

APPLICATION FOR ZONING ACTION

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

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

Applicant: GARY E. JOHNS + A. RAYMOND MATEJKA  Owner  
 Agent  
Address: 425 WHITE OAK DR, EDGEWOOD KY 41017  
Telephone: 371-1248 / 331-8527

Location: 122 Valley Dr Florence

Name of Property Owner: SAME AS ABOVE

Address of Property Owner: \_\_\_\_\_

Zone: SR-2 Area in <sup>sq ft.</sup> Acres: 11,123 sq ft.

Deed Book: 18 Page No.: 24 Group No: 1536

Description of Request: Dimensional variance of rear yard requirement from 30' to 21'-0"

Property Owner's Signature: Gary E. Johns  
Date: 3/23/84 Applicant's Signature: Gary E. Johns

FOR PLANNING COMMISSION USE:  
Application date and fee of \$ 100.00 Received: 3/23/84  
Referred to: \_\_\_\_\_ For Meeting Date: 4/11/84  
Action: \_\_\_\_\_ Date: \_\_\_\_\_

Meeting Date: April 11, 1984

BOARD OF ADJUSTMENT AND ZONING APPEALS

CHECKLIST

I. General Information

1. Applicant's name: Gary Johns and A. Raymond Matraccia  
Interest in property: OWNERS
2. Location and/or address of property: 122 valley Drive being at the  
end of Valley Drive off of Dixie Highway  
Deed book and page number: Book: 18 Page: 24 Group: 1536
3. Request of the applicant: Requesting a rear yard variance from the  
required 30 foot requirement to a requested 21 feet.
4. Present zoning of subject property including page number and  
section number(s) of the Zoning Order (Ordinance): Presently  
zoned Suburban Residential Two, SR-2 found on pages 8-5  
through 8-7 and involving Table One at the end of Article 17.
5. Present use of the subject property: Presently the property  
is undeveloped.  
Present use of the adjoining properties: Adjoining to the property  
is both single family residential and duplex dwelling units.

### III. Variance Requests

1. What variance is needed and what section of the Zoning Order

(Ordinance) does it apply to? A VARIANCE IS NEEDED IN THE REAR YARD SETBACK OF 30 FEET TO 21 FEET AS REQUIRED BY SECTION 846 AND TABLE ONE.

2. What could be the unique conditions justifying the variance?

1. THE UNUSUAL SHAPE OF THE TRACT.

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3. What reasonable use of the land will be denied the applicant if

the variance is not granted? IN MY OPINION, NONE BECAUSE THERE IS AREA ON THE LOT THAT MAY OR MAY NOT SUPPORT A DUPLEX BUT MORE LIKELY A SINGLE FAMILY HOUSE.

4. Has the applicant caused the unique conditions? NOT THE APPLICANT

AS MUCH AS THE OWNER/DEVELOPER OF THE SUBDIVISION.

5. Will the variance be detrimental to the public welfare or

preserve it and how? Will it alter the essential character of the neighborhood? IT WOULD NOT BE DETRIMENTAL

TO THE PUBLIC WELFARE AND NOT CHANGE THE CHARACTER OF THE NEIGHBORHOOD.

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FLORENCE BOARD OF ADJUSTMENT

MINUTES

APRIL 11, 1984

7:30 P.M.

Chairman Holland called the meeting to order at 7:35 P.M. Four (4) members were present, Mr. White was absent. Staff members present were Mr. Lynn, Mr. Block and Mrs. Ryan. Due to staff attorney, Dale Wilsoon, being on vacation, Mr. Raymond Vincent was present as council.

Chairman Holland called for any correction to the minutes of March 14, 1984. No one responded. Chairman Holland moved the minutes be accepted as presented; Mr. Schreiber seconded. The motion carried unanimously.

Chairman Holland proceeded to the first item on the agenda the request of Ray Merkel, Agent for John Young, Ottis and Betty Hollan, and Ottis and Judith King, for a dimensional variance to change the front yard setback from 75 feet to 45 feet to conform to the existing front yard of the five adjoining parcels along U.S. 42, for property located at 8115 U.S. 42, and 8119 U.S. 42, Florence, Kentucky, being a 1.1 acre tract in a Commercial Three, (C-3) zone.

