

SECTION B

(To be completed by Boone County Planning Commission Staff)

- 1. Date Received 4-20-89
- 2. Fee Received 114.00
- 3. Is application complete? Yes No
- 4. Staff Reviewer Paul R. Miller
- 5. Scheduled Board Action Date May 10, 1989
- 6. Board Action:

Approval
 Approved With Conditions (See #7)
 Disapproved (See #8)

- 7. Conditions: FRONT YARD VAR. OF 14'-APPROVED; REAR YARD VAR. OF 12'-APPROVED, SIGN VAR. ALLOWING ONE, 2-FACE SIGN OF < 250 SQ. FT. AND 85% CHANGABLE COPY - APPROVED W/ CONDITION THAT SIGN NOT BLOCK VIEW OF TRAFFIC FROM BANKLUCK TURNING ONTO DIXIE HWY, AND SIGN NOT BLOCK VIEW OF RYAN MILLER SIGN.
- 8. Reasons For Disapproval: _____

BCPC:7/11/88

STAFF REPORT

#2

DEVELOPMENT: Kocolene gas station and convenience store
APPLICANT: Ralph P. Michael (agent) for Kocolene Oil Corporation
LOCATION: 6909 Dixie Highway, Florence, Kentucky
ZONING: Commercial Two (C-2)
DATE: May 10, 1989

REMARKS:

The applicant is seeking Variances to allow the construction of a convenience type food sales building and to erect a sign on an existing gas station site. The 0.535 acre site is located on the southeast corner of the intersection of Dixie Highway (U.S. 25) and Banklick Street in Florence, Kentucky. The property is zoned Commercial Two (C-2) and is owned by Kocolene Oil Corporation.

The applicant is seeking 4 Variances, two for the proposed building, and two for a proposed sign. The Variances which are being requested are as follows: a front yard building setback Variance of 13 feet is being sought to allow the proposed convenience store to be constructed 62 feet from the front property line rather than the required 75 feet; a rear yard building setback Variance of 12 feet is being sought to allow the proposed convenience store to be constructed 8 feet from the rear property line rather than the required 20 feet; a Variance in the permitted total area of a sign is being sought to allow a sign with 4 faces totaling 374 square feet rather than the permitted 250 square feet; a Variance in the area of a sign which can be changeable copy is sought to allow 85 percent of the proposed sign to be changeable copy rather than the 50 percent permitted.

The following reviews the considerations the Board must make in granting Variances. The requested Variances for the proposed building shall be handled independently from those for the proposed sign.

Front and Rear Yard Variances

1. The requested Variances must arise from special circumstances which do not generally apply to land in the general vicinity, or in the same zone. The special circumstance of the requested front and rear yard Variances is that the lot is too narrow and irregularly shaped to permit the construction of a commercial building which will meet the required building setbacks. The subject property is only 123 feet wide at its widest point, and is only 87 feet wide at its narrowest point.
2. The strict application of the zoning regulations would prevent the applicant from placing a reasonably shaped or sized commercial building on the subject property.
3. The special circumstances are not the result of the action of the applicant.

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Granting the Variances related to the proposed building would not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, and will not cause a hazard or a nuisance to the public. However, granting the Variances may allow an unreasonable circumvention of the requirements of the zoning regulations since the intent of the regulations is to insure that new commercial uses are sufficiently removed from adjoining roadways and properties. The Board must consider whether this site is of a sufficient size to reasonably permit the size and intensity of uses proposed by the applicant.

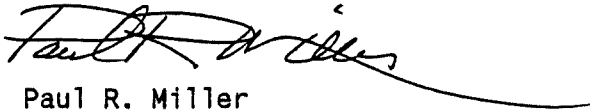
Sign Variances

1. The requested Variance must arise from special circumstances. The Staff cannot determine any special circumstances related to the requested sign Variances which do not generally apply to land in the general vicinity or in the same zone.
2. The strict application of the zoning regulations would limit the applicant to 250 square feet of sign surface, of which only 50 percent could be changeable copy. This would not deprive the applicant of the reasonable use of the land nor would it create an unnecessary hardship on the applicant.
3. The special circumstances related to requested Variances cannot be the result of the applicant taken after adoption of the zoning regulations. As stated above, the Staff could determine no special circumstances that would justify granting the Variances.

Granting the requested sign Variances will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, and will not cause a hazard or a nuisance to the public. However, in the opinion of the Staff, granting the sign Variance will represent an unreasonable circumvention of the zoning regulations. The intent of the sign regulations is to limit and control the visual impact of commercial signage. The applicant wishes to construct a sign with 4 faces to advertise to both sides of Banklick Street, and both sides of U.S. 25. The majority of the business to this site will be from U.S. 25. The Staff believes having a sign facing to Banklick Street is unnecessary to the uses proposed. Further, the Staff cannot determine a viable reason for the sign consisting of greater than 50 percent changeable copy.

