

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: PONDEROSA, INC. - BRUCE BUSH ^{AREA} MANAGER Owner

Address: 8053 HOLIDAY DRIVE Agent

FLORENCE, KY 41042 Telephone: 606-371-4096

Location: FLORENCE, KENTUCKY

Name of Property Owner: PONDEROSA, INC.

Address of Property Owner: P.O. BOX 578, DAYTON OH 45410

Zoning District: C-3 Area in Acres: 1.247

Deed Book: 350 Page Number: 167 Group Number: 230

Description of Request: TO RAISE CURRENT READERBOARD SIGN FROM 20 FEET IN HEIGHT TO 80 FEET. THIS WILL ENABLE US TO BE MORE COMPETITIVE AND EQUAL IN THE COMMUNITY SURROUNDING.

Applicant's Signature: Bruce C. Bush, Area Manager

Property Owner's Signature: representing Ponderosa, Inc.

FOR PLANNING COMMISSION USE ONLY

Application Fee: 8185 Date Received: 5-17-88 By: UB

Referred To: _____ Meeting Date: _____

Action Taken: DEFERRED Date of Action: 6/8/88

STAFF REPORT

APPLICANT: Ponderosa, Inc.
DEVELOPMENT: Ponderosa Steak House
LOCATION: 8053 Holiday Drive, Florence, Kentucky
ZONE: Commercial Services (C-3)
DATE: July 13, 1988 8:30 p.m.
REMARKS:

The applicant is requesting a Variance to raise an existing twenty (20) foot high sign to eighty (80) feet high to allow the restaurant to be more competitive and equal in sign height with surrounding establishments. The 1.047 acre site, located on the south side of U.S. 42 at the "South I-75" exit ramp on I-75, is zoned Commercial Services (C-3) and is owned by Ponderosa, Inc. This Variance request was deferred at the June 8, 1988 meeting of the City of Florence Board of Adjustments.

The following reviews the four standards applicable to Variances:

1. The applicant feels the special circumstances involved in this request is the restaurant's close proximity to the interstate, and the fact that many surrounding establishments have signs that are 80 or more feet in height, giving them a competitive advantage. Staff's review of this request revealed no special circumstances which do not generally apply to land in the general vicinity, or in the same zone.
2. Strict application of the Boone County Zoning Regulations would limit the sign height a maximum of forty (40) feet. The Board must decide whether restricting the sign to its current height or the maximum allowed height would create an unnecessary hardship on the applicant.
3. The special circumstance of location submitted by the applicant is the result of the action of the applicant. The circumstance of the surrounding business establishment signs is not the result of action by the applicant.
4. If granted, Staff can find no reason why the public health, safety, or welfare would be adversely affected, nor how the essential character of the area would be altered.

Staff notes that the applicant had the option of increasing their sign height to 50 feet under the 1980 Boone County Zoning Regulations. The applicant "flagged" the sign at 80 feet and 60 feet to demonstrate the visual impact of a sign of those heights at that location. The Staff feels that the 60 foot high sign has

the same degree of visibility as the 80 foot high sign. Slides of the flagging will be available for review by the Board at the July 13, 1988 meeting. A copy of a photograph of the existing sign and of the original Site Plan for the restaurant, supplied by the applicant, is attached.

Respectfully submitted,

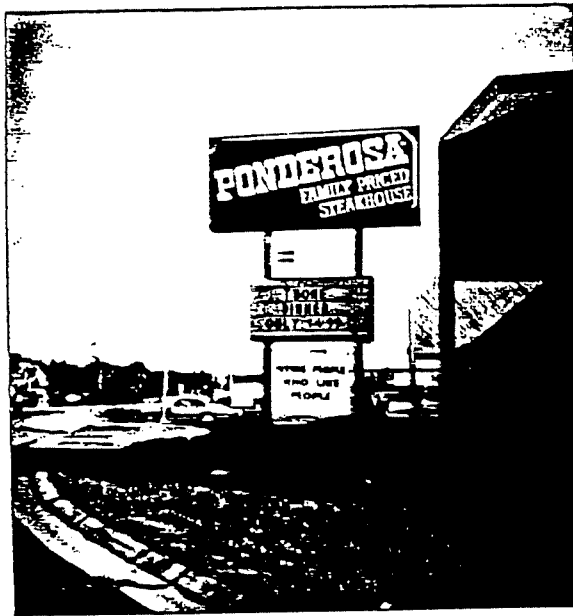


Paul R. Miller
Plans Examiner/Planner

PONDEROSA SIGN VARIANCE

6-8-88

CURRENT
SIGN
HEIGHT:
20 FEET



CITY OF FLORENCE
BOARD OF ADJUSTMENT

June 8, 1988 - 8:00 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 May 11, 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. Mr. Ashcraft seconded the motion and it carried unanimously.