Mr. Block handed out to Board Members a copy of the site development submitted by the applicant. Mr. Block presented the Enforcement Officer's Report. Board members reviewed the site plan.

Chairman Holland asked if Mr. Ray Merkel were present, and asked if he would come forward. Chairman Holland called for any questions from Board Members for Mr. Merkel. Chairman Holland asked if this was for a restaurant and if the three (3) existing houses would be torn down. Mr. Merkel stated the houses would be torn down and that this would be a Rax Restaurant. In response to Chairman Holland, Mr. Merkel stated the restaurant would have a drive-thru window.

Board Members reviewed pictures presented by Mr. Merkel of the restaurant. Mr. Merkel stated the front area in question would be an atrium, which they were requesting to bring in line with all of the existing properties. He continued all of the adjoining properties are 45 feet from the property presently and that they want the building to be similar to that in setback. In response to Chairman Holland, Mr. Merkel stated Bankers Financial is adjacent to them. Mr. Merkel continued if they had to go back to 75 feet they would be sitting almost in the back yard of Bankers Financial. Mr. Merkel showed Board Members a diagram of the existing houses stating that they would like to move their building up in line with all the existing houses on U.S. 42 as there is residential behind the property.

In response to Chairman Holland, Mr. Block stated White Castle is on the Agenda tonight for a variance and are located down the street from this proposal. He continued they currently maintain approximately 85 feet setback and are requesting a 10 foot variance for a 20 foot addition onto the front of the restaurant. In response to Chairman Holland, Mr. Merkel stated White Castle would still be behind them. He continued that they will be in line with all of the adjoining property. Mr. Block gave the location of the property. Mr. Merkel depicted on a picture the proposed restaurant location.

Mr. Schreiber questioned the proposed parking stall size. Mr. Merkel stated they were not asking for site plan approval at this meeting but were asking for the variance on the front yard setback to be in line with all the other property.

In response to Mr. Schreiber, Mr. Block stated the applicant will be notified if the Board grants the variance tonight that they are deficient in the size of the parking stalls. Mr. Merkel stated they knew that the parking stalls were required to be 10' X 20'.

Chairman Holland called for any questions. No one responded. Chairman Holland asked if there was anyone in the audience to speak in opposition to this request.

Mrs. Betsy Conrad stepped forward stating she was not in opposition, but was a major contiguous property owner to the rear of the subject property. Mrs. Conrad stated her request is that if the Board so chooses to grant this setback variance that the granting of said variance be given with the contingency that this pass site plan approval with the Boone County Planning Commission within the next 60 days. She continued if it does not receive site plan approval within the next 60 days from the Boone County Planning Commission, that the granting of the variance be delcared null and void by this body.

Chairman Holland asked legal counsel if the Board could do that. Mr. Vincent stated in his opinion that the Board could place this as a condition if the Board chose to grant the variance assuming that is a reasonable time.

Mr. Merkel stated their intention was to get that accomplished within that time, but did not know whether or not there would be any complications at the Planning Commission level. Mr. Merkel asked for a particular reason for the request.

In response to Chairman Holland, Mr. Block stated this is correctly zoned; they are asking for a variance. He continued

what is being requested is that if the variance is granted by the Board, a time limit of 60 days be placed on the granting of the variance to permit the applicant to get site plan review approval from the Planning Commission for site development. Mr. Block stated that is not an unreasonable time frame with the Planning Commission level in his mind due to the fact that the applicant is currently before that body at this moment and has deferred any action on the site plan until this Board has had a chance to hear and decide on the granting of the variance. Mr. Block further stated the time frame will then be picked up.

Mr. Schreiber asked Mrs. Conrad if she had any problems with this restaurant going in back of her property. Mrs. Conrad stated if the Board really wanted to know her reasons, she would request with the permission of Council to retire to Executive Session to discuss a potentially litigable situation with the City of Florence and the Boone County Planning Commission. Vice Chairman Bolton asked Mrs. Conrad how close the back of the building would be to her property line if the variance was granted. Mrs. Conrad stated she did not know. She stated the parking spaces as shown on the preliminary site plan as submitted by CDS Architects are 14' from her property line.