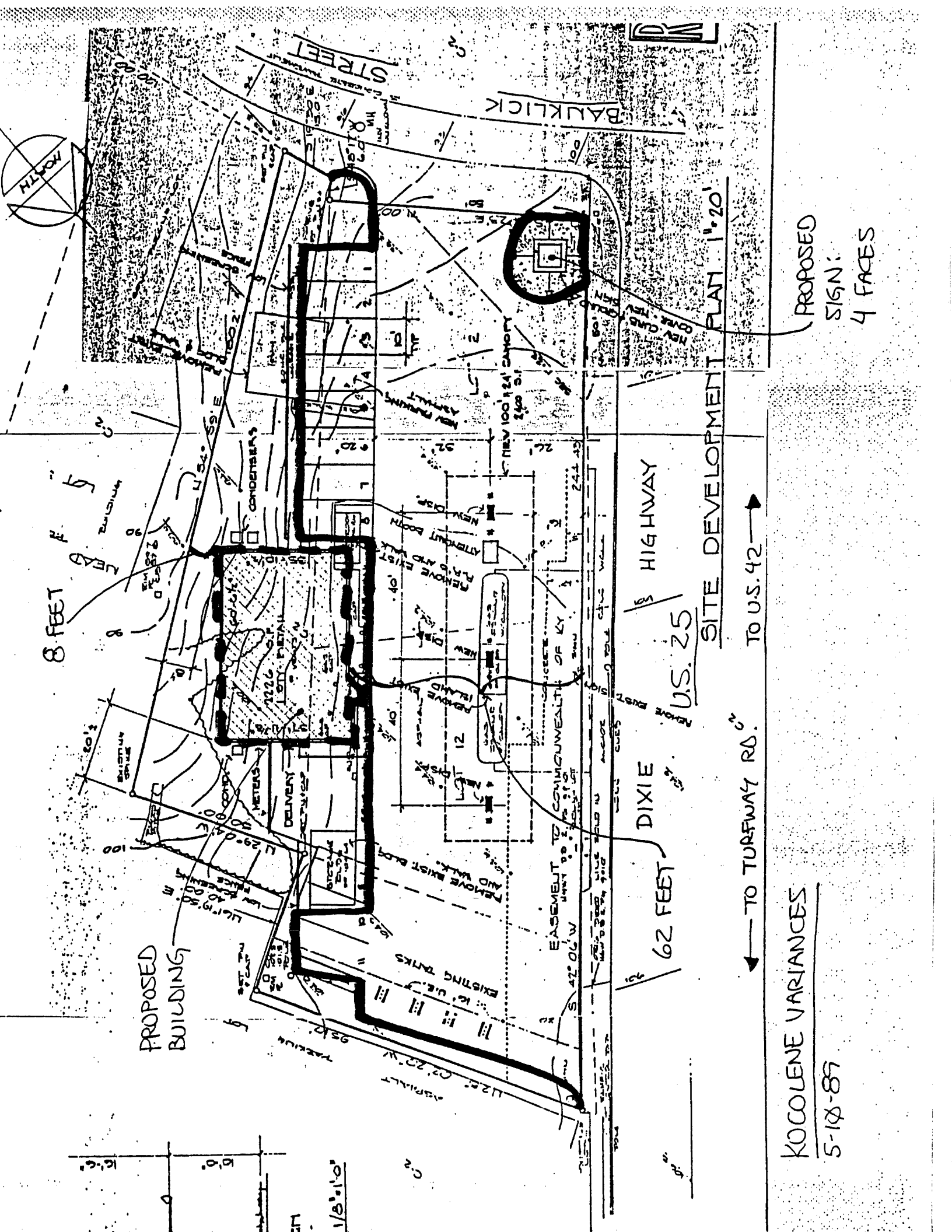
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Should the Board grant the requested Variances for the proposed building, the applicant will be required to make application for Site Plan Review before the Boone County Planning Commission. Attached to this report is a copy of a reduction of the Site Plan and narrative stating the applicant's reasons for requesting the Variances as submitted with this request.

