

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: Carl H. Cummings Owner

Address: 6695 Emerald Dr. Agent

Burlington Telephone: 283-2566

Location: 7199-1 Turfway - Florence Ky.

Name of Property Owner: Walid Safi

Address of Property Owner: 10741 Sealco Dr, Union Ky.

Zoning District: C-2 Area in Acres: Less than one

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

Description of Request: to Construct a 7' x 7' Canopy on West Side of Bldg. as Drawing -

Applicant's Signature: Carl H. Cummings

Property Owner's Signature: Wally Const Inc. Walid A. Safi

Application Fee: 150.00 FOR PLANNING COMMISSION USE ONLY Date Received: 3/20/85 By: DAM

Referred To: _____ Meeting Date: 5/19

Action Taken: _____ Date of Action: _____

VARIANCE REPORT

APPLICANT: Carl H. Cummins
LOCATION: 7199-1 Turfway Road
ZONED: Commercial Two, C-2

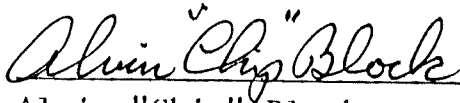
Remarks:

The applicant is requesting approval for a Variance in the required setback for a building setback from the property line along a side street in a Commercial Two, C-2 zoning district. The request is to vary the required setback of 37.5 feet by seven (7) feet to a requested setback of 30.5 feet

This site has been previously developed for the purposes of supplying retail commercial space. During this previous approval by the Planning Commission a variance was granted for the required setback from the property line adjoining to the west (down Lloyd Avenue). This variance was granted from the required 50 foot setback to a requested 5 foot side yard. This variance was granted by the Board on December 8, 1982. (a copy of those minutes is attached for your information)

1. In my opinion, there are no unique conditions for this property requiring the need for this variance. The property, with the previously approved variance, has been developed without the need for further variances.
2. The proposed user of the property, a "Dry Cleaning business", would not be deprived of the use of the property because they could still be located in the building and have a window for the drive-in service. (Though without a protective canopy)
3. Since this building was developed in 1983, after the adoption of the zoning regulations, any further unique conditions were created since the adoption of the regulations.
4. In my opinion, the public welfare would not nor would it be preserved by the granting of this request. With a seven foot canopy extending into the required yard, it would change the essential character of the neighborhood.

Unless the Board finds satisfactory answers to Number 1,2,3 and 4, it would be my opinion as Staff that this request could not be granted because of the application failing to adequately find reasons supporting the granting of this request.

A handwritten signature in cursive script that reads "Alvin 'Chip' Block". The signature is written in dark ink and is positioned above a horizontal line.

Alvin "Chip" Block
Planner

NOTES:

- This would not be the first canopy for the protection of customers in the area. The Waco Gas Station on Turfway has an unattached canopy over their gas islands.
- The applicant has supplied a copy of thier reasons for the granting of the variance, a copy of which is attached.



'People Producing Equals Progress''

- Dry Cleaning
- Shirt Laundry
- Laundry
- Alterations & Repairs
- Drapery Cleaning
- Wedding Gowns
- Suede and Leather Cleaning
- Carpet Cleaning
- Furniture Cleaning
- Drapery Cleaning
(Take Down-Re-Hang-Service)
- Upholstery Cleaning
- Home & Office Cleaning
- Fire & Water Damage Restoration
- Odor Control
- Wall Cleaning
- Painting
- Minor Remodelling
- Pressure Washing
- Restaurant Kitchen Cleaning