Mr. Merkel stated they were requesting to move the building further away from the residential and closer to U.S. 42. Mr. Merkel stated under the current zoning they would have to be closer to the residential. He continued their intention was to get the project completed and were before the Planning Commission for site plan review. Mr. Merkel further stated he did not know if there would be any delays at the Planning Commission level but that they would be willing to move as fast as they could on getting the request through if the Board decides to accept their variance request.

Mr. Vincent stated if the Board chose to grant the variance, a condition of 60 days could be placed on the variance.

Mr. Schreiber asked Mr. Block if when the existing houses were torn down they would have a 75' front yard setback in accordance with the zoning regulations and if the only reason Bankers Financial and Dr. Rettay's office did not have the 75' setback was because they used the existing buildings meeting the pre-existing setback. Mr. Block stated that was correct. In response to Mr. Schreiber Mr. Block stated if the other three parcels were sold they would require this same type request or the existing building could be utilized with the existing setback. Mr. Block pointed out there are three (3) houses between this property and White Castle. He continued the center property has been request for rezoning to the Boone County Planning Commission and has obtained a favorable recommendation to the City of Florence which places it into an O-2 zone. He

continued if they build a new building, a front yard setback of 20 feet is required. In response to Mr. Schreiber, Mr. Block stated if they maintain the same 45 feet setback they could actually make a 25 foot addition onto the front of the building without having to come in for any front yard variance as it would require only a 20 foot front yard. Mr. Merkel stated Bankers Financial presently is zoned Commercial One (C-1) and has a 30 foot requirement for front yard setback under their existing zoning. Mr. Block stated that would be the same for Dr. Rettay's property.

Mr. Cal Ferguson, President of Bankers Financial Corporation stepped forward stating they owned the property adjacent on the west side of the subject property and discussed the request with their Officers and Board of Directors. Mr. Ferguson stated they have a consensus of opinion in agreement with Mr. Merkel's request for a couple of reasons. He continued if the building is required to move back 75 feet, they will be looking in our back door more or less. He further stated if they can build on a line with us, which is the blind side of our building, it will also cut down on parking in the front.

Chairman Holland asked if there was anyone else to speak for or against the proposal for a variance.

Mr. Roger Curlin, of CBS Associates, Engineering firm preparing the preliminary development plan for Granville Foods, stepped forward. Mr. Curlin stated it behoves them to move as quickly as they can through the approval process upon leaving here, through the Planning Commission, to the building permit processes and so forth. Mr. Curlin asked if it would be possible or more appropriate to attach the variance to their particular use, toward Rax Restaurants, from the idea that if as use, toward Rax Restaurants, from the idea that if as they are working with the Planning Commission, and working the building permits, that it is really appropriate only to this plan instead of having a time interval of two (2) weeks, three (3) weeks, or forty (40) days or sixty (60) days attached to this particular application in this instance.

Mr. Vincent stated he was not speaking for or against it only from a legal standpoint. Mr. Vincent stated it would seem to him to be legal to attach a reasonable time limit to the variance if the Board chose to grant it.

Mr. Curlin stated he was only proposing that in case there is a delay in working with the Planning Commission or working with the engineering. He continued from that standpoint

if a week or two week delay is encountered and it winds up being 75 day, they would still be within the same spirit and persuing the same objective as if it were 40 days or 60 days from that standpoint. Mr. Curlin stated it would only be tied to this particular uses and this particular user in this instance and not something that would ride with the land from a legal standpoint, but with the application.

Mr. Vincent stated he felt the concern to be having to do with the future use of the property. Mr. Merkel stated that is why they were wiling to limit the variance to the particular use. Mr. Vincent stated that he thought that the objective of such a limitation he didn't know whether sixty (60) days is reasonable or not.

Chairman Holland called for additional comments.

Mrs. Conrad stated in a conversation with the Zoning Enforcement Officer earlier in the day, she was told that usually a variance rides with the land and if it is granted to the applicant, if the applicant then, say Rax Roast Beef, five (5) years from now goes out of business, the property is then occupied by another company another reastaurant firm, then that variance if it were granted to the applicant would not be applicable to the new firm.

Mr. Merkel stated it was his understanding that Mrs. Conrad was concerned with obtaining a 60 day time frame upon the granting of the variance to actively pursue the request through the Planning Commission. Chairman Holland stated that was his interpretation. Mr. Merkel stated they have every intention to move as quickly as possible in obtaining the approvals as they did not want to delay and were anxious to proceed on the plan. Mr. Merkel stated they felt they were in line with all the other buildings, and have a nice looking atrium and could live with a 60 day condition.

