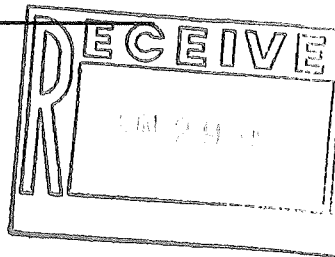


APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION

(See Boone County Zoning Regulations)



SECTION A (To be completed by applicant)

- 1. (Check One) Boone Florence Walton Union
- 2. (Check One) Conditional Use Permit Variance Appeal
- 3. Change in Non-Conforming Use
- 3. Applicant's Name DR. L. B. PAYNE
 Phone Number OFFICE 525-7443 HOME 371-7048
 Applicant's Address 15 N. DILCREST
FLORENCE KY 41002
 City State Zip
- 4. Description of Request: SETBACKS (PEAR) FOR PARKING LOT
FOR STAFF
- 5. Name of Development _____
- 6. Location of Development 7349 BURLINGTON PK.
FLORENCE, KY
- 7. Acreage Under Review 5.36
- 8. Lot Number and Name of Subdivision (if part of a subdivision) _____
- 9. Owner of Property SAME
 Phone Number _____
- 10. Address of Property Owner SAME AS #3
 City State Zip
- 11. Proposed Use(s) On Site STAFF PARKING
- 12. Total Square Footage of Existing and/or Proposed Buildings _____
- 13. Current Zoning on Property B-2
- 14. Deed Book _____ Page No. _____ Group No. _____
- 15. Is the site subject to a zone change? NO
 If yes, give date of approval _____
- 16. Have you submitted a Site Plan with this request? _____
- 17. Have you submitted a list of adjoining property owners with this request? _____
- 18. Applicant's Signature: [Signature]
- 19. Property Owner's Signature: [Signature]

Additional List Attached

SECTION B

(To be completed by Boone County Planning Commission Staff)

1. Date Received 6-15-89
2. Fee Received 8/65 *
3. Is application complete? Yes No
4. Staff Reviewer TOM BREIDENSTEIN
5. Scheduled Board Action Date @ 12-11-89
6. Board Action:
 Approval
 Approved With Conditions (See #7)
 Disapproved (See #8)
7. Conditions: _____

8. Reasons For Disapproval: _____

* fee for adjoining property
owner's due
5 @ 84 = 30 due

BCPC:7/11/88

STAFF REPORT

#1

APPLICANT: Dr. L.B. Payne
LOCATION: 7349 Burlington Pike, Florence
ZONING: Commercial Two (C-2)
DATE: October 11, 1989, 7:30 p.m.

REMARKS:

At the last Board meeting, the applicant's agent said that an agreement between Dr. Payne and his neighbor Andrew Vance regarding the driveway barrier had been made. This agreement has not been completed, however, since Dr. Payne has refused to remove the brick curb. I spoke with Mike Hoppenjans, Dr. Payne's agent, who informed me that Dr. Payne is unwilling to remove the curb, at least until this Variance question is resolved. He explained further that the applicant does not desire a shared parking arrangement with his neighbor, but wishes to pursue the approval for the rear parking lot. To this end, Mr. Hoppenjans may present a plan for the screening of the lot at this meeting. Staff has not had the benefit of review of this plan, if it exists.

A copy of the original Staff Report is attached. Staff's only suggestion at this time is that, out of fairness to the applicant's neighbors, the Board reach a decision regarding the Variance at this meeting. Keep in mind that if the request is denied, the gravel lot must be removed. If the Variance is approved, the Board can impose conditions regarding screening and may require that the curb in front be removed. In addition, the applicant would be required to submit a Site Plan to the Planning Commission for the new paving. The Board may require that the applicant submit the entire site for the Commission's review so that a comprehensive parking scheme (including shared access) can be studied.