AGENDA ITEMS:

1. The request of Ponderosa, Inc. for a Variance to raise an existing twenty-foot high sign to eighty (80) feet high to allow the restaurant to be more competitive and equal in sign height with surrounding establishments. The 1.047-acre site, located on the south side of U.S. 42 at the "South I-75" exit ramp on I-75, is zoned Commercial Services (C-3) and is owned by Ponderosa, Inc..

Staff Member, Paul Miller, presented the Staff Report which included a slide presentation (see Staff Report).

Chairman Whitton asked if there was anyone present who wished to speak in behalf of this request.

Mr. Bruce Bush, Area Manager for Ponderosa, Inc., stated that it will cost \$30,000 to raise the sign and before spending that money, they need the Board's approval. They are investing \$200,000 in remodeling the restaurant and want to be competitive.

Mr. Ashcraft questioned how long the restaurant had been in business and whether the restaurant gets the benefit of other signs in the area.

Mr. Bush stated that the restaurant has been in business for 13 years. He stated that they do not get the benefit of other signs in the area. He noted that their business is down about 22% from last year and many people that come in say they didn't know the restaurant was there. He stated that the higher sign would help their business. He stated that the drop in business is due to the sign, and noted that the competitions' business has increased. He added that they do about \$11,000 worth of business per week. Their breakeven point is \$9,000 to \$10,000 and they may have to close.

In response to a question from Chairman Holland, Mr. Bush advised that the sign company they are using is Cummings of Dayton, Ohio.

Chairman Holland advised that a flagging of the sign is necessary. He suggested that the sign be flagged at 40 feet, 50 feet, and 80 feet and that pictures be taken from the expressway. He noted that Mr. Bush may find that he does not need the Variance. He questioned why they wanted an 80-foot high sign.

Mr. Bush stated that the restaurant next door has an 80-foot high sign, and the sign may be higher.

Chairman Holland advised that the signs in the area were put up in consideration of the topography. He recommended that the request be tabled until the July meeting to allow for flagging of the sign.

Mr. Bush stated that they would like to go to 40 feet and then return next month with pictures. Chairman Holland advised that the regulations allow them to go to 40 feet.

Mr. Miller noted that the applicant does not need a Variance to go to 40 feet, but he does need a sign permit.

Counselor Wilson advised that the applicant can withdraw the request for an 80-foot sign, or he can waive the 60-day time limit and come back to the Board if he finds that he needs the Variance.

Mr. Bush stated that he will waive the time limitation.

Chairman Holland stated that it would be helpful to have a Board member present at the flagging. Mr. Bush stated that he will contact the Staff Office when the flagging is to be done.

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

There being no further discussion, Chairman Holland moved that the request be tabled to allow for an artist's rendering and pictures of the flagging. He noted that the applicant has waived the sixty-day time limitation. Mrs. Ward seconded the motion and it carried unanimously.

2. The request of Michael Bryant for Delightful Days RV Center for an Appeal of the Zoning Administrator and Zoning Enforcement Officer's decision regarding the expansion of a pre-existing, non-conforming use. The subject property is located directly behind the American Legion Boone Post #4 at 8385 U.S. 42 and northeast of the current Delightful Days RV Center at 8397 U.S. 42, Florence. Both properties are zoned Commercial Two (C-2).

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

Chairman Holland asked if a Site Plan had been submitted. Mr. Bryant stated that Mr. Ament is working on the Site Plan, which has not been submitted. Mr. Bryant advised that they are leasing the property.

Mr. Breidenstein advised that this is a pre-existing, non-conforming use that has expanded. Staff feels they are responsible for the Site Plan.

Mr. Bryant advised that the delay is not intentional. They have submitted paperwork to the lessor, but they only meet once a month.

Mr. Breidenstein stated that a non-conforming use cannot be expanded and Mr. Bryant needs to withdraw within the confines of his previous approval. He stated that there have been four months of delay and during that time, closer examination of the matter revealed that the expansion was not proper.