Mr. John Rhinhart stepped forward and stated that they wanted to live within the shortest time span possible. Mr. Rhinehart stated he felt Mrs. Conrad's intent was that they move with all due speed to get the project done through the Planning Commission. Mr. Rhinhart asked Mrs. Conrad if that was why she was requesting a 60 day attachment. Mrs. Conrad stated she did not want that variance to be established with the property, should the Rax Roast Beef project not be able to continue.

Rhinhart stated it is a time question. Mr. Rhinhart asked Mrs. Conrad if it were her intent for them to come back for this variance if the site plan review took 75 days. Mrs. Conrad

said "no". Mr. Rhinhart asked Mrs. Conrad if she were trying to hold the Rax project from going through the Planning Commission. Mrs. Conrad replied "no". Mr. Rhinhart questioned if the variance could be attached only to Rax Restaurant. He stated they have a contract to buy this ground. The contract is for 120 days. Mr. Rhinhart stated it may be reasonable at 120 days not 60 days. Mr. Rhinhart stated it may be reasonable at 120 days or 150 as they don't control the Planning Commission.

Chairman Holland asked if they would rather have more time than 60 days. Mr. Rhinhart stated yes, because if it takes 45 days to get through the process and one thing drops the whole project could be lost, and all invested time and monies.

Mr. Merkel stated it is difficult to place an arbitrary time, but that they were going to move on the proposal. He continued they were already before the Planning Commission with their first application, the preliminary plan, and had revised the parking spaces, but were scheduled for a meeting the 18th. He continued they do not control the Planning Commission as to what their time would be. Mr. Merkel stated he thought Mrs. Conrad's concern could be answered if the variance were specifically for the Rax project, because she feels comfortable with the Rax Project.

Chairman Holland called for further comments from Mrs. Conrad.

Mrs. Conrad asked if Mr. Merkel was now considering making it contingent upon the approval of the Rax project without any specific time limitation, but simply on the variance as granted to the applicant.

Mr. Merkel stated that was correct, just for Rax.

Mr. Schreiber questioned if the Board were allowed to place that condition since it was requested for the property owners more so than Rax.

Mr. Vincent stated he did not know if Mrs. Conrad was worried about the timing verses exactly what the use will be.

Mrs. Conrad stated her concern was with time factor. Chairman Holland asked Mrs. Conrad if more time was detrimental to her condition. Mrs. Conrad stated she did not like the idea of it spreading out for more than 60 days.

In response to Mrs. Conrad, Mr. Block stated according to the regulations the time limitation is 40 days. He continued that Mr. Merkel has submitted a waiver of time due to the fact this Board of Adjustment had to schedule the meeting for this night and the deadline for action by the Planning Commission

would come up before this request and could be heard by the Planning Commission. Mr. Block stated the Commission has extended the time for the Site Plan review. Mr. Rhinhart expressed his concern regarding the 60 day time limitation.

Mr. Merkel stated his concern with the 60 day time frame. He pointed out if something had to be changed the Planning Commission may postpone it until it is revised which may take 61 days. Mr. Merkel stated that would nullify the variance, putting everything on hold until they came back to this Board to hear the same variance again.

Mr. Block outline the procedure followed in obtaining variance permits in accordance with Site Plan Reviews. Chairman Holland asked if the Board could grant a variance and say it is not effective until the Boone County Planning Commission approves the site plan. Mr. Block stated by granting a variance conditional upon the Boone County Planning Commission approves the Site Plan, the time frame as presented tonight would not be addressed.

Chairman Holland stated his concern with the applicants having to reappear before the Board.

Mr. Rhinhart stated it seemed the time frame was important and they would like to understand why it was important. Mr. Vincent stated he thought one of the concerns was that this variance would exist from now until eternity with the possibility of someone else acquiring it, say, two years from now, with the variance completely different from your proposed operation.

Mr. Rhinhart stated those are Mr. Vincents words and asked Mrs. Conrad what hers were. Mrs. Conrad stated she would rather not comment at this time. Mr. Rhinhart stated in trying to keep in the spirit with what Mrs. Conrad wants to accomplish they were trying to cooperate but without knowing what they are addressing it is hard.

