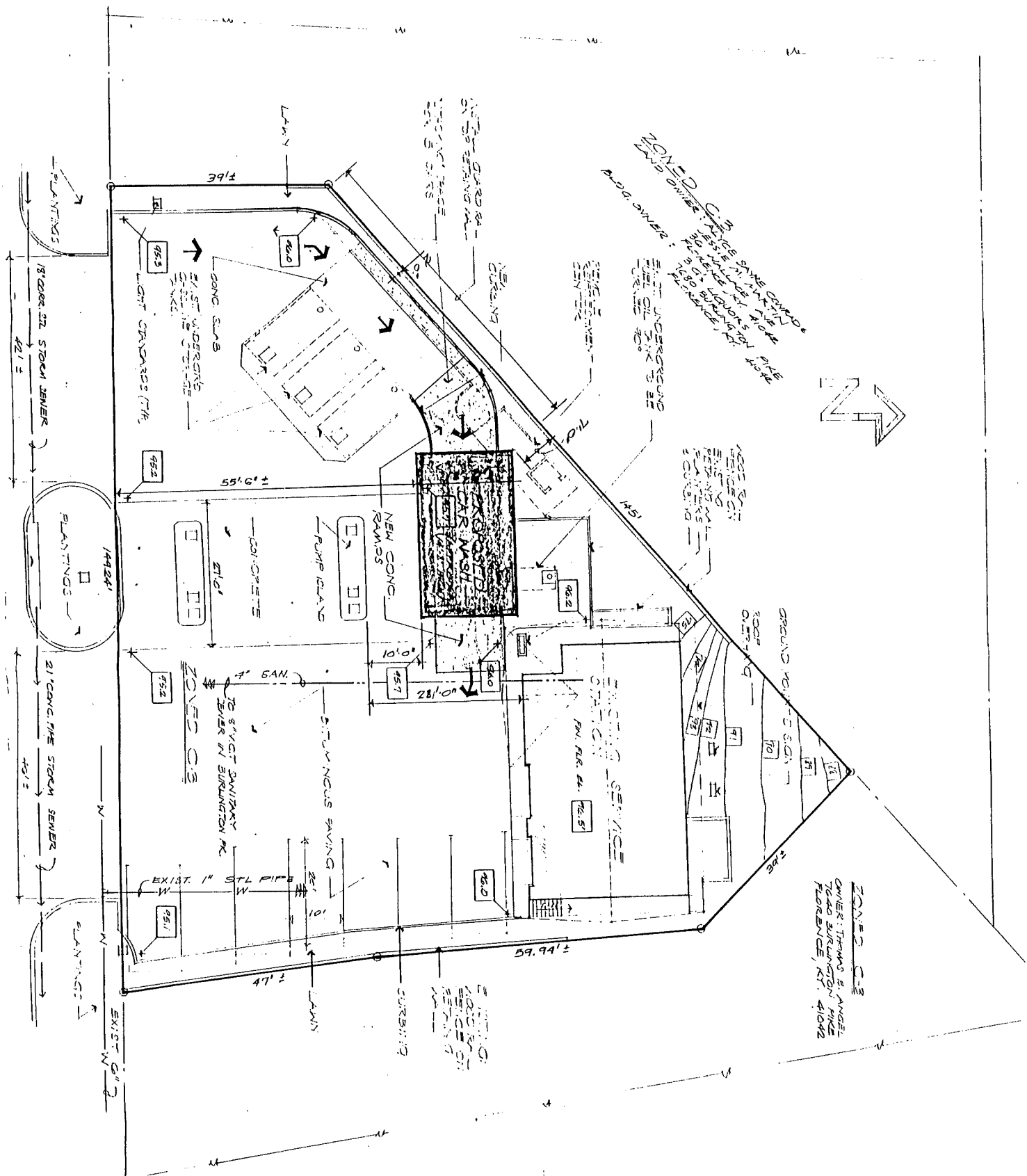
The following reviews the standards for variances in Article 2, Section 244 of the Boone County Zoning Regulations.

1. The specific existing conditions on the site do not meet minimum setback dimension requirements due in large part to the odd shape of the lot.
2. The strict application of the provisions of the setback regulation would prevent the installation of the car wash indicated on the site plan in an area where similar facilities exist on nearby sites.
3. The current site conditions existed prior to the adoption of the current zoning regulations.
4. Because of the counter flows of entrance and exit traffic to and from the car wash as well as to and from the gas pump service islands, the granting of this variance raises the issue of public safety. The granting of this variance, however, will not alter the essential character of the neighborhood.

