

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

APP. #100
 PUB. 65
 #4⁰⁰x 7 = 28
 T #193

Applicant: CALVIN T. WALLACE, P.E. Owner

Address: 825 ABERDEEN RD. Agent

PARK HILLS, KY 41011 Telephone: 581-8881

Location: 7211 U.S. 42, FLORENCE

Name of Property Owner: LEE C. HESS & JAMES R. SCHRAND

Address of Property Owner: 7211 U.S. 42, FLORENCE, KY 41042

Zoning District: C-2 Area in Acres: 0.4516 ±

Deed Book: 208 Page Number: 360 Group Number: 2042

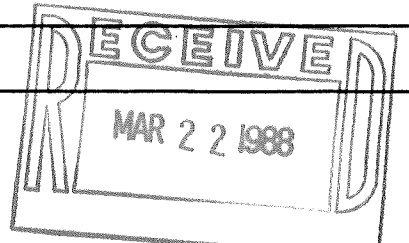
Description of Request: MINOR SET-BACK ENCROACHMENT FOR ADDITION OF ENCLOSED STAIR & REAR ENTRY (5.0 x 52) FOR ACCESS TO PROPOSED PARTIAL 2ND-STORY ADDITION. ORIGINAL STRUCTURE WAS DESIGNED & BUILT FOR THIS PLANNED. ORIGINAL WAS CONSTRUCTED PRIOR TO CURRENT SET-BACK REGS & SITED W/ PARKING TO SIDE & REAR.

Applicant's Signature: *Lee C. Hess & James R. Schrand*

Property Owner's Signature: *L.C. Hess, md*

Application Fee: #193 FOR PLANNING COMMISSION USE ONLY Date Received: 3/22/88 By: *fi/MB*

Referred To: _____ Meeting Date: _____
 Action Taken: _____ Date of Action: _____



STAFF REPORT

*approved with condition
of landscaping
Unanimous
Reason for
hiring another
doctor*

APPLICANT: Calvin Wallace, P.E.
DEVELOPMENT: addition onto doctor's office
LOCATION: 7211 U.S. 42, Florence
ZONING: Commercial Two (C-2)
DATE: April 13, 1988; 7:30 p.m.

REMARKS:

The applicant is requesting a side yard Variance in order to allow the construction of a stairway addition. The 0.45 acre site, which is located at the northeast corner of U.S. 42 and Gibbons Street, is zoned Commercial Two (C-2) and is owned by Doctors Lee Hess and James Schrand.

The 1986 Boone County Zoning Regulations require offices and commercial structures in C-2 zoning district to maintain a 75 foot front yard setback. For corner lots, one-half of this figure or 37.5 feet is the required side yard setback for the yard facing the secondary street. This medical office, however, was built prior to the current Zoning Regulations with a front yard of 25 feet and a side yard of 32 feet.

The applicant is proposing to construct a second-story addition onto the existing one-story structure. This new building does not affect the required or established setbacks. The reason this request is before the Board is because the applicant is proposing a 5 foot wide stairway addition onto the west side of the building. This new construction will encroach upon the established side yard setback line of 32 feet and therefore requires a Variance.

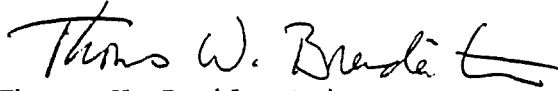
The property owners have supplied the Board with a review of "specific findings of fact" (see attached). The following is staff's review of the four standards the Board must use when evaluating Variance requests:

1. Pre-existing, non-conforming setbacks are the special circumstances which give rise to the need for a side yard Variance. However, the majority of structures in the general vicinity were built prior to 1980 and therefore have non-conforming setbacks.
2. Strict application of the Zoning Regulations would require the applicant to construct the stairway either internally, on the opposite side of the structure, or onto the rear of the building. The Board should consider whether or not an unnecessary hardship would be created should the Variance be denied.
3. The non-conforming setbacks are not the result of the actions of the applicant taken after the adoption of the 1980 Zoning Regulations.
4. Staff can find no reason why, if granted, the Variance would adversely affect the public health, safety or welfare. However, the Board should consider that the character of the area may be altered should there be a substantial loss of landscaping during construction.

Staff Report - Calvin Wallace
April 13, 1988
Page Two

Should the Board grant this Variance, staff would suggest as a condition of approval that after construction the site be attractively "re-landscaped." Since the applicant has a Site Plan pending before the Boone County Planning Commission, it would be appropriate for a detailed landscaping plan to be reviewed, modified as needed, and approved.

Respectfully submitted,

A handwritten signature in cursive script that reads "Thomas W. Breidenstein" followed by a horizontal flourish.

Thomas W. Breidenstein,
Zoning Enforcement Officer

TWB:mcb

Attachment

CITY OF FLORENCE
BOARD OF ADJUSTMENT

April 13, 1988 - 7:30 P.M.

BOARD MEMBERS PRESENT:

Mr. Ashcraft
Chairman Holland
Mrs. Meihaus
Mrs. Ward
Mr. White

BOARD MEMBERS NOT PRESENT:

None.