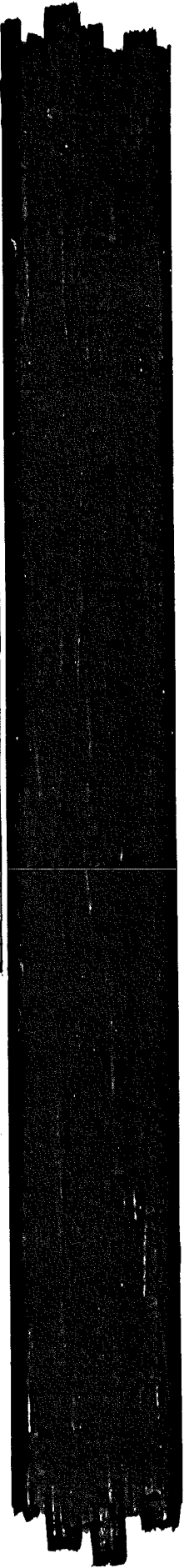
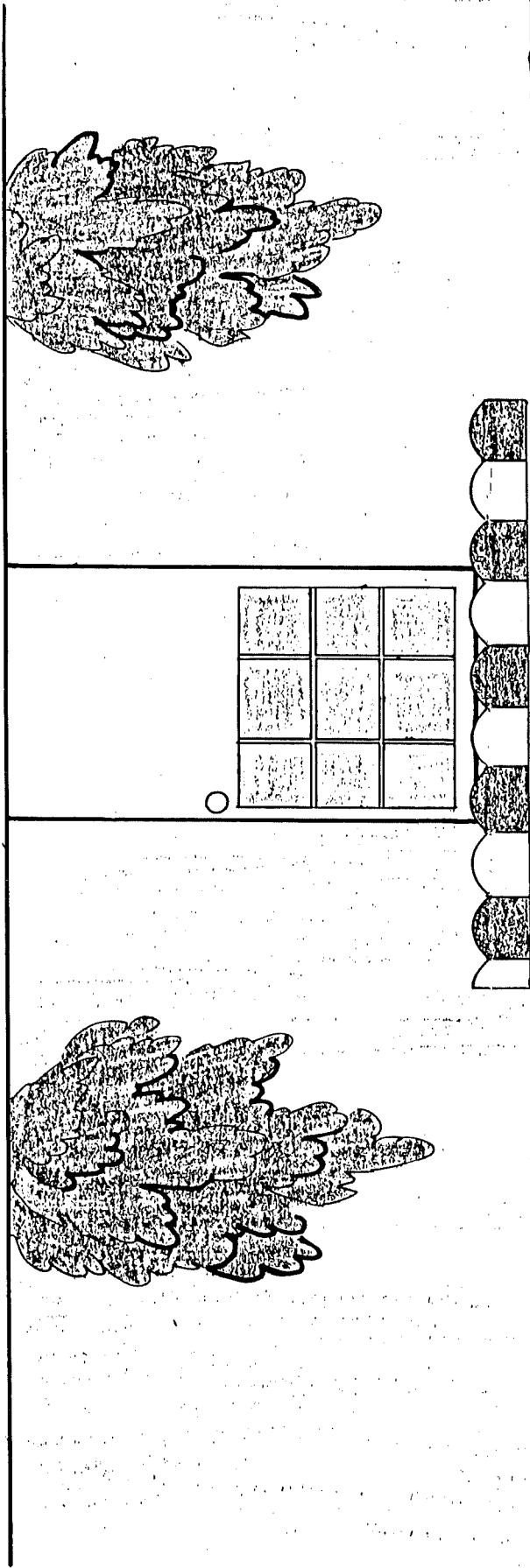
To the City of Florence, Board of Adjustments.
Boone County Planning Commission

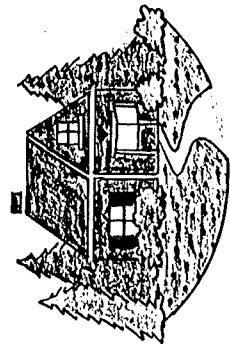
This letter is in response to section 244 of the Zoning Regulations.

- (1). The building sets on a corner lot which requires 37.5 ft. setback, If the building was on a normal lot the setback would only require 10 ft.
- (2). The site is located on a corner lot and service to the area is unique in that no other business of this type offers this service. If the variance is denied it will deny the applicant the ability to provide this service. If on a normal lot in the same zoning district we would only need 10 feet and would be able to provide this service.
- (3). This applicant had no control of the placement of that building on that lot. We did not build the building.
- (4). The exit on LLOYD Ave. will direct traffic from a main road and provide a more even traffic pattern by releasing the traffic to an intersection instead of an entrance/exit on the same street. There are existing service stations in the same neighborhood that have canopies to protect their customers, therefore this request would not alter the character of the neighborhood/district.