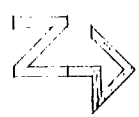
In summary, the traffic pattern issue referred to in point four above may be remedied in part if the entrance and exit to the car wash facility were reversed. If reversed, then traffic to the entrance of the car wash facility would be more consistent with the existing traffic flow on the site. Such an arrangement would facilitate the achievement of a safer traffic pattern and an improved traffic flow in the area under review.



Chris Cribaro  
Planner



ZONED C-2  
 OWNER: THOMAS B. ANGEL  
 1400 BURKINGTON PIKE  
 FLORENCE, KY. 41042



ZONED C-2  
 OWNER: THOMAS B. ANGEL  
 1400 BURKINGTON PIKE  
 FLORENCE, KY. 41042

PART:  
 1 OF 2  
 2 WEST

1	2	3	4	5	6	7	8	9	10
11	12	13	14	15	16	17	18	19	20

## Section 241

### Appeals

Appeal to the Board of Adjustment and Zoning Appeals concerning interpretation or administration of this ordinance may be taken by any person, or entity claiming to be injuriously affected or aggrieved or by any officer or bureau of the legislative authority of the County or Cities affected by any decision of Zoning Enforcement Officer. Such appeal shall be taken within thirty (30) days after the decision by filing, with the Board of Adjustment and Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken, and by giving notice of such appeal to any and all parties of record. The Zoning Enforcement Officer shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken. The appellant may also submit any materials appropriate for review in consideration of the appeal.

## Section 242

### Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer from whom the appeal is taken certifies to the Board of Adjustment and Zoning Appeals after the notice of appeal is filed with the Officer, that by reason of facts stated in the application, a stay would, in the officer's opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted upon application to the proper court of record, on notice to the Zoning Enforcement Officer from whom the appeal is taken.

## Section 243

### Dimensional Variance

The Board of Adjustment and Zoning Appeals shall have the power to hear and decide on applications for dimensional variances where, by reason of exceptional narrowness, shallowness or unusual shape of a site on the effective date of these regulations or amendment thereof or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or size of yards) of the zoning regulations would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone.

## Section 244

### Application and Standards for Variances

A variance from the terms of this order shall not be granted by the Board of Adjustment and Zoning Appeals unless and until a written and signed application for a Variance is submitted to the Zoning Enforcement Officer and the Board of Adjustment and Zoning Appeals, along with any additional information the Board may find appropriate. A variance shall not be granted unless the Board makes specific findings of fact based directly on the particular evidence presented to it in accordance with KRS 100.243. All of the following must be found:

1. The specific conditions in detail which are unique to the applicant's land and do not exist on other land in the same zone.
2. The manner in which the strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land in the manner equivalent to the use permitted other landowners in the same zone.
3. That unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation.
4. Reasons that the variance will preserve, not harm the public safety and welfare, and will not alter the essential character of the neighborhood.

#### Section 245

##### Supplementary Conditions and Safeguards

Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance to allow a use not permissible under the terms of this order in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district or to alter density requirements in the district. In granting any appeal or variance, the Board of Adjustment and Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this order. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this order and punishable under Section 450 of this ordinance.

#### Section 246

##### Notice of Hearing in Newspaper

Notice of the time, place and purpose of a hearing of a notice of application for variance shall be published in a newspaper of general circulation at least seven (7) days, but not more than twenty-one (21) days, before the date of the hearing.

#### Section 247

##### Action by Board of Adjustment and Zoning Appeals

The Board of Adjustment and Zoning Appeals shall hear and decide upon a notice of appeal or application for variance within sixty (60) days of filing. The Board of Adjustment and Zoning Appeals shall either approve or disapprove the request for appeal or variance. The Board shall further make a finding that the reasons set forth in an application justify granting of the variance that will make possible a reasonable use of land, building, or structure. If the request is disapproved, the Board shall state the reasons for disapproval in writing. Appeals from Board decisions shall be made in the manner specified in Section 230.

FLORENCE BOARD OF ADJUSTMENT

MARCH 12, 1986

7:30 P.M.

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Chairman Holland called the meeting to order. Roll call was taken by staff member Dee Ann Brewer. Four members present. Absent: Mr. Bolton. Atty. Wilson was also present.

Minutes of the January 12, 1986, January 21, 1986 and February 12, 1986 Florence Board of Adjustment meetings were considered. Chairman Holland moved the January 12, 1986, January 21, 1986 and February 12, 1986 Minutes be approved as reviewed. The motion was seconded by Mr. Wilder. After further discussion, the motion carried unanimously.

Chairman Holland proceeded to the items on the Agenda.

Conditional Use Permit

A request of Thomas Green (owner) for a Conditional Use Permit to allow the operation of a car care facility at Florence Center Mall. This property is currently zoned Commercial Two.

Staff member Ralph Hopper presented slide presentation of the proposed request.