Respectfully submitted,



Thomas W. Breidenstein,
Zoning Enforcement Officer

TWB:kat

STAFF REPORT

#2

APPLICANT: Dr. L.B. Payne
LOCATION: 7349 Burlington Pike, Florence, Kentucky
ZONING: Commercial Two (C-2)
DATE: September 13, 1989

REMARKS:

The applicant is requesting a Variance of 25 feet in the required landscaped buffer yard in order to allow the paving of a parking lot. The 0.36 acre site, located on the south side of Burlington Pike next to the A. Vance Lock Service, is zoned Commercial Two (C-2) and is owned by Dr. Payne.

In April of this year, Dr. Payne added gravel to his rear yard for parking in violation of the zoning regulations. This violation can only be resolved by: a) removal of the gravel, or: b) paving of the rear yard to provide durable, dust-free surface. Since the applicant has a problem accommodating employees vehicles and patients' vehicles, there is a need to pave the rear yard for employee parking. However, whenever development occurs on C-2 property which abuts residentially zoned property, a 25 foot landscaped buffer is required. Dr. Payne is requesting a Variance from 25 feet to zero feet to allow paving up to the rear property line.

The Board must consider whether, if granted, the Variance would adversely affect the public health, safety or welfare, would alter the essential character of the general vicinity, would cause a hazard or a nuisance to the public, or would allow an unreasonable circumvention of the zoning regulations. When considering these points, the Board must use the following:

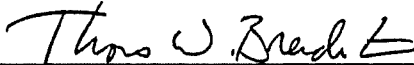
1. The requested Variance arises from the need for additional parking. Prior to the purchase of the adjoining property by Andrew Vance, Dr. Payne had a verbal agreement with the previous owner to allow employee parking at the old Boone Financial site. The transfer of property nullified this agreement since Mr. Vance needed the rear of his lot for his own parking. In fact, a driveway connection was closed when the agreement was discontinued. This "special circumstance" does not appear to generally apply to land in the vicinity.
2. Strict application of the zoning regulations would prevent Dr. Payne from parking in his rear yard and would require that the gravel lot be removed. The nine legal parking spaces would be unaffected should the Variance be denied. (If this office were built today, the zoning regulations would require a minimum of 21 parking spaces).
3. The "special circumstance" of the need for extra parking is the result of an increase in the number of patients and employees.

An item not touched upon thus far is the affect of a new parking lot without screening provided for the neighbors to the rear. Currently there are five unbuffered parking spaces in the applicant's rear and side yard. The proposal

before the Board is to expand this condition three-quarters of the way along the property line. Staff would suggest as a condition, should this Variance be approved, that an 8 foot high wooden privacy fence be constructed along the applicant's rear property line to provide an effective screen for the residential properties.