Mrs. Conrad stated this matter may involve a potentially litigable situation for the Boone County Planning Commission and the City of Florence and if further information is requested by the Chairman, she requested that with the consent of Council, this body go into an executive session to discuss potential litigation. Vice Chairman Bolton asked for a five (5) minute recess. Chairman Holland called a five (5) minute recess.

Chairman Holland called the meeting back to order at 8:17 P.M.. Chairman Holland called for any further questions,

proposals from the Board, Mrs. Conrad or Mr. Merkel; no one responded.

Mr. Schreiber moved that the request for the variance allowing the 45 foot setback be allowed with the condition that it be allowed only for the use of Rax Restaurant with the condition if within 60 days they do not have their proper litigations as far as the Boone County Planning goes, the request be denied. In response to Mr. Schreiber, Mr. Vincent stated , if granted, the variance should be attached to the property with an expiration at a reasonable period of time.

Mr. Schreiber withdrew his motion. Chairman Holland asked for further comments. Mr. Rhinhardt asked why not attach the variance to the plan as submitted. Chairman Holland stated the only thing he is looking at was what has been submitted. Mr. Rhinhart request if a time frame condition were going to be placed that it be longer than 60 days as they did not control the Planning Commission. Chairman Holland stated rather than a time limitation, he wanted the condition to be subject to the Planning Commission's approval of the Site Plan, he felt it unnecessary for the applicant to reappear before the Board.

Mr. David Winters of Granville Foods, stated he felt in fairness a lot of things could keep the Planning Commission from coming through which will alternately work out and rule in their favor which this Board as a body have stated agreement to. Mr. Winters stated he felt it should be exactly as Chairman Holland proposes; subject to having Planning Commission approval. Chairman Holland stated he did not want to place a limitation on it. He wants to set it with the approval of the Planning Commission. When they approve the on site plan then the variance will go into effect and they can get the 45 foot variance.

Vice Chairman Bolton stated he was not totally happy with the entire thing. Vice Chairman Bolton stated he had a very high regard for the Planning Commission and believed when these setbacks were set they were meant for a better Florence. Vice Chairman Bolton stated based on that and due to the fact this is new construction, moved that the request be denied. Mr. Holland seconded. A roll call vote was taken; 3 yes, Mr. Schreiber voted no. The motion carried.

Chairman Holland proceeded to the request of Hamill and McKinney, Agent for White Castle Systems, Inc., for a dimensional variance of the front yard setback from 75 feet to 65 feet for property located on the southwest corner of U.S. 42 and LaCresta Drive, Florence, Kentucky, being a 1.33 more or less acre tract in a Commercial Three (C-3) zone.

Mr. Block handed out the site development as presented by the applicant to the Board Members. Mr. Block stated this is a request to make a seating addition primarily onto the White Castle Restaurant located on U.S. 42 and LaCresta Drive. Mr. Block presented the Enforcement Officer's Report.

Chairman Holland asked Mr. Block if in his opinion it could be redesigned moving it to the west. Mr. Block stated he was not a structural engineer nor had he looked at the structural engineering to be able to specifically identify whether that is or is not possible for this particular building.

Chairman Holland asked if anyone was present to speak for White Castle, Hamill and McKinney.

Mr. Ron Murrell of Hamill and McKinney stepped forward. In response to Chairman Holland, Mr. Murrell stated he would attempt to explain several apparent conceptions on the part of their informers as far as White Castle. Mr. Murrell stated he believed that they were originally informed by White Castle, that the setback for the property was 65 feet and that White Castle was behind that an additional 10 feet. He continued that would have allowed a 10 foot variance from the front of the door to the existing setback with a 10 foot variance to allow a 20 foot addition. Mr. Murrell stated possibly they needed to resubmit actually asking for 20 feet if in fact the zoning does request a 75 foot setback. He continued he thought that White Castle is right at that 75 feet. Mr. Murrell stated in response to the question about being capable of attaching it on the side, he believed Mr. Block was accurate in his estimation that the existing parking is a true asset and any attempt to expand to the west would interfere with that. Mr. Murrell pointed out that structurally the building is better able to sustain the addition out the front due to the nature of the dining as it exists. Mr. Murrell stated the entrance of the lineup that takes place to the counter place would be adversely effected by trying to accomplish the transferrable of seats to the west.