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Chairman Holland stated that each member had received a copy of the Minutes of the Board of Adjustment Meeting of March 9, 1988 and asked if there were any comments or corrections.

Mr. White noted that the time of the meeting was incorrectly shown to be 6:30 P.M.. The correct time of the meeting was 8:00 P.M..

Mr. White moved that the Minutes be approved with the above correction. Mr. Ashcraft seconded the motion and it carried unanimously.

AGENDA ITEMS:

3. The request of Calvin Wallace, P.E., for a side yard Variance in order to allow the construction of a stairway addition. The 0.45-acre site, located at the northeast corner of U.S. 42 and Gibbons Street, is zoned Commercial Two (C-2) and is owned by Doctors Lee Hess and James Schrand.

Staff Member, Tom Breidenstein, presented the Staff Report which included a slide presentation. In addition to the Staff concern regarding landscaping, Mr. Breidenstein noted that there is also a concern for additional parking. He suggested a possible shared parking arrangement with the property owner to the north, Homestead Construction.

Chairman Holland asked Mr. Wallace for his comments in regard to the parking.

Mr. Wallace stated that they believe they have adequate parking at this time. He stated that they are not hiring new people, but just moving the offices that are downstairs upstairs. The landscaping will be done after construction. He stated that possibly one tree will be lost and they will replace it. He added that the first floor will become an emergency room and X-ray area. Three doctors will be moved upstairs and there will be storage upstairs, as well as a meeting room for the personnel. A new doctor will be hired and there will be a room for special treatment. He added that they are making the entrance in a particular way as they have emergency patients arriving on stretchers.

Chairman Holland asked if there was anyone present who wished to speak in opposition to this request. There was no one present in opposition.

There being no further discussion, Mr. White moved that the 5-foot Variance be granted and that there be a follow-up review of the landscaping as indicated in the Staff Report. Chairman Holland seconded the motion and it carried unanimously.

1. The request of Fellowship of Believers for a Variance in order to install a 192 sq. ft. sign onto the roof of their church building. The 7.5-acre site, located on Hazel Court between Highridge Drive and I-75, is zoned Suburban Residential Two (SR-2) and owned by the Fellowship of Believers, Inc..

Staff Member, Tom Breidenstein, presented the Staff Report which included a slide presentation (see Staff Report). He noted that the applicant is also requesting a waiver of all soft costs and a refund of \$100.

Mr. ^{Gary} ~~Jerry~~ Dawson, Assistant Pastor, stated that their building is not identifiable as a church and they want to make it more visible.

Chairman Holland asked if a study had been done in regard to a 4' x 48' sign.

Mr. Dawson stated that a professional sign man, who is a member of their church, designed the sign and will install it. The sign is comparable to the Signature Inn sign in regard to the size of lettering. The letters will be block style on a beige plywood background. The sign will be illuminated with shadow lighting from the ground.

Mr. Ashcraft questioned that if the Board simply allows a Variance for a 192 sq. ft. sign, could a future owner of the site change the configuration of the sign and erect a different type of sign if there are no restrictions on the approval.

Mr. Breidenstein advised that should the use on the site change, presumably the zoning would have to be adjusted. He noted that the property is zoned residential and there is a Conditional Use Permit. He noted that the allowability of the signage would change with a zone change.

In response to further questions from Mr. Ashcraft, Mr. Breidenstein advised that should a condition of approval be that the sign be 4' x 48' and as presented this evening, this condition would be recorded in the Clerk's Office and would attach to the land.

Mr. White questioned if a condition of approval could be that, should the property cease to be used as a church, the sign would have to be removed. Mr. Breidenstein stated that he believed such a condition would be proper.

Chairman Holland stated that the Board had given the church permission to build in good faith, but the driveway is not paved. He noted that this matter has been brought to the church's attention twice.

Mr. Dawson stated that they have 74 spaces paved at this time and would like to double that amount. He stated that bids for paving are running about \$30,000. He stated that they would do the paving as soon as they could afford it.

Mr. White stated that the entire parking lot needs to be paved. He noted that paving was required of their neighbors, the Kentaboo Baptist Church. Mr. White questioned when the lot would be paved.

Mr. Dawson stated that they are considering refinancing to give them working capital. Sunrise Federal advised them that it would take six weeks to approve the loan.

Chairman Holland requested a date by which the paving would be done.

Mr. Dawson asked that the Board give him 90 days to get bids and financing. He stated that he will then give updated reports as he goes along.

Chairman Holland suggested that Mr. Dawson report to the Staff by the second Wednesday in August to let them know what has been done, or giving a date for the paving.

Chairman Holland advised Counselor Wilson that approval was given three years ago and the lot has still not been paved.

Counselor Wilson stated that the paving of the lot could be a condition of the sign Variance. He stated that if progress was not made by August, then the sign permit could be revoked, resulting in a criminal violation.

Mr. Ashcraft stated that he would not be in favor of issuing a criminal citation to the church, but noted that the Board has an obligation to see that conditions made three years ago are satisfied.

Mr. Dawson stated that the pastor thought he was in compliance by having the 74 parking spaces paved.