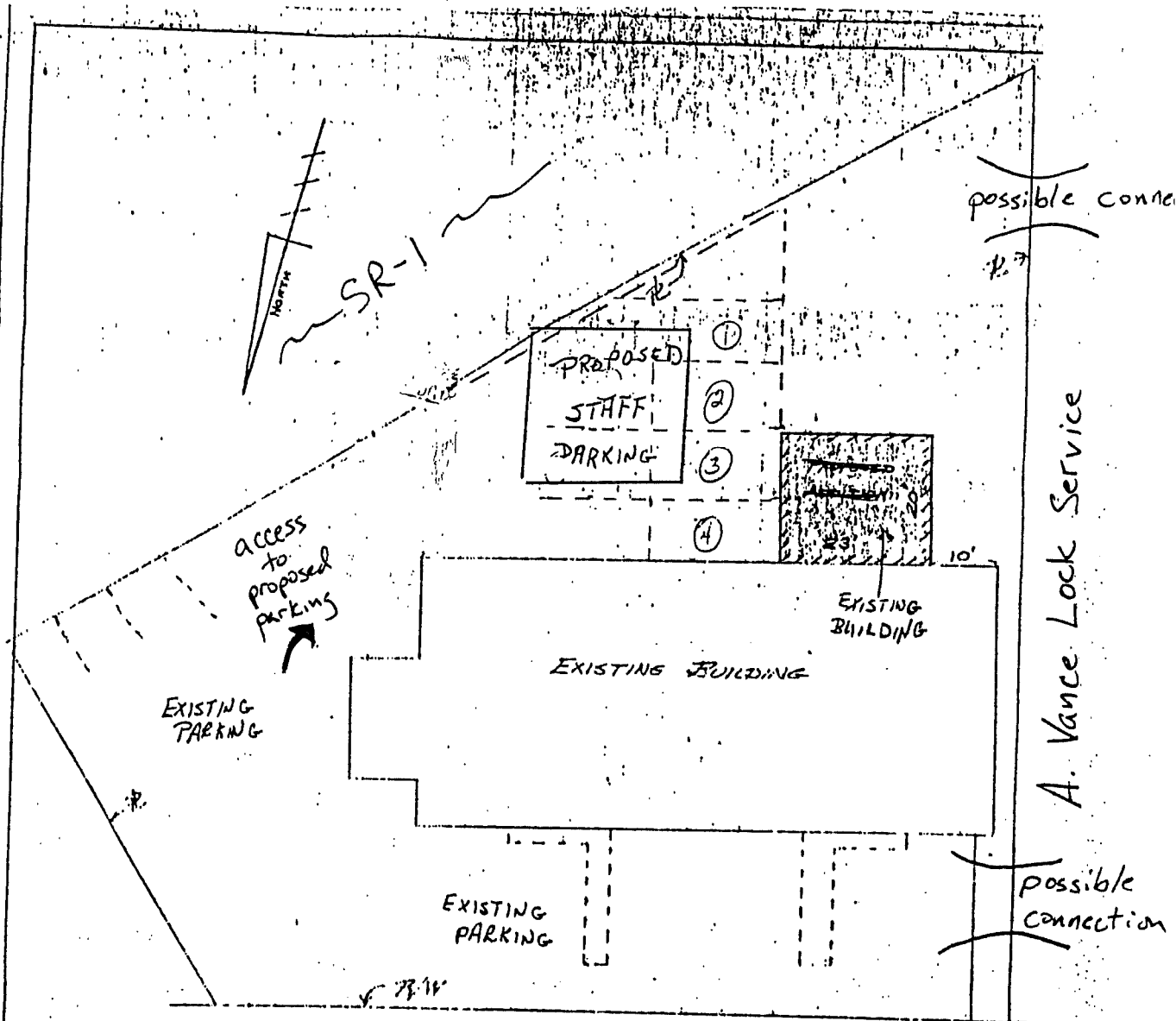
Another important consideration is the net gain in parking spaces on the subject property. The submitted site plan indicates the addition of four new parking spaces in the rear yard. Not shown on the plan is the fact that at least two existing parking spaces will be lost to allow access to the new parking area. Staff further suggests as a condition of approval that the applicant be required to submit a Site Plan for Planning Commission review to ensure proper driveway aisles and circulation areas. During this review, the possibility of shared parking with and access to the adjacent commercial property can be explored.

Respectfully submitted,



Thomas W. Breidenstein,
Zoning Enforcement Officer

TWB:kat



SITE PLAN
 FOR
 MIKE HOPPENJANS
 ADDITION TO LAURENCE PAYNE BUILDING
 SOUTH SIDE KY. 18
 ESTABLISHMENT, BOONE COUNTY, KENTUCKY
 SCALE: 1" = 20' APRIL 29, 1983

Dr. Payne
 buffer Variance
 8-9-89

VICK & VICK, P.S.C.
 CIVIL ENGINEERS & LAND SURVEYORS
 BRANSON, KENTUCKY

CITY OF FLORENCE
BOARD OF ADJUSTMENT

October 11, 1989 - 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 called the meeting to order at 7:30 P.M..

Approval of the Minutes:

The Chairman stated that each member had received a copy of the Minutes of the Board of Adjustment Meeting of September 13, 1989 and asked if there were any comments or corrections.

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

AGENDA ITEMS:

1. Tabled from the last meeting -- The request of Dr. L. B. Payne for a Variance to allow the reduction in the minimum required landscape buffer. The 0.36-acre site is located at 7349 Burlington Pike, Florence, Kentucky. The property is zoned Commercial Two (C-2) and is owned by Dr. L. B. Payne.

Staff Member, Paul Miller, stated that slides of the site are available. He read the Staff Report dated October 11, 1989 prepared by Mr. Breidenstein. Mr. Miller advised that the remaining issues are the gravel area in the rear of the applicant's building in violation of the zoning code and the buffer area. Mr. Miller presented a summary of the Staff Report as presented at the last meeting (see Staff Report). He stated that the Staff maintains that an 8' high privacy fence should be constructed to provide screening along the rear property line.

Mr. Mike Hoppenjans, representing Dr. Payne, distributed copies of a sketch prepared to address Miss Valentine's concerns in regard to her fence. He stated that they will run a permanent blacktop curb along that section. The block barrier in the front will be removed. They have tagged six-foot high pine trees at Maddox Landscaping to be used for screening. They are now asking for a setback of five feet to allow room for the trees to grow. They are asking that the parking lot be approved subject to the permanent blacktop curb, the white pine buffer, and the block being removed between the two existing driveways in the front.

Mr. Miller advised that if the Variance is approved, the applicant will have to go through a minor Site Plan Review in regard to paving and parking in the rear.

Mr. Thomas Powers, 202 Roberto, stated that this building is only 15 feet from his property line.

Mr. Hoppenjans stated that he measured from the corner of the building to the fence, and it is 25 feet as shown on the drawing. He added that the property was surveyed by the Viox's.

Mr. Powers stated that Dr. Payne can buy the house next door for a big parking lot as that house is for sale. He stated that he bought his house with the expectation that it would be residential and now they want to put a parking lot in his backyard.

Mr. Hoppenjans stated that the house next door is for sale and they have attempted to buy it. However, the price is \$96,000 and it is too expensive a piece of property to use for a parking lot. In order to merit the investment, they would have to turn it into a commercial use also requiring parking. He added that Dr. Payne has been in business since 1962, but Mr. Powers did not buy his property until 1973. He stated that Dr. Payne originally lived in half of the building and practiced in the other half. He built a swimming pool on what is now the parking lot and the law at that time required a four-foot high fence. Dr. Payne constructed a six-foot high redwood fence to keep out the children.

Mrs. Marilyn Powers stated that she has been watching the lot and the cars do not stay all day as indicated last month.

Mr. Hoppenjans stated that if someone has to leave, they will not walk because he said they would be there all day. He stated that the parking lot is for the Staff only, not the patients coming in and out.

Mrs. Powers added that this is a dark area and the paving will encourage cars to park back there. Mr. Hoppenjans stated that they plan to have low, dim lights back there.

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

Mr. Powers stated that Dr. Payne knew the restrictions when he bought the property. He does not want people parking in his backyard and it is zoned so that they cannot do that. He stated that the cars go in and out all day long.

Mr. Hoppenjans stated that they are residing and fixing the trim at this time and they have to move cars so that people can work on the building.

Mr. Ashcraft questioned the tree buffer and Mr. Hoppenjans advised that Mr. Maddox recommended 10' on center for the trees to give them room to grow. Mr. Miller stated that the standard is 6 feet on center and Mr. Hoppenjans stated that they will comply with this requirement.

Mr. Ashcraft noted that Mr. Powers had indicated that it is only 15 feet from the building to the property line. Counselor Wilson commented that if this is correct, then granting a 5' Variance would reduce the area left to 10 feet.

Mr. Miller stated that if the Variance is granted, the applicant must go through Site Plan Review with the plan prepared by a registered surveyor, architect, or engineer and the matter of the dimensions will be addressed.

Mr. Jim Bowling of Locust Lane stated that the trees take a long time to grow and he is aware of another buffer area where the trees died and there is no buffer left.

Mr. Hoppenjans stated that they understand that the buffer would have to be kept and maintained.

Mr. Ashcraft questioned why the Staff recommended a wooden fence and Mr. Miller advised that the fence would be a minimum requirement, but is not intended to imply that planting would be objectionable. Mr. Hoppenjans added that it also takes up less space and would allow them to get closer to the property line.

In response to additional questions from Mr. Ashcraft, Mr. Miller advised that the parking scheme would be a part of Site Plan Review. He noted that there are standards in regard to the size of parking spaces, driveway aisles, etc. and additional problems may surface at that time and the applicant may wish to seek additional Variances.