Mr. Breidenstein added, as indicated in the Staff Report, that Mr. Bryant and the American Legion do not have sufficient property to request a zone change. The only solution Staff can see is to request a text amendment allowing the use in the zone.

Discussion of the Permitted Uses in the C-2 and C-3 Zones followed.

Mr. White stated that he has visited the site. The front of the property has been changed by the State and the applicant needs relief. He noted that the area taken over by Mr. Bryant was a grassy field.

Mr. Bryant stated that the State took 45 feet from the front of his lot, which makes it impossible to get the delivery vehicles on and off the lot. He stated that part of his property will be returned, but that will take at least two years. They are trying to stay in business and take care of their customers, as well as consider safety.

Counselor Wilson advised that part of Mr. Bryant's activity is legal. However, Mr. Bryant has expanded a pre-existing, non-conforming use to a previously unused area that does not have pre-existing, non-conforming status -- which is the violation. If the grassy area had previously had a non-conforming use, then the Board could allow a substitution of one non-conforming use for another, but this is not the case. Counselor Wilson noted the process required for a text amendment. He advised that the Board does not have the authority to allow uses in a zone not provided for in the regulations.

Mr. Ashcraft stated that he is sympathetic to Mr. Bryant's problem, but suggested that he seek legal counsel.

Mr. Bryant stated that he has talked with the adjacent property owners and they are pleased with what he has done with the grassy lot.

Chairman Holland questioned if the grassy lot could be declared an access road for turning purposes and not for storage or selling. Mr. Breidenstein advised that this would be considered an expansion of the non-conforming use. He noted that the record of this meeting would show that the expansion was for the pre-existing, non-conforming use.

Mr. Ashcraft noted that the effect of the taking of the lot frontage may be to put Mr. Bryant out of business.

Chairman Holland asked if there was anyone else present who wished to speak regarding this request.

Mr. David Osborne stated that he is not representing the city at this meeting. He stated that they have tried to protect the "mom and pop" operations. He stated that Mr. Bryant had greatly improved the grassy lot and the gravel he put down even helped the drainage problem. He noted that Mr. Bryant admits he did not know he needed a Site Plan and the surveyor he contacted put him on the back burner. He noted problems with vehicles getting on and off the site since the road improvement. He stated that Mr. Breidenstein has followed the guidelines in regard to this matter, but he would like to see Mr. Bryant protected.

Mr. White noted that even if the Board overrules Mr. Breidenstein, it would not help Mr. Bryant as it is not within the Board's jurisdiction to allow him to use the lot.

Counselor Wilson noted the Conditional Uses in the C-2 Zone and stated that a text amendment making this use a Conditional Use may be appropriate. Mr. Breidenstein noted that a text amendment may take as long as five months.

Chairman Holland encouraged Mr. Bryant to get an attorney and request a text amendment. Mr. Breidenstein agreed.

There being no further discussion, Mrs. Meihaus moved that the Board uphold the Zoning Administrator's decision. Mr. White seconded the motion and it carried unanimously.

3. The request of Lackner Custom Sign Company for Mike Albert Leasing for an appeal of the Zoning Administrator and Zoning Enforcement Officer's decision regarding signs with electronically changeable copy. The intended location of the sign 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).

Mr. Bob Ryan, Vice President of Mike Albert Leasing, stated that they want to take a site that has historically been a failure and turn it into a viable business. They have changed the topography, but the site is located behind the Chevron station and does not have visibility from the expressway. They want to increase the awareness of their business in the community. This sign will attract traffic to the site and increase their business. He stated that other business have an advantage in that they sell more cars to direct customers and have better visibility. They are willing to invest nearly \$100,000 in this sign. They are willing to give a percentage of the sign to the community.

Mr. Cassedy, representing the sign company, stated that he had run a stopwatch on KY 18 and I-75 and the maximum time he could read the sign was 3.5 minutes. They change their copy every five minutes and one would not see the copy change unless they were there when the copy changed. He stated that the main problem at the last meeting was the flashing lights. This system is not the same and costs about \$45,000 more than the flashing light system. He distributed to the Board a memo entitled, "Mike Albert Changeable Copy", which he reviewed. He also displayed a rendering of the proposed sign. He presented pictures of the Holiday Inn sign in Fort Mitchell. Mr. Cassedy stated that the proposed sign contains fluorescent lights and a computer tells the sign when to change the copy. He stated that these signs are cost-prohibitive and were not considered in the new zoning regulations. A 20-amp. circuit powers the sign. They would like to change the sign about every half-hour. He noted that the sign would be down in a hole and needs to be 80-feet high. Therefore, they need an electronic message center as it cannot be changed manually. He stated that there aren't any of the signs in Florence, but other signs are changeable copy.

