

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 - see below
 Design Review Board Hearing and Certificate of Appropriateness

Applicant: Fred Burch Owner Agent

Address: 323 Chelsea Sq.
Florence, Ky Telephone: 3716593 home
525-8888 work

Location: 6 Hreydel Ave Florence Ky.

Name of Property Owner: Robert Webster

Address of Property Owner: 20 Hreydel Ave Florence Ky.

Zone: duplex (duplex) SR-2 Area in Acres: 7500 Sq' 50' x 150'

Deed Book: 218 Page No.: 211 Group No: 234

Description of Request: Need board approval for ~~building permit~~ ^{APPEAL OR} ~~for duplex based on pre-existing use.~~
VARIANCE

Property Owner's Signature: Robert Webster

Date May 23, 1984 Applicant's Signature: Fred Burch

FOR PLANNING COMMISSION USE:

Application date and fee of ⁵⁰ \$150 publication Received: 5/24/84
_{\$100.00}

Referred to: _____ For Meeting Date: _____

Action: _____ Date: _____

BOARD of ADJUSTMENT and ZONING APPEALS

CHECKLIST

I. GENERAL INFORMATION

Applicant's Name: Fred Burch agent for property owned by

Interest in Property: Robert Webster

Location and/or Address of the Property: Drexel Ave. being on
the southeast side of Drexel about 275 feet from its inter-
section of kentaboo Ave.

Deed Book: 218 Page Number: 211 Group Number: 234

Request of the Applicant: an appeal to the Board to find that
the property is pre-existing nonconforming and that a
duplex dwelling to be constructed on the site would also be
permitted for the tract.

Present Zoning and Affected Sections of the Regulations: _____
This would affect section 281 regarding a pre-existing lot of
record and the Suburban Residential Two, SR-2 zone on pages
8-5 through 8-7

Present Use of the Subject Property and the Adjoining property:
All adjoining properties to this request by my knowledge are
all single-family residential. But the current zoning would
permit if they complied to the regulations a duplex on the lot.

FLORENCE BOARD OF ADJUSTMENT

MINUTES

JUNE 14, 1984 . 7:30 P.M.

Chairman Holland called the meeting of the Florence Board of Adjustment to order at 7:35 P.M.. Two (2) members were present. Mrs. Lanigan, Mr. Schreiber, and Mr. White were absent. Staff members present were Mr. Lynn, Mr. Block, Mr. Wilson and Mrs. Ryan.

Chairman Holland stated due to the fact that only two (2) members were present, which does not constitute a quorum, the meeting could not be conducted due to the lack of a quorum and would reconvene Wednesday, June 20, 1984 at 6:30 P.M. at the Florence City Building. Chairman Holland recessed the meeting at 7:40 P.M..

RECONVENED MEETING MINUTES

JUNE 20, 1984

Chairman Holland called the meeting of the Florence Board of Adjustment to order at 6:30 P.M.. Four (4) members were present. Mr. Schreiber was absent. Staff members present were Mr. Wilson, Mr. Block and Mrs. Ryan. Mr. Lynn was absent.

Chairman Holland called for any discussion or corrections on the Florence Board of Adjustment minutes of May 9, 1984. Vice Chairman Bolton moved the minutes be accepted. Chairman Holland seconded; the motion carried unanimously.

Chairman Holland proceeded to the request of Fred Burch, Agent for property owned by Robert Webster, for an appeal or variance to build a duplex based on pre-existing use on a parcel of land located at 6 Drexel Avenue, Florence, in a Suburban Residential Two (SR-2) zoning district being a 7500 square foot tract.

Mr. Block handed out to the Board members a copy of the building/zoning permit application as submitted to the City of Florence which he had reviewed and denied. He continued it is a 150' depth by 50' wide lot. Mr. Block presented his Enforcement Officer's Report.