Staff member Chris Cribaro presented Staff Report. (See Staff Report)

Mr. Tom Green, owner, explained the architectural lay-out of the proposed center. Mr. Green stated the proposed car care facility basically would be selling auto accessories such as cash-and-carry items people could install themselves. Mr. Green noted that if people wished to have items installed they would have to drive around to the back of the building to the service quarters. Mr. Green stated there would be no gasoline sold.

Chairman Holland inquired what was the name of the proposed store.

Mr. Green stated "Guarantee Auto".

Mr. Wilder inquired what classification would a normal auto part supply store fall under.

Mr. Hopper stated he believed it would fall under a C-2 district as a Principally Permitted Use. Mr. Hopper noted the uses were located under Article 9 of the Boone County Zoning Regulations.

Chairman Holland inquired if someone could have a radio

installed at the store.

Mr. Green stated yes but noted the store would not be an operation that would specialize in oil changes and selling gasoline. Mr. Green stated the store would not work on wrecked cars or put motors in cars, just light maintenance such as mufflers, nothing outside the building.

Chairman Holland stated he wanted it stipulated in the Conditional Use Permit that no vehicles be worked on or stored more than 24 hours; no selling of cars.

Mr. Hopper expressed his concern of vehicles being left at the location for a number of days. Mr. Hopper stated that if "no cars parked for more than 24 hours" was made a condition of the permit, then the Zoning Enforcement Officer would have some authority to go in and have the cars removed.

Mr. Green stated he too would like to see that condition made part of the permit because it would be good for the Center.

Mr. White concurred.

Chairman Holland moved to grant the Conditional Use Permit to allow the operation of a car care facility at Florence Center Mall with the following conditions: (1) No cars parked any longer than 24 hours on the building site; and (2) no cars could be sold on the building site. The motion was seconded by Mrs. Lanigan.

Mr. Wilder stated he would abstain due to a business affiliation with the applicant.

After further discussion, the motion carried.

#### Change in a Non-Conforming Use

A request of James R. O'Daniel (agent) Florence Nursery and Floral Shops, Inc. for a Change in a Non-conforming use to allow the construction of a parking garage. This property is located at 7501 U.S. 42, Florence and is currently zoned Office One.

Staff member Ralph Hopper presented slide presentation of the proposed request.

Chairman Holland inquired if the proposed building would look like the existing building located next to it.

Mr. Jim O'Daniel, agent, stated yes but smaller.

Staff member Chris Cribaro presented Staff Report. (See Staff Report)

Chairman Holland inquired if the greenhouses would be removed.

Mr. O'Daniel stated yes they would be removed.

Mr. Wilder inquired what was being presently stored in the existing building.

Mr. O'Daniel stated mulch gravel, straw, a soil bay which would be removed and equipment.

Chairman Holland inquired what the hard surface parking area would be paved with.

Mr. O'Daniel stated blacktop.

Mr. O'Daniel explained there was a proposed 6' wood fence that would run along the City Building and his property.

Mr. Wilder inquired if the sign conformed.

Mr. Hopper stated yes.

- - - - -Mr. Wilder left the meeting- - - - -

Mr. Hopper further stated that any utilization of the proposed site would be pre-existing, non-conforming and the applicant could change the sign if he wanted to.

Atty. Wilson pointed out that under Kentucky State Law the Board of Adjustment was the entity through which someone would apply to have a change of a pre-existing, non-conforming use.

Mr. White noted the proposed building would look better than the existing greenhouses that was presently located on the site.

Mr. White moved to grant a variance for the 30 x 60 building. Mr. White inquired if the drainage ditch would take care of the water run-off.

Mr. O'Daniel stated yes.

Atty. Wilson stated Public Works would be considering the storm water run-off.

Mr. Hopper noted he had talked with the applicant about the storm water run-off and he felt the drainage course would be efficient to handle the run-off.

Mr. Holland inquired if the motion was to grant a Conditional Use Permit for a 1,800 square foot building with blacktop driveway and adequate drainage for the water run-off for property located at 7501 U.S. 42, Florence, KY.

Mr. White stated yes.

Chairman Holland seconded the motion. After further discussion, the motion carried unanimously.

Chairman Holland inquired if the sign met the minimum standard.

Mr. Hopper responded affirmatively.

Chairman Kroger inquired how close to the curb would the sign be.

Mr. O'Daniel stated the sign would be approximately 9½-10 feet off of the curb but noted the furthest part of the sign would stick out.

Mr. Hopper presented slide presentation on the sign.

Mr. O'Daniel stated the actual sign would extend about 4' from the sidewalk.

Mr. Hopper pointed out the zoning regulations stated a public sign could not be placed in a public right-of-way.