Mr. Ashcraft noted that if the appeal is granted, the Board has no control over how often the message changes.

Counselor Wilson stated that a proper condition would be an appropriate control device or mode limiting the number of copy changes.

Mr. Breidenstein advised that if the appeal is upheld, then the city is opened up to this type of sign and the condition may be difficult to enforce.

Mr. Cassidy stated that electronic changeable copy which was incandescent was addressed in the original zoning regulations under Section 1901.2.

Mr. Ashcraft asked Mr. Cassidy to explain why the sign he proposes is not electronically changeable copy.

Mr. Cassidy stated that it is changeable copy, but it is computer driven. He stated that the zoning code does not define changeable copy as copy that is changed manually. He stated that not every business will buy this sign as it is cost prohibitive and their location does not warrant it.

Counselor Wilson stated that a mode could be identified to eliminate what may be a violation, noting a previous case involving flashing lights in which this was done.

Mr. Breidenstein stated that he had seen a videotape of the sign and it is very attractive, but the regulations as written have to be used in making a determination. The Zoning Administrator is charged with classifying uses not classified in the regulations.

Mr. Cassidy stated that their location is an extension of the Mall Road District.

Mr. Breidenstein stated that if their decision is upheld, then the applicant has the option of applying for a text amendment allowing these types of signs, possibly as Conditional Uses to allow the Board to have control over the modes.

Mr. Ashcraft stated that Mr. Cassidy's interpretation of the Mall Road Sign District is not valid and noted that that area has been singled out for electronically controlled signs.

Mr. Cassidy stated that Mike Albert Leasing has a geographic hardship. The sign sits down in a hole and must be high enough to be seen. The copy on the sign cannot be manually changed due to the height of the sign.

Mrs. Meihaus stated that the sign is electronically changeable and such signs are only allowed in the Mall Road District.

Mr. Ashcraft asked if this site could be considered part of the Mall Road District.

Mr. Breidenstein stated that the opinion of the Zoning Administrator is that this site is not part of the Mall Road District. This matter would require another appeal.

Chairman Holland asked Mr. Breidenstein if his opinion had changed in regard to this sign. Mr. Breidenstein stated that he stands with the Staff Report as written. He added that changeable copy signs are permitted at this location, but not electronically changeable copy signs.

Mr. Cassidy argued that this technology was not available when the text was written.

In response to a question from Counselor Wilson, Mr. Breidenstein stated that it has been the Zoning Administrator's opinion that this site is not part of the Mall Road District.

Mr. Ashcraft asked if there is a definition of what the Mall Road District encompasses. Mr. Breidenstein advised that there is no line drawn on the Zoning Map, but it is a matter of interpretation by the Zoning Administrator. Counselor Wilson noted that one can go to Mike Albert Leasing without being on Mall Road.

Mr. Cassidy stated that the regulations do not say that the signs have to be manually changed.

Mr. White stated that Section 19.51 refers to "Mall Road Area" and until that area is defined, he does not think the Board can proceed. Chairman Holland stated that in his opinion, the Mall Road area is from KY 18 to U.S. 42 only.

Counselor Wilson noted that Section 19.51 refers to the Mall Road Area and to developments "located along it" and businesses "having frontage on it and unobstructed visibility".

Mr. Ryan stated that their location can be seen from Mall Road.

Mr. Breidenstein advised that if this site is included in the Mall Road Sign District, it would not be entitled to a free-standing sign.


There being no further discussion, Mrs. Meihaus moved that the Board uphold the Zoning Administrator's decision. Mr. Ashcraft seconded the motion and it carried unanimously.

BOARD ITEMS:

Counselor Wilson advised that letters will be sent out in regard to the McDonald's issue.

There being no further business to come before the Board, Mr. Ashcraft moved, seconded by Mr. White, that the meeting be adjourned. The meeting was adjourned by unanimous consent at 10:00 P.M..