In response to Chairman Holland, Mr. Block stated that Mr. Burch does not own lots 4,5 or 6, the other side of that is not shown on the plat. Mr. Block stated the site plan is the 2nd page of the building permit which is a hand drawing and is acceptable under the method used in Florence for issuing zoning permits. Mr. Block stated that Mr. Burch proposed a 25' yard

setback for the front yard and 9' side yards. He continued the building would be 24' in depth and 32' across; the rear yard being 101 feet. Mr. Block stated the problem he had with the request is that the property is a 7500 sq. ft. tract and the new zoning regulations require an 8000 sq. ft. lot within an SR-2 zoning district. He continued it also requires the frontage at the building line be 60', this frontage is 50'. Mr. Block stated this is an existing lot of record at 50'; therefore, he could not issue the zoning permit as the building standards for a duplex in the zone were not met. Mr. Block added that Mr. Burch could build a single family residence in that zone.

Vice Chairman Bolton asked where the driveways were located. Mr. Block stated there was no indication of driveways due to the fact it is a 24' duplex. Mr. Block continued his reaction would be the driveways would be located in the side yard running parallel to the sides of the house.

Chairman Holland asked if that would eliminate the 9' sideyard. Mr. Block stated the setback is only required for the building and driveways can be within the yard setbacks. Chairman Holland asked if Mr. Burch were present. Mr. Fred Burch stepped forward.

In response to Chairman Holland, Mr. Block stated that Mr. Burch was required to have 8,000 sq. ft. on the lot and the square footage of the lot is 7500 sq. feet.

General discussion was held pertaining to the driveway requirements and location thereof according to the zoning regulations. Mr. Block outlined the driveway requirements under Section 1822 and the parking requirements under Section 1810.

Chairman Holland expressed his concern pertaining to the parking. Mr. Burch stated there would be a private driveway on each side.

Vice Chairman Bolton asked if a 25' variance would be needed.

In response to Vice Chairman Bolton, Mr. Block referred to Section 281 of the current regulations regarding the hardship clause and that the old zoning district would have had a 25' setback.

Mr. White asked what the setback is on the existing houses.

Mr. Block stated almost all of the houses are setback 25' although some were back further because of the topography.

Mr. Block stated most of the setbacks were 25' where Mr. Burch is proposing to develop. In response to Vice Chairman Bolton, Mr. Block stated he had never taken a stance as a recommendation to the Board before but did deny the permit due to the fact the lot is 7500 sq. ft.. Mr. Block continued he would not be denied the right to build on the lot if the request was for single family residential.

Chairman Holland asked if anyone were present to speak for or against the proposal.

Mr. Burch stated he would like to speak in favor of the request. He continued he had originally planned to have his attorney represent him but he was unable to attend the meeting. Mr. Burch stated his attorney had given him some notes which he requested him to bring before the Board. Mr. Burch stated their point to appeal the zoning situation is based on pre-existing. He continued the lot was actually zoned in 1948. Mr. Burch added he had a copy of the plat if the Board chose to review it. He stated at that time pre-existing zoning allowed to his understanding a one or two family situation, which it still does today. Mr. Burch further stated based on the suit between Creative Displays and the Florence Planning Commission in 1980 or 1981 to his understanding the regulations at that time were found to be not in force prior to this suit. Mr. Burch stated his attorney, Mr. Dusing, informed him that because of that suit, there was no prior regulations and what they are really referring to is a legal question as to whether or not that duplex can go in. Mr. Burch continued he had talked to Mr. Block when they had originally had the problem in obtaining the permit and that Mr. Block indicated if that would be the case they could put commercial in, or whatever. Mr. Burch stated he discussed this with Mr. Dusing and that Mr. Dusing stated that would not at all be the case since it was never zoned anything other than one or two family. Mr. Burch pointed out they are meeting the regulations as far as zoning is concerned for one or two family. He stated this would be a two family structure for residential purposes. Mr. Burch further stated what they are not meeting is the regulation which requires the square footage, therefore, are appealing for a size variance. Mr. Burch stated Mr. Dusing informed him that the legal questions, which Mr. Wilson would understand was that there was in fact no in effect regulation prior to the 1980 or 1981 suit with Creative Displays. Mr. Burch stated they planned to improve the areas with the project. He continued it is a nice brick and frame structure for residential housing. He further stated he would not want to build anything that he is going to then own that would not be a nice place. Mr. Burch stated it would be well above the average price range of the housing that is currently right in the area.