Chairman Holland asked Mr. Murrell if he wanted to resubmit the request.

Mr. Murrell stated apparently that must be a necessity. I would like to try to spend some time here to discuss the likelihood of such a requirement. Mr. Murrell requested to discuss with the Board the time frame of when the resubmittal could be as it would be a one month delay. Chairman Holland advised Mr. Murrell this issue would be brought up as additional business after the items on the agenda were heard. Mr. Murrell was in agreement. In response to Chairman Holland, Mr. Murrell stated he would like to withdraw the request.

Chairman Holland proceeded to the request of Ray Merkel, Agent for Phillip Goldman for a Conditional Use Permit for a service window for the new Marco Pollo restaurant, for property located on the southwest corner of Mall Road and Plaza Drive, Florence, Kentucky, being a .607 acre tract in a Commercial Two, (C-2) zone.

Mr. Block passed out the site plan for the Board Members review and noted the location of the property.

Chairman Holland called for comments from Mr. Ray Merkel.

Mr. Ray Merkel stated the Conditional Use was under Section 9, 231 of the code. Mr. Merkel presented a picture of the restaurant which they would be building for the Board's review. He stated they felt it was compatible with the other restaurants in the area that have been granted conditional uses on Mall Road. In response to Chairman Holland, Mr. Merkel stated the service window would be on the side next to Color Tile which is adjacent to the property. Mr. Merkel showed Board Members an aerial photograph and depicted the location of the restaurant. Mr. Merkel stated they felt the character of the area lends itself to the restaurant.

In response to Chairman Holland, Mr. Block stated the general land useage would be consistent as regarding restaurant land useage which this Board has granted in the past, but at a different located on Mall Road. Mr. Block stated they were in conformance for both the drive-in and the circulation area.

Chairman Holland called for anyone present speaking for or against this request.

Mr. Tom Humes representing Philip Goldman and Marco Pollo International stepped forward stating this was their first restaurant they would be building in the Cincinnati area and were looking forward to building in Florence. He stated he felt the building was very much inkeeping with the other buildings around it.

Vice Chairman Bolton asked, if the restaurant would be specifically a drive-in.

Mr. Humes stated it would be a sit down restaurant as well as drive thru, very similar to a Wendy's G.D. Ritzey or McDonald type situation. He stated the restaurant would serve chicken broiled over an open flame. (Mexican Style Chicken).

Chairman Holland called for comments. No one responded. Mr. Schreiber moved that the Conditional Use Permit for the service window be granted for the Marco Pollo request. Mrs. Lanigan seconded. A roll call vote was taken. The motion carried unanimously.

Chairman Holland proceeded to the request of the Northern Kentucky Mental Health-Mental Retardation Regional Board, Inc., Owner, appealing the interpretation of "upper story" in Section 921, Paragraph 40, made by the Enforcement Officer, for property located at 263 Main Street, Florence, being less than an acre tract in Commercial Two, (C-2) zone.

Mr. Block handed out for the Board's consideration both his letter to the Northern Kentucky Mental Health Regional Board along with their letter to him requesting the interpretation. Mr. Block presented the Enforcement Officer's Report,.

Chairman Holland called for anyone present speaking for Comprehensive Care.

Mr. Tim Brandt, Attorney representing Comprehensive Care, stepped forward requesting the Board review the regulations and give them a reply. He continued the words could be read either way. Mr. Brandt stated they have about 50 year old house, which has been used for offices, and next door on one side is a residence. He continued they want to make the upper level into a residence for the Board to use and the lower level into offices. Mr. Brandt stated he thought it is just a matter of being a lawyer in how the words can be interpreted in this ordinance. Mr. Brandt continued he felt clearly this ordinance allows for residential use in this way, and felt that both the letter and the spirit of the law is to allow this type of use.

In reply to Mr. Vincent, Mr. Brandt stated it is like a bi-level. In the back you can come through the basement and they are going to make the basement offices.

Mr. Block asked Mr. Brandt if the entrance to the basement were located off of the parking lot of the dentist, and would be the first floor if coming in from the rear. Mr. Brandt stated "yes".