APPROVED:



Charles F. Holland, Chairman

ATTEST:



Jan Hancock, Recording Secretary

CITY OF FLORENCE
BOARD OF ADJUSTMENT

July 13, 1988 - 8:30 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 June 8, 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. Mrs. Ward seconded the motion and it carried unanimously.

AGENDA ITEMS:

1. The request of Ponderosa Inc. for a Variance in the height of a free-standing sign. The 1.047-acre site, located at 8053 Holiday Drive, Florence, Kentucky, is zoned Commercial Services (C-3) and is owned by Ponderosa, Inc.

Staff Member, Paul Miller, presented the Staff Report, noting that this request was deferred at the last meeting to allow for flagging of the sign (see Staff Report). Mr. Miller presented slides of the flagging. He stated that he was present at the flagging and there was no visible difference between the 60-foot sign and the 80-foot sign.

During the slide presentation, the Board discussed the other signs in the area in relation to the subject sign.

Chairman Holland asked if there was a representative of Ponderosa present.

Mr. Bruce Bush, Area Manager of Ponderosa, stated that they are requesting a 60-foot sign.

In response to a question from Mr. Ashcraft, Mr. Miller stated that he did not believe the proposed sign would block any of the existing signs since all those visible from the expressway are higher than the proposed sign.

Chairman Holland asked if the proposed sign would be in the same place.

Mr. Bush stated that he believed they wanted to moved the sign ten feet, but was not present at the meeting when this was discussed.

Mr. Miller stated that Cummings Sign Systems had discussed the possibility of moving the sign when he was at the flagging to an existing island adjacent to Holiday Drive, which is about 20 feet south of the current location. The sign would still be on the Ponderosa property.

Chairman Holland asked if there were any questions.

Mr. White stated that he thought the sign company would be present for discussion. Mrs. Meihaus noted that it is difficult to make a judgment from the slides and that sketches would be helpful in making a determination. Mr. White stated that the sign company should have been present with an artist's rendering of the sign.

Mr. Ashcraft stated that the sign would not be objectionable. Mr. Ashcraft moved that the Variance of 60 feet be granted and that the sign on top of the pole be no larger than 250 square feet. Mr. White seconded the motion and it carried unanimously.

3. The request of Hertz Corporation for a Conditional Use Permit to allow the retail sale of Automobiles. The 0.29-acre site, located at 7209 Burlington Pike, Florence, Kentucky is zoned Commercial Two (C-2) and is owned by John and Terese David.

Staff Member, Paul Miller, presented the Staff Report (see Staff Report).

Chairman Holland asked if there was a representative of the applicant present.

Mr. Jim Day of Jim Huff Realty stated that he was present representing Mr. John David.

Chairman Holland asked if he was aware that 17 cars and eight parking spaces would be permitted on the site. Mr. Day stated that he was and that the more expensive cars would be inside the building.

Mr. Art Gumpher of the Hertz Corporation stated that there would be twenty-five cars on the site, plus seven inside the building. The building is a six-bay building of about 2,000 square feet. He stated that Avis has 45 to 50 cars. He noted that they have about 30 feet behind the building and 180 feet across. The latest they would be open is 8 P.M. or 9 P.M., and some evenings they would close at 5 P.M. or 6 P.M. There will be seven or eight customer parking spots. The employees drive the sales cars. He noted that anyone working on the lot could park out the back.

Mr. Ashcraft questioned the width of the driveway off KY 18. He noted that the parking spaces take up about a third of the entryway. He added that he did not think there should be parking in the grassy area in front of the site as it would detract from the area.

Mr. Gumpher stated that they would not have cars blocking the driveway. Mr. Day stated that they had measured the width and it was about 45' to 50'. Mr. Gumpher added that they intend to do some landscaping in the grassy area.

Chairman Holland stated that he believes a customer should have a place to park and there should be designated parking spots for customers.

Mr. Gumpher discussed the traffic circulation pattern of the site. Chairman Holland noted that customers would come in off KY 18 and exit on Shelby Street, which is one-way. Mr. White noted that Avis does not have designated parking spots for customers.

In response to a question from Mr. Ashcraft, Mr. Gumpher stated that their most expensive cars will be kept inside the building.

Mr. Ashcraft asked if Mr. Gumpher would object to limiting his operating hours to no later than 9 P.M.. Mr. Gumpher stated that he would not object and they would not be operating later than 9 P.M..