Mr. Burch stated there are a lot of very similar properties to this in the immediate area on Drexol Avenue. He continued he thought the real question here is that of a legal question and that it has to do with the regulations with the size variance and the zoning prior to the law suit.

Mr. Wilson stated our office was involved with the Creative Display lawsuit. Mr. Wilson further stated he would agree that what is in front of the Board is not a question of any use being allowed. He continued the use would have to conform to the zoning regulations on useage and that this use is a principally permitted use in the SR-2 zone. Mr. Wilson stated the question was the size of the lot. Mr. Wilson pointed out Section 281 of the present regulations took into account there were some old subdivisions with lots of records and that a lot of the older subdivisions had lots with 50' frontage. Mr. Wilson stated this lot goes back to 1948 to the zoning regulations prior to these and that would still be a pre-existing lot as to those regulations. He continued those were adopted in 1964.

Mr. White expressed his concern as to the legality of the Board acting on this request.

Mr. Wilson stated the applicant was present due to the present frontage requirements.

In response to Vice Chairman Bolton, Mr. Block stated Highridge was zoned SR-2 and that it contained frontages of 50 and 60 foot. He pointed out redivisions had occurred on a number of the lots. Mr. Block further stated to his knowledge none of the lots had 50' frontage unless there was some type of a variance granted.

Mr. White stated he has duplexes across the street from his residence and pointed out variances were granted on those duplexes on Curtis Avenue.

Mr. Wilson stated the regulations in 1964 and when they were administering Creative Displays had the same type of provisions as the present regulations regarding lots of record. He continued in those instances if a frontage problem was involved, they had to apply for a frontage variance. Mr. Wilson stated if this was an odd lot which could be attached to the lot next to it, it would be a different question. In response to Mr. White, Mr. Wilson stated in his opinion the only legal thing for the Board to take action on would be the question of the frontage.

In response to Vice Chairman Bolton, Mr. Burch stated he could cite several 50 foot lots that are on Highridge, Curtis and Goodridge. Vice Chairman Bolton asked if variance requests for those lots were heard by this Board.

Mr. Block stated at one time or another those pertaining to Highridge did come before the Board.

Mr. White stated if the Board has granted previously to build duplexes on 50 foot frontage lots, he sees no reason to deny the request. Mr. White moved a variance be granted to permit the construction of the duplex on the 50' X 150' lot; Mrs. Lanigan seconded. A roll call vote was taken. The motion carried three yes, one no. Chairman Holland voted no.

Chairman Holland proceeded to the request of American Sign Service, Agent for Chelsea Moore for a sign variance for additional square footage for tenant panel signs on the existing free standing sign for property located on Mall Road Square, Florence, in a Commercial Two (C-2) zone on a 4.84 acre site.

Mr. Block presented the Enforcement Officer's Report.

Chairman Holland asked if anyone was present from American Signs.

Mr. Tom Weikel stepped forward to speak on behalf of the request.

Chairman Holland questioned if the Board granted this variance if this sign would take the place of future signs being erected servicing the stores. Mr. Block stated as he understood the applicant's request, it is Chelsea Moore's desire to add to the existing free standing sign and not have a second free standing sign. Mr. Block continued he assumed the applicant would be willing to agree as a condition of the variance that no more free standing signs would be permitted on the property if reasonable sign area was added.

Mr. Weikel stated the reason for the additional signage request is for other tenants. He continued presently there is only room on the sign for four tenants and there are 16 tenants in that center. Mr. Weikel pointed out that was one of the problems incurred with leasing some of the stores was the lack of identification on the road. Mr. Weikel stated that Chelsea Moore is willing to waive the right to an additional pole sign. He continued they do not want to clutter the property with an additional pole sign and would rather have them all on one structure.