Mr. Block stated people coming to the offices would park on the street at a different location or perhaps in the adjoining parking lot. Primarily your offices are off of the parking lot. In reply to Mr. Block, Mr. Brandt stated it has not been converted into offices yet, and he did not know how much parking would be needed. He stated it is not as though it is a fast food restaurant and he did not know if they would have that many people in and out.

Mr. Block stated his interpretation was the first

floor was entered from the street and the basement was the basement.

In response to Mr. Block, Mr. Brandt stated the only effective entrance to the offices would be from the ground. He continued anyone parking in front would have to walk around the building to enter. In response to Mr. Block, Mr. Brandt stated that was his understanding from his client, the only entrance to the offices would only be through the basement area. Mr. Block asked if there would be signage on the front of the house depicting offices to the rear. Mr. Brandt stated he did not know if the offices would be meeting with the public or would be more internal office, possibly part-time.

Mr. Block stated he wanted to give the Board the opportunity to hear these comments but was still standing by his decision.

Chairman Holland asked if they obtain permission to use the parking lot if it would have been permitted. Mr. Block stated "no". He continued if entered off the parking lot I consider the first floor as you come off the street. In my review based on the definition of a story in the zoning regulations, that his interpretation still meant as you came from the street toward the building would be the first floor. If the topography had been turned exactly 180 degrees, he would have considered that they would had a second story.

Chairman Holland asked if there were any chance of having the basement the residence. Mr. Block stated it would not be allowed as it has to be attached upper story dwelling unit.

Chairman Holland asked if anyone was present speaking in favor or against the request.

Mr. Brandt stated they were present but did not wish to comment.

Chairman Holland asked if there way anyone present to speak against the request. No one responded. Mr. Schreiber stated personally he didn't see anything wrong with having someone living on the first floor and having the offices in the building. Mr. Schreiber stated his agreement with Mr. Block's interpretation. Mr. Schreiber asked if it could be rephrased to allow a variance in order to allow them to change from an office to a residential use. Chairman Holland replied they do not have the authority. Mr. Block read Section 922, No. 2 of the zoning regulations defined in Article 20 of the zoning regulations. in response to Mr. Schreiber, Mr. Block stated you could have four people non-related within a single family dwelling.

Chairman Holland moved that Mr. Block's interpretation be accepted and that the Board add Section 922 No. 2 declaring this request to be an accessory use permitting the offices to be in the basement and the residence on the first floor not to exceed four individuals and that a directional sign be placed out front depicting the offices to the rear. Mr. Schreiber seconded. A roll call voted was taken. The motion carried unanimously.

Chairman Holland proceeded to the request of Gary E. Johns and A. Raymond Matraccia, owners, for a dimensional variance of the rear yard requirement from thirty feet (30) to twenty-one feet (21) for property located at 122 Valley Drive, Florence, Kentucky, being 11,123 square feet in a Suburban Residential Two, SR-2 zone.

Mr. Block handed out a packet to the Board Members comprised of a copy of the final plat subdivision legend, a copy of subdivision plat, the site plan which the applicant submitted for a zoning permit for the Boards review. Mr. Block presented the Enforcement Officer's Report.

Chairman Holland asked if Mr. Matraccia was present. Chairman Holland asked Mr. Matraccia if this was going to be a duplex. Mr. Matraccia stated "yes", it is already sold as a duplex.

Chairman Holland asked if there were any questions. Vice Chairman Bolton asked if there were other duplexes on the street. Mr. Block stated there were two other duplexes. He continued this would be the last lot in the subdivision to be developed and Lot 2 is an existing single family residence that was there prior to this new subdivision.

Mr. Matraccia stated they were completely unaware of any problems in laying out the subdivision and did not catch it until they went to obtain a permit.

Chairman Holland called for any questions.

Mr. Schreiber moved that based on the unusual shape of the lot a setback variance be allowed from 30 feet to 21 feet; Chairman Holland seconded. A roll call vote was taken. The motion carried unanimously.

Chairman Holland proceeded to the request of Kevin Hothaus, Agent for Timothy Hogan and Robert Schneider, for a sign variance for a second free standing sign and to increase the square footage on the rear wall sign, for property located on Dream Street, Florence, Kentucky, being 1.31 acre tract in a Commercial Two, C-2 zone.