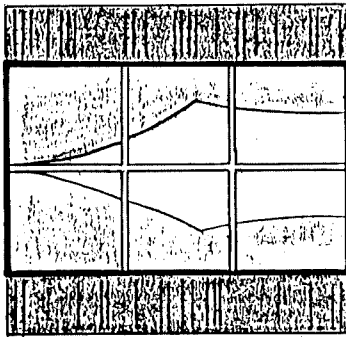
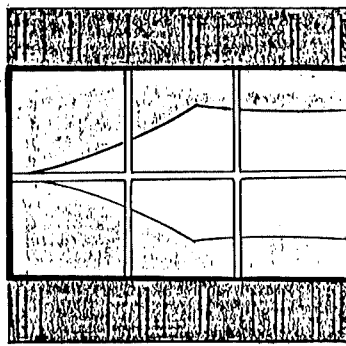
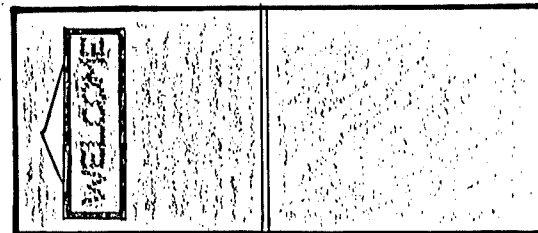
Don Cummins
The Cleaners

SIDE VIEW (Drive Thru Entry)





THE CLEANERS



FRONT VIEW

FLORENCE BOARD OF ADJUSTMENTS

MAY 8, 1985

8:00 P.M.

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

The roll call was taken by staff member Jeanne Huddleson. Four members present: Mrs. Lanigan, Messrs. White, Wilder and Chairman Holland.

The Board will consider the Minutes of previous meetings later in the meeting.

AGENDA ITEMS

Variance

A request for reconsideration of the Carl H. Cummins for a variance in the required setback for a building from the side street right-of-way line on a corner lot. The required setback is 37.5 feet and the request is for a seven (7) foot variance to a 30.5 feet. The request is for property at 7199-1 Turfway Road currently zoned Commercial Two, C-2.

Staff member Chip Block related the staff report was as presented at the previous April 10, 1985 meeting. Mr. Block noted the proposed canopy was not the first type of structure proposed for the protection of customers in the area and Mr. Block mentioned other examples in the Florence area. Mr. Block noted that also presented in the Board's material was a letter to the Board members which stated Mr. Cummins reasons for the request for the variance.

Chairman Holland inquired if the proposed request had not been discussed at the meeting of April 10, 1985. Mr. Block responded that was correct but at the previous meeting the applicant was unprepared to defend his request.

Mr. Larry Barnett, a member of the Boone County Planning Commission, representing Carl Cummins d/b/a The Cleaners, explained that the applicant had since discovered that he should have stated to the Board the reasons for the granting of the variance. Mr. Barnett directed the Board members to the correspondence from the applicant which contained four (4) reasons in response to Sect. 244 of the Zoning Regulations. Mr. Barnett also noted the plan, following the Board of Adjustment review, must also meet the site plan review of the Planning Commission with regard to the site plan elements. Mr. Barnett

noted that if the building were located on a normal lot the setback requirement would only be 10 ft. Mr. Barnett urged the Board to reconsider as the canopy is for the convenience of the customers of the dry cleaners and Mr. Barnett also noted there are other similar canopies in the county.

Chairman Holland inquired if the parking area would have to be rearranged to accommodate the proposed request.

Mr. Barnett stressed that the issue of the rearrangement of the traffic flow and the parking lot per se would all be subject to the elements of site plan review by the Planning Commission.

Mr. Block presented a slide presentation of the area and noted the span of 13 to 15 feet of driveway width before reaching the changed 45° angle parking.

Mr. Wilder inquired of the reasoning behind the 37.5 ft. setback requirement. Mr. Block explained the reasoning on a corner lot from a planning and zoning perspective is that you would not want to set out the normal side yard setback of 10' from the property line. Mr. Block also noted the 37.5 feet can provide for adequate ingress/egress, circulation, and access management.

Mr. Barnett stated he would agree the requirement is reasonable but noted the subject variance is for an overhang canopy which would not adversely affect the traffic flow, parking or turnaround.

Mr. White inquired of the height of the canopy. Mr. Block noted a clearance of 8' is noted on the site plan. Mr. White inquired of supports. Mr. Barnett noted the structure would not have free-standing supports but would be attached to the building. Mr. Don Cummins explained the proposed canopy.

Mr. Wilder inquired of other landowners in the areas use of similar canopies. Mr. Hopper noted that throughout the same zoning district there are other canopy overhang uses.