Chairman Holland stated that he would like to have an agreement regarding the number of cars to be on the site.

Mr. Gumpher stated that there would be eight cars in the bays and twenty-five outside, for a total of 33 cars for sale. It is a 2,000 sq. ft. building. The building is 60 feet across and 33 feet deep. There is also room out the back for parking.

Mr. Ashcraft noted that customers cannot park on the streets near the site. He stated that this operation may be an improvement over what was on the site before as it may be less noisy and offensive.

Mr. Miller advised that the regulations limit the number of cars for sale in this zone to fifty. Mr. Sturdevant added that this limit is in effect regardless of the size of the lot.

Counselor Wilson quoted the regulations and stated that the Board can require an amount lesser than fifty.

Chairman Holland advised that if there is any parking in the back of the building, it must first be paved. He noted that there is to be no parking on the grassy area. Mr. Gumphre agreed.

Chairman Holland asked if there would be work done on the cars.

Mr. Gumphre stated that there would be hand-washing only. There will be no oil changes or anything of that type.

Mr. Day stated that there are others interested in this site, but they want to do oil changes and repairs and Mr. David does not want this use of the property.

Chairman Holland asked if there was anyone else present who wished to speak in regard to this request.

There being no further discussion, Mr. Ashcraft moved that the request be granted subject to the conditions that (1) the number of cars displayed outside the building be limited to twenty-five as proposed in the Site Plan; (2) the business operates no later than 9 P.M. E.S.T.; (3) no signs in addition to the existing sign are permitted; (4) the applicant submits a Site Plan detailing the landscaping and lighting plan to be approved by the Staff; (5) the existing Conditional Use Permit allowing a car tune-up business on the site is revoked; and (6) work on automobiles is limited to washing and polishing with no oil changes, grease jobs, etc. permitted. Mr. White seconded the motion and it carried unanimously.

2. The request of Dennis Nafus and Ken Raines for a front yard Variance to allow the construction of a self-service car wash. The 0.5-acre site, located behind Thornton Oil on Safeway Drive, is zoned Commercial Services (C-3) and is owned by David Hils.

Staff Member, Jim Sturdevant, distributed to the Board copies of a letter received from the property owner's attorney in response to the criteria of KRS 100.243. The letter was written by Mr. C. Rick Bersch, attorney, dated July 11, 1988, and is on file in the Staff Office. Time was allowed for the Board to review this letter.

At this time, Mr. Sturdevant presented the Staff Report (see Staff Report).

Chairman Holland asked Mr. Sturdevant to indicate the accesses to the site on the Site Plan. Mr. Sturdevant reviewed the Site Plan with the Board, noting the access in the center which is of concern to the Staff. He indicated the existing and proposed setbacks and the traffic circulation plan of the site on the Plan. He stated that connection to the existing parking lot and elimination of the center access point would not be a burden on the property owner in terms of access. He noted that if the building were setback fifty feet it would have three bays instead of five.

In response to questions from Chairman Holland regarding the power lines, Mr. Sturdevant stated that the easement is 75 feet on each side of the power pole and prevents the erection of a structure or building in the easement.

Mr. C. Rick Bersch, attorney whose letter was discussed earlier, stated that he represents the applicants for the purpose of this hearing, as well as the property owner. He stated that the applicants are Boone County residents and this will be a family-operated business. Their financing has been approved and they have an SBA loan through Northern Kentucky Bank and Trust. He discussed the criteria as indicated in his letter. He stated that Thornton's Car Wash has allowed the use of their driveway from the front to the back lot and they have permission to use the access. However, neither permanent use or an easement has been granted. Thornton's is not owned or operated by David Hils and he leases the property. He stated that they have determined that a three-bay car wash would not be economically feasible. He stated that neither the owner nor the applicants created the hardships that the property suffers. In regard to their ability to stack cars, Mr. Bersch stated that between the drive-in off Safeway Drive and the northerly entrance, there is room for eight to ten cars to stack, plus the cars already in the bays. They have requested the two curb cuts to make the traffic flow in a semi-circular fashion. The northerly curb cut would be entrance only and the southerly curb cut would be exit only with signs posted. He stated that coming in the southern curb cut would be difficult as the vacuums will be in front as one drives in and they are restricted from putting the vacuums in the power line easement, which is where they would have to go if cars entered from the back of the building. (See Mr. Bersch's letter dated July 11, 1988 which is on file.)