Chairman Holland asked if there were any questions from Board members.

In response to Mr. White, Mr. Weikel stated the top section of the sign is to advertise messages.

The Board members proceeded reviewing the site plan.

Chairman Holland asked for further questions. Chairman Holland asked if anyone were present to speak for or against the request. No one responded. Chairman Holland moved that a sign

variance of 62' be granted for a total sign area of 312 sq. ft. with the condition that no additional free standing signs be permitted in this area for the Mall Road Square Shopping Center; Mr. White seconded. Chairman Holland asked for further discussion. A roll call vote was taken. The motion to grant the request carried unanimously.

Chairman Holland proceeded to the request of United Signs Inc., for a variance to allow three building mounted signs to be erected on the G.D. Ritzey's Restaurant, for property located at Mall Road, Florence on an 0.562 acre site in a Commercial Two (C-2) zoning district.

Mr. Block handed out the original site plan along with pictures of the two types of signs they currently have on the building. Mr. Block noted that G. D. Ritzey's has two existing building signs on their property; this request being for a third one. Mr. Block stated they are planning to relocate one existing building mounted sign to another part of the building and placing the new sign on the third side. Mr. Block presented the Enforcement Officer's Report. In response to Chairmann Holland, Mr. Block stated there would not be any need for action on the relocating of the existing building mounted sign. Mr. Block pointed out Chuck E. Cheeses was previously granted a variance by the Board for a third building mounted sign with the condition that no free standing sign would be allowed and if one would be applied for, one of the building mounted signs would have to be removed.

Chairman Holland asked if anyone were present to speak on behalf of G.D. Ritzey's.

Mr. Mike Cassidy of United Signs stepped forward and stated they were requesting a third building mounted sign and that G.D. Ritzey's is prepared to waive their right to a free standing sign in front. He continued G.D. Ritzey's are of the same attitude as Chuck E. Cheeses. Mr. Cassidy stated most of the new G.D. Ritzey's restaurants have a free standing sign in front of their building. He continued they do not want to utilize the option for a free standing sign and would prefer to have building mounted signs. Mr. Cassidy further stated they were prepared to waive that particular option on the free standing sign and request a third building mounted sign with the same understanding that if they were to utilize the option for the free standing sign, one of the building mounted signs would have to be removed. Mr. Cassidy continued G.D. Ritzey's has been established at that location, done their marketing at this point, but do not feel that they are getting sufficient exposure from the current signage. He continued G.D. Ritzey's feel that theirs is a kind of an economic hardship in that they are not getting the exposure that they need in order to attract customers. Mr. Cassidy stated G.D. Ritzey's requests a third building mounted sign and waive their rights to the free standing sign under the same conditions as Chuck E. Cheeses.

Chairman Holland called for any questions from Board members. Chairman Holland asked if anyone were present to speak for or against this request.

Board members reviewed the site plan.

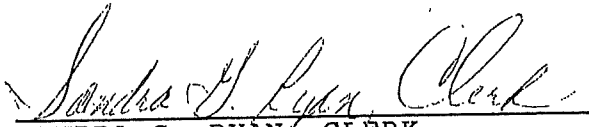
Chairman Holland called for further comments from Board members.

Mrs. Lanigan stated if this situation was the same as Chuck E. Cheeses, she could see no reason to deny the request.

Mr. White stated his agreement with Mrs. Lanigan. Mr. White moved the request for the third building mounted sign be granted with the condition that the free standing sign be waived; Mrs. Lanigan seconded. A roll call vote was taken. The motion carried unanimously.

Chairman Holland called for any additional business. No one responded. Chairman Holland moved for adjournment; Vice Chairman Bolton seconded. The meeting adjourned at 7:10 P.M..

RESPECTFULLY SUBMITTED:


SANDRA G. RYAN, CLERK

APPROVED: _____

CHARLES F. HOLLAND
CHAIRMAN