Mr. Wilder noted that under the Zoning Regulations Sect. 243 if other landowners in the area have similar structures denial of the canopy would be denying the applicant of the reasonable use of his land.

Mr. Barnett stated the applicant does feel there is also the element of the uniqueness of the site.

There was no other audience support or opposition expressed.

Mr. Wilder moved that the Board grant the variance from the required 37.5 feet to 30.5 feet for the reason that by denying the variance would deprive the applicant of the reasonable capacity to make use of the land in a manner equivalent to other landowners in the same zoning district. Mr. Wilder noted that his motion was based on his interpretation of Sect. 243 on dimensional variances and assuming that canopies apply as well as buildings with regard to setback. The motion was seconded by Mr. White.

Chairman Holland directed other Board members to the previous staff report which indicated the applicant would not be denied reasonable use of the land as the business could have a window for drive-in service which would serve the same purpose.

Mr. White stated he would agree with the Chairman's notation and also noted that the applicant is doing it for the convenience of the customers.

After discussion, the motion carried unanimously.

Variance

A request of Clark Buttner for a variance in the required size of non-residential parking spaces from 10'x20' to a 9'x20' and in the width of a driveway serving these spaces from 24' to 23'. This request is for the Florence businessplex on Tanners Gate, off of Tanners Lane currently zoned Commercial Two, C-2.

Mr. Block presented building plans and indicated the areas involved in the request. Mr. Block presented the staff report which addressed the requirements of Sect. 244 for the criteria for granting Variances which is incorporated by reference. Mr. Block presented a slide presentation while noting the affected areas.

Mr. White commended staff member Chip Block for his presentation on the subject request.

Mr. Clark Buttner, of the W.P. Butler Company, explained the applicant's materials presented to the Board for their review of a listing of Responses to Variance Conditions and a listing of General Reasons for the Request. Mr. Buttner explained his responses to the four criteria elements for the granting of a variance. Mr. Buttner explained the condition on the subject site is basically the lack of space to provide additional parking. Mr. Buttner explained that the variance is needed because along the south side of the property (along Miriam Drive) the applicant falls short by actually one foot but with the addition of the retaining wall the needed footage is two feet, and Mr. Buttner explained that that is only along a certain portion of the south property line. Mr. Buttner explained the proposed wall was to act as a retaining wall and a screening wall in some sections.

Mr. White inquired of the water run-off. Mr. Block stated it would depend on how much water is going through to the drainage system between the houses and the Florence Businessplex. Mr. Block stated he does not get into the water run-off calculations for a variance request but the City of Florence engineers will get into those calculations as well as the Planning Commission. Mr. Buttner responded the wall would also contain "headers" in the face of the retaining wall which would absorb the run-off and also noted extensions of pipe and inlets to accommodate the additional run-off.

Chairman Holland suggested the areas of the request be addressed individually. Chairman Holland suggested the request on the parking variance be reviewed, and inquired of the reasoning for the request.

Mr. Buttner explained the need for additional parking as the demand for the type of use of the building has evolved to more of a office type use as opposed to the original intention of a small service type complex. Mr. Buttner stressed that the office use is considered a less intense use than the service type use. Mr. Buttner also stressed the site is very irregular.

Mr. Wilder inquired of the size of the Mall parking spaces. Mr. Block explained the Florence Mall spaces are 9'x20' and most of the Florence Square spaces are 9'x20' as well and that Central Hardware is 10'x20'. Chairman Holland noted the foregoing request is the third request to reduce the parking areas. Discussion followed on angle parking versus head-on parking designs.

Chairman Holland stated that he personally could not find any uniqueness on the site.

Mr. Buttner urged the Board to grant the variance as it would not cause extreme hardship to the surrounding area. Discussion followed of the new parking areas.

Chairman Holland stated that he would personally request the Board to deny the request for the variance on the parking spaces from 10'x20' to 9'x20'.

Mr. Wilder expressed concern of the second part of the variance request which would vary the width of the drive area from the required 24' to a requested 23' in that the 1' difference can make a tremendous difference in fire emergency equipment turnaround.

Chairman Holland stated his previous request was in the form of a motion.

Discussion followed of angle parking and straight-in types of parking.

The motion was seconded by Mr. Wilder. After discussion, the motion carried unanimously.