Chairman Holland moved to grant the change in a non-conforming use of the sign as proposed on the Site Plan Review. The motion was seconded by Mr. White. After further discussion, the motion carried unanimously.

### Variance

A request of Dennis Bailey, President for Bailey's Gulf Minute Mart, Inc. for a Variance in the required front and rear yard setback to allow the construction of a car wash facility at 7670 Burlington Pike. This property is currently zoned Commercial Services, C-3.

Staff member Ralph Hopper presented slide presentation of the proposed request.

Staff member Chris Cribaro presented staff report. (See Staff Report)

Mr. Dennis Bailey, owner, described the lay-out of the property and the possibility of switching gas islands to make access into the car wash more convenient for the customers. Mr. Bailey explained he felt he needed a car wash at his facility to be able to compete with the gas station across from him that also had a car wash. Mr. Bailey noted a lot of his old customers now went to the other gas station across the street because of the car wash.

Mr. Phil Collins, representative for Mr. Bailey, stated the full service island was not used very much.

Mr. Bailey stated that on some days there would be only twelve cars or so on the full service island.

Mr. Collins stated the applicant would not be opposed to reversing the self service pumps and the full service pumps.

Further discussion followed on the degree of difficulty vehicles would have making the turn into the car wash if the pumps were not reversed.

Mr. Collins noted that Mr. Bailey had regular attendants from 7:00 A.M. to 8:00 P.M. to handle any heavy traffic problem that might arise.

Mr. Bailey explained that he no longer did major repairs inside and he did not have vehicles parked on the lot like he used to, so very little parking area would be required at the station.

Chairman Holland inquired if it would be expensive to move all the pumps.

Mr. Bailey stated yes, plus there were tanks that had been in the ground since 1968 and if disturbed there would be a chance of leaks while moving the pumps around.

Chairman Holland inquired of the Minute Mart.

Mr. Bailey explained he used to own the Minute Mart on US 42 and noted but now that was just the name.

Chairman Holland inquired if Mr. Bailey could use his existing building as a car wash.

Mr. Bailey stated he would have to exit through the rear of the building which would empty him out onto the new project.

Mr. White inquired if the Florence Business Center was going in on the property behind the station.

Mr. Bailey stated Dr. Angel's property was located behind him and it emptied out onto the 18 acres of the Florence Business Center.

Mr. Hopper inquired if Mr. Bailey had a retaining wall along the line located behind his property.

Mr. Bailey stated yes.

Mr. Hopper pointed out to the Board the location of the retaining wall.

Atty. Wilson noted it would be best if the cars coming out of the car wash did not cross paths with other cars coming out of

the gas pumps if reversed.

Chairman Holland stated he felt the full service pumps probably would not be used at all.

Mr. Bailey stated there was a little business done on the full service pumps.

Chairman Holland inquired if Mr. Bailey could double his self service pumps.

Mr. Bailey explained he had as many pumps as he could handle on the islands and there was no room for any more. Mr. Bailey noted the islands could be extended but then they would run out into the driveway.

Mr. White stated he could not go along with the request as it was being proposed.

Mr. Collins stated the entrance to the car wash could be reversed.

Mr. White stated he could go along with reversing the entrance to the car wash.

Further discussion followed on reversing the entrance to the car wash.

Chairman Holland inquired if there were any questions on the structure of the building.

Mr. Hopper explained Mr. Bailey would have to go to the Boone County Planning Commission for Site Plan Review for the building.

Chairman moved to grant a Conditional Use Permit for Bailey's Gulf Minute Mart, Inc. located at 7670 Burlington Pike with a traffic flow following a right to the left pattern rather than a left to the right pattern into the car wash as a condition.

Mr. Bailey inquired if Chairman Holland meant exiting by the tank pad.

Chairman Holland stated yes, exiting towards the liquor store.

Mr. White inquired if the motion included the 55.5 foot setback.

Atty. Wilson stated it was a variance they needed rather than a setback.

Chairman Holland amended his motion. Chairman Holland moved to grant a 24.5 foot variance and a 13 foot rear yard

March 12, 1986

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variance for the building with the following condition that the traffic pattern move from right to left exiting onto the KY 18 next to the liquor store. The motion was seconded by Mrs. Lanigan. After further discussion, the motion carried unanimously.

Chairman Holland expressed the Florence Board of Adjustment regrets that Ralph Hopper would be leaving the staff of the Boone County Planning Commission.

Chairman Holland stated they would defer action on the adoption of the new By-laws until Mr. Wilder and Mr. Bolton would be present.

Chairman Holland moved the meeting adjourn. The motion was seconded by Mr. White. After further discussion, the motion carried unanimously.

APPROVED:

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Charles Holland, Chairman

Attest:

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Dee Ann Brewer, Administrative Asst.