Respectfully submitted,



Paul R. Miller
Plans Examiner/Planner

PRM:hs



PROPOSED BUILDING

SITE DEVELOPMENT PLAN 11-20

PROPOSED SIGN: 4 FACES

KOCOLENE VARIANCES
5-18-89

TO TURFWAY RD. TO U.S. 42

DIXIE HIGHWAY U.S. 25

8 FEET

62 FEET



KOCOLENE VARIANCES

5-18-89

EXHIBIT A

ZONING ORDINANCE: City of Florence

Description of Request (Question 4. - Section A of Application Form) For Variances and Expansion of Legal Non-conforming Use

It is the intent of the petitioner to remove three (3) buildings, seven (7) petroleum dispensers, canopy and free standing sign and replace with one (1) building, four (4) petroleum dispensers, canopy and free standing sign. The 40,000 gallon storage of petroleum (installed in 1986) will be upgraded per EPA standards. The station was built in 1960.

Petitioner requests a variance from the 75' front minimum yard setback and 20' rear yard setback as required by Table 1, Dimensional Standards in a C-2 zoning. While a convenience store use is an approved use in a C-2 zoning, gasoline filling stations require a Conditional Use Approval. Kocolene did obtain proper authorization in 1960 from the City of Florence to operate a gasoline service station and has operated same continuously since that time. The zoning ordinance adopted in 1986 has apparently removed petitioner's right to increase its gasoline sales operations. Therefore, petitioner requests the Board of Adjustment's approval to install new facilities in accordance with the attached site plan dated 4/20/89.

Additionally the drainage of the site storm water will not be altered. The size, shape and topography of the lot negates petitioner from providing other than normal site run off of water as it has since 1960. The additional site area to be covered by the new building is approximately 1,000 S.F. more than the buildings petitioner plans to raze. The new building and paved parking is on a portion of the site that slopes steeply and has never previously been an area of absorption. Petitioner requests the Board of Adjustment to approve the site drainage as indicated on the site plan as existing.

Petitioner requests a variance of the Section 1903 (Measurement of Sign Area) to allow back-to-back signs greater than 18" apart to be countable only on the face visible to the viewer. For some reason two (2) sign faces are not counted as two (2) faces if they are sufficiently close. The petitioner wishes to count only the sign faces that are visible under maximum viewing conditions. Petitioner also requests a variance of Section 1920 2e which allows only up to 50% of a free standing sign to be changeable copy. Petitioner's sign is approximately 85% changeable copy.

Petitioner requests a variance to allow the partial closing of the drives at Banklick Street and Dixie Highway on petitioner's property in order that a curb and grass area may be constructed to protect the new free standing sign if granted. Petitioner has discussed the existing curb cuts with District 6 Kentucky Transportation Cabinet and reports that the District officials are not interested in closing existing curb cuts, however, will review our site plan to see if they object to the installation of on-site curbing as indicated.

This petition submitted 4/20/89.

KOCOLENE OIL CORPORATION
Ralph P. Michael, Corporate Architect

CITY OF FLORENCE

BOARD OF ADJUSTMENT

May 10, 1989 - 7:30 P.M.

BOARD MEMBERS PRESENT:

Mr. Ashcraft
Mrs. Meihaus
Mr. White

BOARD MEMBERS NOT PRESENT:

Mrs. Ward
Chairman Holland

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Mr. White called the meeting to order at 7:35 P.M..

Approval of the Minutes:

Mr. White stated that each member had received a copy of the Minutes of the Board of Adjustment Meeting of April 12, 1989 and asked if there were any comments or corrections.

There being no changes to the Minutes, Mr. Ashcraft moved that they be approved as mailed. Mrs. Meihaus seconded the motion and it carried unanimously.

AGENDA ITEMS:

1. The request of Ralph E. Dusing for two Variances in the required front and side yard building setback dimensions to allow the construction of an addition to the Florence Mini-Center. The 1.08-acre site is located at 225 Main Street, Florence, Kentucky. The property is zoned Commercial Two (C-2) and is owned by Richard Lohre.

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

Mr. White asked if there was anyone present who wished to speak in regard to this request.

Mr. Ralph Dusing of Beckman Construction Company stated that he was representing the property owner, Mr. Lohre. He displayed a drawing showing the elevation of the front of the building. The building will be finished with a bronze siding and there will be new signs to replace the existing signs. They will also fix up the parking lot. They want the existing strip center and parking lot to look like the new additions. Mr. Dusing stated that it makes less sense to build the building further back as the lot gets narrower and the building would have to bend the way Main Street bends. He stated that Mr. Lohre owns both lots and they are currently recorded as two lots.

Mr. White questioned the location of the driveway.

Mr. Dusing advised that it is a distance of twelve feet and the distance from the side property line to the building is ten feet. They will pave the area in the rear, which will be an extension of the existing parking lot. The dumpster will be moved from the front to the back and screened.