Counselor Wilson commented that the suggestion of a fence was made by Mr. Breidenstein without the benefit of hearing what the neighbors want. He added that the applicant will have to meet the requirements of Site Plan Review.

Mr. Hoppenjans stated that they propose to pave to the old building, not the addition. He added that the addition is 30 feet long.

Mr. Ashcraft moved that the Variance from 25 feet to 5 feet be granted subject to the condition that the permanent blacktop curb be built along the entire rear part of Dr. Payne's property for any part of the parking lot; that the proposed parking lot for which the Variance is granted be for employee parking only; that six-foot pines be placed along the proposed parking lot at six-foot intervals; that the block as suggested in the latest plot plan be removed; and that a comprehensive parking scheme be reviewed as part of Site Plan Review. Chairman Holland seconded the motion.

Counselor Wilson stated that the Variance does not reduce the dimensional standards of driveway aisles, parking spaces, or parking requirements, and may include the requirement that should any of the plantings die they must be replaced. Mr. Ashcraft added Counselor Wilson's comments to his motion as seconded by Chairman Holland.

Chairman Holland asked for a roll call vote on the motion made by Mr. Ashcraft and it carried unanimously.

In response to a question from the audience, Mr. Hoppenjans stated that he will remove the block when he has everything worked out. Mr. White commented that Mr. Hoppenjans had stated that the block would be removed immediately if he got the Variance.

Chairman Holland moved that the blocks be removed by October 25, 1989. Mr. Ashcraft seconded the motion and it carried unanimously.

2. The request of Rev. Mark Ongley of the Florence Alliance Church for a Conditional Use Permit to allow church meetings in a vacant store. The 1.25-acre site, located on the southeast corner of Dixie Highway and St. Jude Circle is zoned Commercial Two (C-2) and is owned by Mahavir Enterprises, Inc..

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

Rev. Ongley distributed a brochure about their church and stated that it is similar to a Baptist or Methodist Church. They currently meet at the Holiday Inn in Florence, but people have a hard time finding their location. They have two professional artists in their congregation who will design the signs. They want it to look nice and will keep it clean. This is a temporary situation until they can build a permanent location. He added that several years ago the neighbors took the owner of the building to court over a fence in the back for a child care operation. He stated that the neighbors won the case and could have asked for additional screening at that time if they wanted it. He stated that a Sporting Goods Store and a doctor are also interested in this location and they do not have to get a Conditional Use Permit. If stated that if conditions are put on the Permit, then the owner will rent to one of the others.

Mr. Jim Bowling, who lives behind the site, stated that there are deed restrictions in regard to the screening. The trees have been dead for years and they are not concerned about the screening. The deed restrictions also regulate the signs. He stated that he represents all of the neighbors and their only concern is that there not be trash in back of the building. He stated that there is no need for screening.

Mr. Miller advised that there is a general standard that when a new use goes into a piece of property that existing conditions not in compliance with the regulations be corrected.

Counselor Wilson advised that if this were a Principally Permitted Use, there would not be an opportunity to talk about the conditions.

Mr. White stated that the parking lot has been in bad shape for many years and he does not think this applicant should be saddled with what should have been done by the owner many years ago.

Mr. White moved that the Conditional Use Permit be granted with the condition that they comply with the recommended signs -- one building-mounted and one on the pole.

Mrs. Meihaus questioned if they would be using the gravel area and if the parking would be adequate if there were services when the mall was open.

Rev. Ongley stated that they would not be using the gravel area. He stated that their Wednesday meetings are held in different homes and the afternoon Bible study is no longer in existence.

Mr. Ashcraft agreed with Mr. White's comments and stated that imposing the conditions would be the same as denying the Permit.

Mrs. Meihaus seconded the motion made by Mr. White. Chairman Holland asked for a roll call vote on the motion and it carried unanimously.

Chairman Holland asked that Mr. Breidenstein investigate the parking lot.

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

APPROVED:



Charles F. Holland, Chairman

Attest:



Jan Hancock, Recording Secretary