Chairman Holland asked if they had written permission from the Thornton's to use the access. Mr. Bersch stated that they have a verbal commitment and they have been asked to eliminate the use of the access if it becomes a problem to Thornton's.

Mr. White noted that the street is not dedicated and that cars and trucks park on the street.

Counselor Wilson stated that the Board could impose a condition regarding the parking of vehicles in regard to this site, but would not be able to impose a reasonable condition regarding vehicles unrelated to this site.

Mr. Sturdevant noted that it was the intent of the subdivision that the street be dedicated and that is how the plans were approved, but the Final Plat was never filed.

Counselor Wilson advised that there can be private streets where the owner is responsible for maintenance, but they are available for public use. He noted that the Convenience Plat was approved, which requires frontage on a public way available for public use.

Chairman Holland questioned the proposed hours of operation. Mr. Bersch stated that they are open 24-hours a day.

In response to a question from Chairman Holland regarding the height of the building, Mr. Bersch stated that their plans are for a 12-foot bay with a 6-foot gable, for a maximum height of 18 feet.

Mr. White noted that if Thornton's determines that the use of the access interferes with their business and the curb cut had been eliminated, there could be a problem.

Mr. Sturdevant advised that Staff's recommendation in regard to the access was determined by consultation with Mr. Doug Powell, the Transportation Planner, who is an experienced transportation expert. He noted that the site currently has a Site Plan pending before the Boone County Planning Commission.

Chairman Holland asked if there could be any further business development behind this site due to the power line easement. Mr. Sturdevant stated that he believed there could not.

Mr. White questioned what Staff's position would be if Thornton's told them to stop using the access. Mr. Sturdevant stated that assuming a Site Plan is approved with that limitation on the access, then the property owner would have to apply for review of a Revised Site Plan.

Mrs. Meihaus asked if there could be further development on the road due to the power lines. Mr. Sturdevant advised that there are more lots planned for the subdivision. He noted that there is property on the other side of the power lines suitable for development.

Chairman Holland asked if there was anyone else present who wished to speak in regard to this request. There was no response.

Chairman Holland suggested that the request be tabled for the applicant to get written permission from Thornton's to use the access. He asked Mr. Sturdevant to discuss Mr. Powell's reasons for eliminating the center curb cut.

Mr. Sturdevant stated that there is concern regarding the amount of space for stacking of cars to enter the car wash facility. He discussed the possible traffic flow patterns with the Chairman and stated that the vacuum cleaners could be moved to the opposite side of the facility.

Mrs. Meihaus asked if the entrance and exit, as well as the front and the back of the building, could be reversed.

Mr. Bersch stated that they want to vacuum the cars before they are washed, as their research has indicated this to be best. The current plan allows stacking of 8 to 10 cars. He asked what "optimum stacking" would be.

Mr. Sturdevant advised that optimum stacking would be a matter of judgment, but that what is shown would not give the maximum stacking distance and there is an opportunity to get the maximum stacking distance as recommended by Staff.

Mrs. Meihaus stated that this is an unusual situation considering the location of the lot and the power lines. She noted that there will be a gap between this and the next commercial establishment due to the power lines. Mrs. Meihaus stated that she did not anticipate a problem with stacking.

Mrs. Meihaus moved that the front yard Variance be approved for a setback of twenty-five feet, and stated that the curb cuts are to be left as they are. Chairman Holland seconded the motion.

Counselor Wilson noted that the Board is not making any certification regarding Safeway Drive and is not saying that it has been accepted, dedicated, or available for public use, as they Board does not know at this time.

Mr. Ashcraft stated that his company has a financial interest in the utility easement and, on that basis, he will abstain from voting. Mr. Ashcraft asked that the record show that he has also abstained from participating in the discussion.

There being no further discussion, Chairman Holland asked for a vote on the motion made by Mrs. Meihaus which found Mrs. Meihaus, Mrs. Ward, Mr. White, and Chairman Holland in favor. Mr. Aschraft abstained from voting. The motion carried.

BOARD ITEMS:

Chairman Holland advised that the McDonald's issue is still pending.

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 10:15 P.M..

APPROVED:



Charles F. Holland, Chairman

ATTEST:


Jan Hancock, Recording Secretary