Mr. Miller stated that a wrap-around driveway is shown on the reduction, but it would require an additional variance for a width of twelve feet as the requirement is 14 feet. He stated that the applicant is not seeking this Variance at this time.

Mr. Dusing stated that the drawing he had displayed was the revised drawing showing larger parking stalls and landscaping.

Mr. Ashcraft questioned if there were objections from the neighbors and Mr. Lohre stated that the neighbors are excited about the project. Mr. Miller advised that he had received a call from an adjoining property owner and they did not object.

There being no further discussion, Mr. Ashcraft moved that both requested Variances be granted -- that a front yard setback of 19 feet and a sideyard setback of 10 feet per permitted. Mrs. Meihaus seconded the motion and it carried unanimously.

Mr. Dusing stated that the sidewalk is not even, nor is the building. He questioned if the Variance must be exact.

Mr. Ashcraft moved that his original motion be amended to allow a front yard Variance which aligns itself with the existing building. The Variance is not to exceed a setback of 20 feet. The sideyard setback would be unchanged from the original motion of 10 feet. Mrs. Meihaus seconded the amended motion and it carried unanimously.

2. The request of Ralph P. Michael (agent) for Kocolene Oil Corporation for Variances to allow the construction of a convenience type food sales building and to erect a sign on an existing gas station site. The 0.535-acre site is located at 6909 Dixie Highway, Florence, Kentucky. The property is zoned Commercial Two (C-2) and is owned by Kocolene Oil Corporation.

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

Mr. White asked if there was anyone present who wished to speak in behalf of the application.

Mr. Ralph Michael, architect with Kocolene Oil Corporation, stated that they have occupied this site for 30 years. In August, 1986 they installed all new underground tanks and lines as the first phase of the renovation. In April when they came to get a permit to continue the work, they encountered the new zoning. In April, 1989 they met with Paul Miller in regard to the Site Plan. He stated that the proposed facility will be cleaner, safer, and a better facility. In April, 1989 he paid the fees for four Variances and bought a zoning book. He stated that they are a legal, non-conforming use. There are two buildings on the site, one covering the gas pumps. He stated that there is a convenient store, but all the controls for the gas -- such as the exchange of money and the selection of grade -- take place inside the store, so it is also considered a gasoline station. He stated that both buildings are then service stations and if they were to bulldoze the building, then they would lose the protection of the grandfather clause. He stated that the canopy is also a structure and questioned if he was protected by the grandfather clause for the non-conforming use and non-conforming structure. The station will be closed for approximately 90 days and the sign removed for that time.

Counselor Wilson advised that as long as there is a tie in to the rehabbing process and the gasoline feature is not going to become larger in scope, then the decision of the Zoning Administrator is that they still have the pre-existing, non-conforming protection. The food mart does not require a Conditional Use Permit. The staff has looked at the plan and does not feel that they are going beyond the scope of what exists.

Mr. Miller advised that the Staff focused on the number of pumps. There will be one less than what exists. Therefore, the gasoline station is less of an impact than what exists, even though the canopy may be larger.

Mr. Michael stated that there will be two dispensers, one for self-service and one for full-service.

Mr. White stated that there is confusion with the full-service and the self-service sharing the same island.

Mr. Michael advised that they are considering the island on the right being full-service with an attendant booth. They are trying to split the pumps, 80 feet apart, to eliminate the confusion. He added that the canopy, by definition, is a structure, but the Staff did not tell him that he needed a Variance of 16 feet. He questioned if there would be a problem in this regard.

Mr. Miller advised that the canopy is considered an accessory structure and does not fall under the same setback requirements as the principal structure. It is permitted within five feet of the property line.

Mr. White stated that the canopy is not a building and would not require a Variance.

Mr. Michael stated that the property has an odd shape. They are an independent, family-owned business, and need to do something to recapture their investment. They have added convenient food stores in 12 of their 14 locations. He stated that they are asking for a rear yard and front yard Variance of 61 feet, not 62 feet. They would be at only 60% of the allowable gross floor area.

Mr. White questioned if there would be a retaining wall in the rear.

Mr. Michael advised that there will be either land cover or a retaining wall. He stated that they will start engineering drawings following approval.

Counselor Wilson advised that a retaining wall vs. a sloped area involves drainage and will be looked at during Site Plan Review. If it interrelates with one of the Variances, then it is appropriate for the Board to consider this.