Mr. Wilder moved that the Board deny the request for the variance from the required 24' feet to a requested 23' for the driveway of the Florence Businessplex in the interest of the public safety and welfare of the public. The motion was seconded by Mr. Holland. After discussion, the motion carried unanimously.

Mr. Buttner urged the Board to reconsider and noted the topography of the site and inquired if the developer could somehow work with the staff to try and solve their dilemma. Mr. Buttner stressed the need for the variance based on the site configuration, topography and others. Discussion followed of intensities, etc.

Chairman Holland explained the Board enforces the zoning regulations as they currently exist.

Conditional Use Permit

Request of Mack Development for a Conditional Use Permit to construct a motel on a 2.81 acre tract located on Dream Street, Florence, currently zoned Office Two, O-2.

Atty. Duane Vincent, represented Dr. Robert West, current owner of the subject property, stated that upon arrival at the meeting tonight he was advised by Counselor Wilson that Mr. Viox (City of Florence engineer) would like to meet with the applicant to discuss the future extension of King Street. Mr. Vincent noted the applicant does meet all the criteria for the conditional use permit at the present. Mr. Vincent explained the applicant does want to work with the City in the spirit of cooperation but that the applicant has a sale pending and an upcoming closing date of June 16, 1985. Mr. Vincent requested that considering the time limitations of his client would the Board hold a special meeting to allow the applicant to meet with Mr. Viox to attempt to address concerns and still meet their upcoming deadlines.

Counselor Wilson explained the matter came about in attempts to address the traffic flow problems in the Dream Street area. Mr. Wilson noted the planning bodies would be appreciative of Mr. Vincent's suggestion in the spirit of cooperation.

Chairman Holland inquired if Mr. Vincent was representing Mack Development. Mr. Vincent responded that is correct he is representing Dr. & Mrs. West as well as Mack Development. Chairman Holland inquired if Mr. Vincent was agreeing to waive any time limitations should an agreement not be reached. Mr. Vincent emphasized that the applicant is willing to work with the community but the issue was only recently brought to his atten-

tion, and he must protect the interest of the sale of his clients. Mr. Vincent again noted that the applicant could proceed at present as they do currently meet the requirements for the conditional use permit but in the spirit of cooperation will request to defer to allow the meetings with Mr. Viox as long as his client's rights are not jeopardized.

Discussion followed of the tentative dates for the special meeting and the time limitations of the involved parties.

Mr. Wilder moved that the Board table action on the proposed request until May 22, 1985 at 6:30 p.m. The motion was seconded by Mr. White. After discussion, the motion carried unanimously.

Administration

Chairman Holland moved that the Board to send a letter of proclamation of the Board's appreciation to former Planning Commission Director Charles Lynn. The motion was seconded by Mr. White. After discussion, the motion carried unanimously.

Chairman Holland inquired why the secretary had requested the Minutes be discussed later in the meeting. Ms. Huddleson responded that she had requested this as there are three sets of minutes for consideration and that each was done by a different party.

The Minutes of March 6, 1985 were considered. It was the general consensus of Board members present that although the Minutes of March 6th (Personnel Pool) did not reflect makers and seconds for each of the noted motions that subject motion were made and seconded, and that the minutes should so be approved. Chairman Holland accordingly moved that the Board accept the Minutes of March 6, 1985. The motion was seconded by Mr. Wilder. After discussion, the motion carried unanimously.

The Minutes of March 13, 1985 were considered (C. Block). Counselor Wilson related that staff member Jeanne Huddleson had noted to him that the discussion as previously discussed at the meeting of March 13 with regard to the "corrections" as proposed by Mr. Wilder on the Corporex hotel proposed for Turfway Road not being able to be made as the tapes did not indicate the suggested "corrections". Counselor Wilson noted the "corrections" were put on as conditions attached to the Conditional Use Permit and thus protecting the interests of the Board. Chairman Holland moved that the Board approve the minutes of March 13, 1985. The motion was seconded by Mr. Wilder. After discussion, the motion carried unanimously.

The Minutes of April 10, 1985 were considered (Archives W/P). Mr. Wilder moved that the Minutes of the meeting of April

10, 1985 be approved as presented. The motion was seconded by Mr. Holland. After discussion, the motion carried unanimously.

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



CHARLES HOLLAND, Chairman

Attest: