

APPLICATION FOR ZONING ACTION

Lot 74

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: Joe Morrison  Owner  Agent  
 Address: 612 East 20<sup>th</sup> Covington Ky.  
41014 Telephone: 491-7339

Location: 31 West Cobblestone (Lot 74)

Name of Property Owner: Joe Morrison

Address of Property Owner: 612 East 20<sup>th</sup> Covington Ky. 41014

Zoning District: SR-1/PD Area in Acres: \_\_\_\_\_

Deed Book: 346 Page Number: 124 Group Number: 1756

Description of Request: \_\_\_\_\_

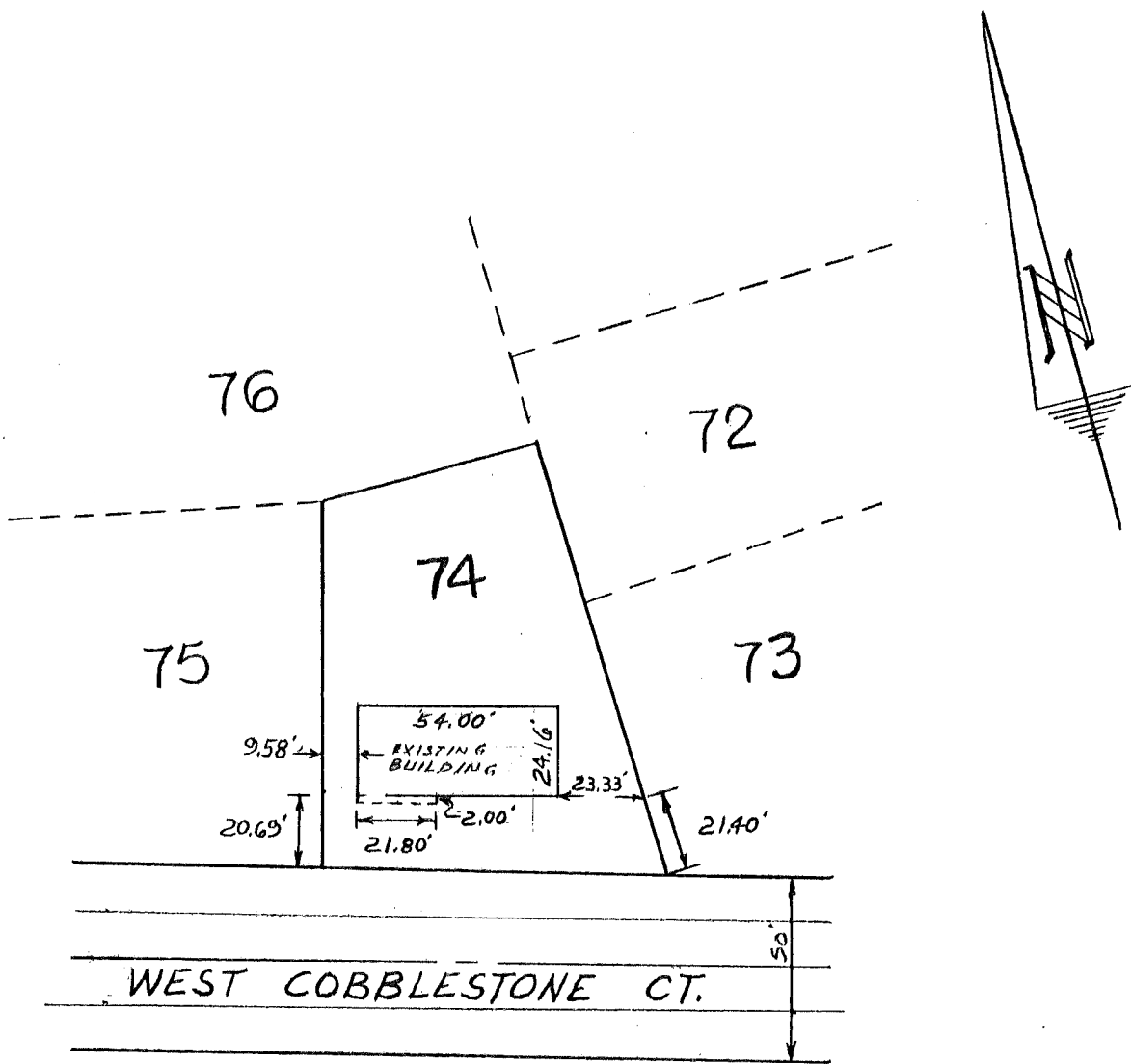
Applicant's Signature: Joe Morrison

Property Owner's Signature: Joe Morrison

Application Fee: 986.50 <sup>FOR PLANNING COMMISSION USE ONLY</sup> \$50 + (65 ÷ 2) + 4 Date Received: \_\_\_\_\_ By: \_\_\_\_\_

Referred To: \_\_\_\_\_ Meeting Date: \_\_\_\_\_

Action Taken: \_\_\_\_\_ Date of Action: \_\_\_\_\_



STATE OF KENTUCKY  
 JAMES W. BERLING  
 206  
 REGISTERED  
 LAND SURVEYOR

PLOT PLAN  
 FOR: JOE MORRISON  
 LOT 74 STONEGATE MEADOWS SUB.  
 FLORENCE KY.  
 SCALE 1" = 50'      APRIL 19 1988

CITY OF FLORENCE  
BOARD OF ADJUSTMENT

May 11, 1988 - 8:00 P.M.