Mr. Michael stated that Mr. Miller told him a 250 sq. ft. sign could be erected. His application complies with the maximum height allowable, and the changeable numbers on the front are allowable since they do not exceed 50% of the area. Using a model of their four-sided sign, he stated that this sign has less impact than the larger sign. He stated that Chevron has a double-sided sign on both roads, which is four sides. He distributed pictures of other stations' signs. Using models of their signs, he stated that the still letters can be changed with a stick from the ground. They want to protect their people from having to go up to the sign and change the numbers. They would have 30" letters on the sign and the existing sign has 36" letters. The four-sided sign would be 25'2" high. He asked that if a four-sided sign is granted, can they build a two-sided sign.

Mr. White stated that in some areas a four-sided sign may be appropriate, but a sign facing Banklick Street may not be appropriate.

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

Mr. Bob Ryan of Ryan Muffler Shop, an adjoining property owner, stated that the building will be close to their property and the hillside is extremely steep. It has changed since 1976. He is worried about the hillside falling onto his property. He stated that the restrooms are leaning now. He stated that the buildings will be put on the fill dirt that was put down several years ago and is not stable. He stated that he is also concerned about the water.

Mr. Miller stated that the site will have to be engineered to conform with the regulations. This may best be left to the Planning Commission and Site Plan Review where the Staff Engineer can review it. He stated that "subject to Site Plan Review" could be part of a motion.

Mr. Michael stated that they would build a cement block building down to undisturbed soil. If it becomes too costly, they will not do it.

Mr. Ryan stated that his property sits lower and this will be like a building on top of them. He stated that their office window faces the site.

Mr. Michael stated that they have tried to put the building where there are no utility easements on the lot. He stated that their property is much higher than Mr. Ryan's.

In response to questions from the Board, Mr. Michael distributed pictures (which were not submitted for the record) of the proposed building. He stated that the existing building is 61' x 35'.10". They would build back 61 feet from the road. The rear corner of the building at its closest point would be 8' from the rear property line.

In response to questions from Mrs. Meihaus, Mr. Miller advised that the question of curb cuts would be addressed at Site Plan Review.

Mrs. Meihaus questioned if their sign would obstruct Mr. Ryan's sign.

Mr. Michael stated that Banklick Street is lower than Dixie and large shrubs would block the view of the traffic. He stated that people run into the sign and they will put up a collapsible guard rail, if it does not block the view. The Highway Department advised him that he could not put trees or shrubs in the right-of-way.

Mr. Ashcraft moved that two Variances be granted -- a front yard Variance for a 14-foot setback and a rear yard Variance of 12 feet. Mrs. Meihaus seconded the motion and it carried unanimously.

Mr. Ashcraft questioned the object of the four-sided sign, noting that he did not think it was needed on Banklick Street.

Mrs. Meihaus stated that she is concerned about the sign obstructing Mr. Ryan's sign. She noted that the four-sided sign begins only ten feet off the ground and would be more of an obstruction in this situation than a higher sign.

Mr. Michael stated that he would modify his application to a two-sided sign, if the 50% requirement could be waived.

Mr. Ashcraft stated that there is a traffic signal at Banklick Street, which sits lower. He noted that it is only ten feet to the base of the sign and questioned if a driver's view would be obstructed when exiting Banklick Street.

Mr. Michael stated that the sign could be higher up than ten feet.

Mr. Miller stated that the question of adequate visibility could be addressed at Site Plan Review.

Mr. Michael stated that their problem is the 50% changeable copy requirement.

Mr. Ashcraft noted that there must be consideration of setting a precedent in this regard.

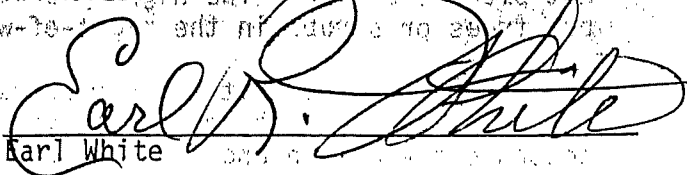
Mr. Ashcraft moved that the sign Variance be granted on the condition that it is a two-sided sign, with up to 85% changeable copy, and that part of Site Plan Review will be that the sign or sign pole does not obstruct the view on Dixie Highway when exiting Banklick Street and does not obstruct the Ryan Muffler sign. Mrs. Meihaus seconded the motion and it carried unanimously.

BOARD ITEMS:

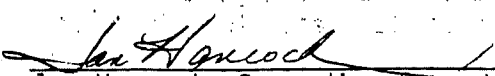
Mr. White asked that the Staff visit the Jerry Carroll building in regard to drainage problems.

There being no further business to come before the Board, Mrs. Meihaus moved that the meeting be adjourned. Mr. Ashcraft seconded the motion. The meeting was adjourned by unanimous consent at 9:15 P.M.

APPROVED:


Earl White

Attest:


Jan Hancock, Recording Secretary