Mr. Block presented the Enforcement Officer's Report.

Mr. Schreiber stated he would abstain from discussion on this request for personal reasons.

In response to Chairman Holland, Mr. Holthaus stated on the back of the building he would like to sign to be 6' X 82' which would give them about a 48" letter. Mr. Holthaus stated the letters would be viewed from the closest lane on I-75 which is 200' away. He continued anything smaller would not be able to be read by passing traffic.

In response to Chairman Holland, Mr. Block stated the 492 Square feet he is requesting is on the building mounted sign based on the 164' building. Mr. Block stated the square footage permitted on the building is approximately 246 square feet.

Mr. Holthaus stated the reason they were asking for this is that the sign cannot be seen from Dream Street as it is on the back of the building perpendicular to Dream Street. He continued they felt that anything smaller would not be able to be read.

Mr. Block asked if the free-standing sign recently issued would advertise the business to people travelling up and down I-75.

Mr. Holthaus stated it would be a point. He continued there are on the 5 or 6 locations of Tim Hogan Carpet Outlets on which the sign is more or less their trademark going across the face of the building. He stated on this building it would not be in character with what they were trying to do, but would give the trademark look on the back.

In response to Chairman Holland, Mr. Block stated the free-standing panel was 8' X 33.3' which creates a 250 square foot sign and the height being 48' from the I-75 grade.

Mr. Block stated servicing from the sign would only be facing parallel to I-71 and I-75 which might increase his visibility by having another sign, but that in his opinion he has that visibility from the free-standing sign.

Chairman Holland asked if the free-standing sign would be at the rear of the building. Mr. Block stated they are proposing two free-standing signs and one building mounted sign increasing the square footage. He continued they are asking the second free-standing sign be along Dream Street. Mr. Block stated this would be a smaller sign for identification purposes at the driveway entrance off of Dream Street. Mr. Block stated this zoning district only permit one (1) free-standing sign. In

response to Chairman Holland, Mr. Block stated the 48' - 258 square foot sign has already been approved in accordance with the regulations.

Mr. Holthaus stated this free standing sign would not be an advertising sign. There is only one access drive into the property which this sign would identify as to direction. He continued the free standing sign in back is 300 feet away from the driveway and would be of no use to traffic on Dream Street. Mr. Holthaus stated the sign we are requesting tonight would be a small profile sign close to the ground which would be landscaped around depicting the entrance to Tim Hogan Carpet Outlet. In response to Mr. Block, Mr. Holthaus stated the sign would be no larger than 4' X 8'. Mr. Holthaus stated there has been a precedent in the same situation up the road at Knights Inn as three years ago they were granted a variance for this same reason.

Mr. Holland moved to deny the request based on the Zoning Enforcement Officer's Report for an enlarged sign on the back of building 246' to 492' that square feet as he felt the approved free-standing sign was sufficient according to what Mr. Block has stated that it can be read by northbound and southbound traffic. Mr. Bolton seconded. A roll call vote was taken. Mr. Schreiber abstained. The motion carried.

Chairman Holland moved that the variance be granted on the 4' X 8' sign basically telling the entrance to the Dalton Georgia Carpet Outlet for the convenience of the public. Mr. Bolton seconded. Mr. Schreiber abstained. A roll call vote was taken. The motion carried.

Chairman Holland called for additional business.

Mr. Ron Murrell, project manager for Hamill and McKinney, stepped forward and questioned the possible resubmittal of a variance application for White Castle Systems, Inc. Discussion was held as to the setback requirements for the property.

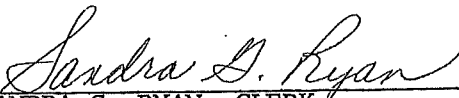
Mr. Block advised Mr. Murrell the application would need to be received by April 20, 1984 in order for the request to be scheduled for the Florence Board of Adjustment Meeting of May 9, 1984.

Chairman Holland called for any further business to be discussed at this time. No one responded. Mr. Schreiber moved

for adjournment; Mrs. Lanigan seconded.

The meeting adjourned at 9:25 p.m..

RESPECTFULLY SUBMITTED

  
\_\_\_\_\_  
SANDRA G. RYAN, CLERK

APPROVED: \_\_\_\_\_

\_\_\_\_\_  
CHAIRMAN