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BOARD MEMBERS PRESENT:

Mr. Ashcraft  
Chairman Holland  
Mrs. Ward  
Mr. White

BOARD MEMBERS NOT PRESENT:

Mrs. Meihaus

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 April 13, 1988 and asked if there were any comments or corrections.

There being no changes to the Minutes, Mr. White moved that the Minutes be approved as mailed. Chairman Holland seconded the motion and it carried unanimously.

AGENDA ITEMS:

1. The request of Joe Morrison for a Variance in the front yard setback from 30 feet to 20.69 feet for Lot 74, Cobblestone Court, near Shortridge Court (Stonegate Meadows Subdivision). The property is zoned Suburban Residential One/Planned Development (SR-1/PD) and is owned by Joe Morrison.
2. The request of Joe Morrison for a Variance in the front yard setback from 30 feet to 26 feet for Lot 99, Cobblestone Court, near Shortridge Court (Stonegate Meadows Subdivision). The property is zoned Suburban Residential One/Planned Development (SR-1/PD) and is owned by Dan and Joan Curtis.

Staff Member, Tom Breidenstein, presented the Staff Reports, which included slide presentations, for the first two requests and emphasized that the properties in question are zoned Suburban Residential One with a Planned Development Overlay.

Chairman Holland noted that the house next door was properly in line and asked the applicant when his house was not.

Mr. Joe Morrison stated that these are the first two properties he has built and the house next door was constructed after his. He advised that he owns the adjacent lots, with the exception of the corner lots.

Mr. Breidenstein advised that he had signed the building permit applications, as a 30-foot setback was indicated. He stated that Mr. Morrison misunderstood how to measure the 30 feet and had measured from the street, as opposed to the right-of-way line.

Counselor Wilson advised that normally streets are in the center of the 50-foot right-of-way, but the road does not have to be in the center. The pavement is normally 25 feet wide, and can be anywhere within the 50-foot right-of-way.

Mrs. Ward questioned who should have instructed Mr. Morrison in regard to the proper procedure. Mr. Breidenstein advised that this is the responsibility of the builder.

Mr. Morrison noted that on the drawing, the 30 feet was indicated to be from the curb.

Mr. Ashcraft stated that he had visited the site and did not believe there was any economic loss to the adjoining property owners.

Chairman Holland stated that someone needs to advise builders in regard to the proper way to measure.

Mr. Breidenstein suggested that a letter be sent to the developer of the subdivision asking him to be more careful in informing the individual builders of the setback requirements. Mr. Breidenstein noted that Mr. Morrison had come to the Staff in regard to the improper setback.

Mr. Morrison stated that the bank had discovered the one improper setback and he had advised the Staff of the other.

Chairman Holland moved that a Variance of 9.31 feet be granted for Lot #74 and that a Variance of 10 feet be granted for Lot #99.

Chairman Holland asked if there was anyone else present who wished to speak for or against this request or if there were any questions. There being no response, he asked for a roll call vote on the motion and it carried unanimously.

3. The request of Carpenter Sign Service (agent) for Fashion Bug Plus for a Variance in the number of building-mounted signs to allow a second sign reading, "Fashion Bug Plus". The 11.53-acre site, located at the southeast corner of Turfway Road and KY 18 (Thriftway Shopping Plaza) is zoned Commercial Two (C-2), and is owned by the Benderson Development Company, Inc..

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

Mr. Bob Carpenter of Carpenter Sign Service stated that their procedure for the last few years has been that two stores operate under one roof, with Fashion Bug Plus representing 60% to 65% of the business. Each store has its own salespeople. They feel the second sign is necessary as they are operating two separate entities under one roof.

Chairman Holland questioned the size of the proposed sign and Mr. Carpenter advised that it will be 22' x 3'.

Mr. Ashcraft noted that the reason for the Variance is that the two stores have an interconnection.

Mr. Breidenstein agreed. He noted that they have only one occupational license and one store and are, therefore, only entitled to one sign. However, Staff recognizes that there are two separate operations.

Mrs. Ward asked if there was a need for the interconnection between the stores. Mr. Carpenter stated that he did not know about the retail and marketing aspects of the business.

Mr. Ashcraft moved that the Variance be granted to allow the new sign to read, "Fashion Bug Plus". Mr. White seconded the motion.

Chairman Holland asked if there was anyone else present who wished to speak for or against this request or if there were any questions. There being no response, he asked for a vote on the motion made by Mr. Ashcraft and it carried unanimously.

4. The request of Sign Systems and Services (agent) for Mike Albert Leasing for an Appeal of the Zoning Administrator's and Zoning Enforcement Officer's decision regarding flashing signs. The intended location of an electronic message board is on the west side of Woodspoint Drive near Interstate 71/75. The property is zoned Commercial Services (C-3) and is owned by Mike Albert Leasing.