Chairman Holland stated that he asked Mr. Kelley three years ago if he understood that the parking lot had to be paved or blacktopped, and he indicated that he knew that.

Mr. Dawson stated that the drainage devices were installed. He stated that they do not have a drainage problem. They propose to put in 2½ inches of blacktop.

Mr. Breidenstein advised that the church may be required to go through Site Plan Review and at that time, the Staff's engineer can determine if any additional stormwater runoff adversely affects the neighbors.

There being no further discussion, Mr. Ashcraft moved that the Variance be granted but that the installation of the sign be held up, as a condition of the Variance, until the applicant presents a plan and a contract to the Planning Commission for Site Plan Review for the paving of the parking lot. Also, approval is subject to the conditions: (1) that the Variance is effective only as long as this property is used for a house of worship and at such time as it ceases to be used as a house of worship, the Variance for the sign lapses; (2) that the sign be of the same design and size (4 feet by 48 feet), with letters no larger than 2'6", and be in the same location, as shown on the applicant's drawings presented to the Board this evening; (3) that no illumination of the sign be permitted except for indirect lighting, such as flood lights from the ground; and (4) that the \$100 fee be waived. Mrs. Meihaus seconded the motion and it carried unanimously.

2. The request of Styles by Janice for a Variance of 20 feet to allow a landscaped buffer of 5 feet. The 0.274-acre site, which is located between Art's Tool Rental and an office at the northeast corner of KY 18 and Glenn Street, is zoned Commercial Two (C-2) and is owned by Myer and Betty Senchyshyn.

Staff Member, Tom Breidenstein, presented the Staff Report which included a slide presentation (see Staff Report).

Chairman Holland asked for comments from a representative of the applicant.

Mr. Terry Boling, representing Styles by Janice, stated that if the Variance is granted the four parking spaces in front of the building could be moved to the rear. He stated that the lady who runs the beauty parlor lives in the building. He indicated on a drawing how the landscaping buffer area would be moved to accommodate the four parking spaces in the rear. They are talking with Miss Sowder about joint access on KY 18, but have not been given a definite answer. He noted that there is a driveway on the side of the house to the rear.

Mr. Breidenstein advised that the driveway could be widened to meet the minimum standard. He added that a letter has been received from Mr. Baeten, the adjoining property owner to the rear, indicating that he has no objection to the request. He stated that the residents to the rear should be protected and there is space for at least five feet of landscaping. Staff's position is also that the public view of the building, which would be from KY 18, should also be protected and beautified as much as possible.

In response to questions from Mr. White, Mr. Breidenstein stated that the applicant lives with the owners of the property and, therefore, there may be a need for more than two additional parking spaces.

Mr. White noted that the curb cut is not large enough for commercial use.

Mr. Breidenstein advised that the curb cut would need to be widened for two-way traffic, but the applicant would have to contact the Transportation Cabinet in this regard. He noted that joint access with Art's Tool Rental may be required.

Chairman Holland asked if the owners of the property were aware of this request. Mr. Boling stated that the owners are aware of the request.

Mr. Breidenstein advised that the application had been signed by one of the property owners. The signature has not been verified.

Mr. White questioned if a 20' buffer would be possible with the parking in the rear.

Mr. Breidenstein advised that with a 20' buffer, they could only have five parking spaces.

Janice Caudill stated that there are three chairs in the beauty parlor. She has talked with Vivian Sowder, the adjoining property owner, about joint access and has been advised that the property will need to be surveyed.

Mr. White noted that Mr. Baeten may object to a 5-foot buffer area.

Mr. Breidenstein read the letter received from Mr. Baeten (copy attached to the Staff Report). He stated that he believed that applicant had spoken with Mr. Baeten. He added that the applicant will need to have Site Plan Review, noting that there is a difference in elevation between this property and the adjoining lot.

Counselor Wilson noted that shared access would be a subject of Site Plan Review. Mr. Breidenstein agreed and noted that the only issue before the Board is the Variance.

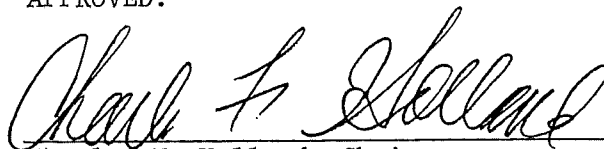
There being no further discussion, Mrs. Meihaus moved that a Variance of 20 feet be granted to allow for a landscape buffer of five feet, subject to the conditions that: (1) a detailed landscaping plan be submitted for review and approval by the Planning Commission; (2) the proposed parking area in the front be eliminated; and (3) that the possibility of shared access from Glenn Street be explored. Mr. White seconded the motion and it carried unanimously.

BOARD ITEMS:

Counselor Wilson advised that oral arguments have been scheduled for the McDonald's appeals on April 15, 1988 at 1 P.M.. Board members do not need to be present.

There being no further business to come before the Board, Chairman Holland moved, seconded by Mr. White, that the meeting be adjourned. The meeting was adjourned by unanimous consent at 8:45 P.M..

APPROVED:


Charles F. Holland, Chairman

ATTEST:


Jan Hancock, Recording Secretary