Staff Member, Tom Breidenstein, presented the Staff Report (see Staff Report). He noted that the decision rendered by the Board in regard to this request will have bearing on all the signs in the city.

Chairman Holland asked if there was anyone present in behalf of this request.

Mr. Mike Cassedy of Sign Systems and Services stated that the electronic message center at the corner of U.S. 42 and Industrial Road is a bank. He noted that in Sharonville and Eastgate the zoning ordinances were restructured to accommodate electronic message centers. Mr. Cassedy distributed to the Board copies of a letter he had written, dated May 11, 1988, in regard to their position. He read the letter and noted that sign companies

and developers had input into the sign code when it was drafted. He attended meetings in this regard and questions were raised about electronic message centers. He stated that the regulations were not specifically written to disallow electronic message centers. He noted that over-ground wiring is not permitted for portable signs by the National Electric Code. He noted that electronic message centers were permitted on Mall Road and it was not the intent of the regulations that they be kept out of the county. He noted that there is no documentation that electronic message centers create a traffic hazard, noting that there are three electronic message centers on I-275 in Sharonville. He stated that "nuisance" is a subjective criteria and he did not know how to define it.

Mr. Bob Ryan, Vice President of Mike Albert Leasing, stated that they are a national fleet leasing company and have been in business since 1957, primarily in Evendale. The Florence facility represents an investment of about \$1.5 million. The primary function of this site will be the used car business. They hope to sell in excess of 200 cars per month. He noted that the site is not directly on KY 18 and the elevation drops down. Therefore, they need the height of the sign in the original request and the electronic message center would be an effective marketing tool for them. They would contribute a portion of the sign to the county and the City of Florence for community service.

Mr. White stated that these signs are distracting when sitting at a light, although they may not be as noticeable on the expressway.

Counselor Wilson noted Section 19.02 of the ordinance and noted that the type of sign at the Fifth Third Bank is not totally prohibited. He noted that this is an electronic message center. He stated that the sign is allowed when a public service function is involved.

Mr. Breidenstein advised that the only message that can be flashed is a public service message -- such as the time and temperature. He noted that the Fifth Third Bank flashes a business message on their sign, but this sign is pre-existing, non-conforming.

Mr. Ashcraft noted that this request is an appeal and that Mr. Cassidy is arguing in regard to the intent of the legislation. He stated that in allowing the signs on Mall Road, the intent was to ban the signs elsewhere in the county. He stated that he believes the Zoning Administrator's decision is correct.

Mr. Cassidy stated that when the regulations were drafted, if the intent was not to have message centers anywhere but Mall Road, then it would have been more simple to put in, . . . "flashing lights including electronic message centers. . .".

Counselor Wilson advised that the Staff is taking the literal reading of the Section to indicate that the electronic message center sign is only allowed where its copy provides a public service function.

Mr. Breidenstein advised that the only suggestion they could give the applicant was that he apply for a text amendment. He noted that the sign industry received a zoning text amendment in Sharonville to allow these signs.

Mr. Cassedy stated that electronic message centers were not specifically in the regulations as they wanted this Board to review them individually. He stated that this is not a flashing light -- these lights travel. He stated that the flashing mode could be eliminated. He stated that the regulations were left in a general manner to allow review of each application.

Counselor Wilson advised that what is before the Board is not so much the intent of the Regulations, but the decision reached by the Zoning Administrator. He noted that all the Board can address is whether the decision was appropriate under the language. He noted that the Regulations address flashing, rotating, and moving lights.

Mr. Ashcraft noted that Mr. Cassedy is critical of the drafters of the ordinance for not using the terms, such as electronic message center, that he uses. He noted that these are not common terms and he would not expect them in the ordinance.

Mr. Cassedy stated that these terms were used during the drafting of the regulation.

Mr. White asked if this request could be tabled to get an interpretation.

Counselor Wilson stated that the Commission would not make the interpretation as this application has been denied and this is an appeal. He asked if the application was for movable copy or fixed copy.

Mr. Breidenstein advised that the sign was approved with fixed copy and they made application to revise the sign, including the changeable copy.

Mr. Ashcraft moved that the Board uphold the finding of the Zoning Administrator and the Zoning Enforcement Officer. Chairman Holland seconded the motion.

Chairman Holland asked if there was any further discussion.

Mr. Cassedy asked for approval of a request to use solar dots as an alternative to the electronic message center. Chairman Holland advised that the Board could only hear the appeal at this time, and this request involved a different matter.

Counselor Wilson agreed and stated that the Zoning Administrator had not even reviewed the second request and that this is a review of the Zoning Administrator's decision.

There being no further discussion, Chairman Holland asked for a vote on the motion to uphold the Zoning Administrator's decision and it carried unanimously.

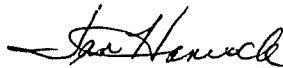
There being no further business to come before the Board, Chairman Holland moved, seconded by Mr. White, that the meeting be adjourned. The meeting was adjourned by unanimous consent at 9:10 P.M..

APPROVED:



Charles F. Holland, Chairman.

ATTEST:



Jan Hancock, Recording Secretary