

REVIEW NO. \_\_\_\_\_

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 GLENN C. UTZ  
 Phone Number 371-6699 689-7549  
 Applicant's Address 1624 RT 18  
FLORENCE KY 41043  
 City State Zip
- 4. Description of Request: VARIANCE FOR ENTRANCE WAY  
ALLOWING FOR PARKING IN REAR OF EXISTING  
STRUCTURE
- 5. Name of Development FAMILY CARE + COSMETIC DENTISTRY
- 6. Location of Development 8109 US 42 FLORENCE
- 7. Acreage Under Review .5 ACRES
- 8. Lot Number and Name of Subdivision (if part of a subdivision)  
N/A
- 9. Owner of Property CELIA RUSSELL / QUEEN LONGO  
 Phone Number 371-7774
- 10. Address of Property Owner 455 KEDGE WOOD DRIVE  
FLORENCE KY 41044  
 City State Zip
- 11. Proposed Use(s) On Site DENTAL OFFICE / LAB
- 12. Total Square Footage of Existing and/or Proposed Buildings  
L 1500 SQ FT
- 13. Current Zoning on Property O-2
- 14. Deed Book 322 Page No. 137 Group No. 2048 B
- 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? YES
- 18. Applicant's Signature: Glenn C. Utz
- 19. Property Owner's Signature: ON CONTRACT ATTACHED

Variance requests for access driveway + driveway easement

SECTION B

(To be completed by Boone County Planning Commission Staff)

1. Date Received 12-21-89
2. Fee Received \$ 293.00 (1321)
3. Is application complete?  Yes  No
4. Staff Reviewer J. GREGORY TULLEY
5. Scheduled Board Action Date TABLED TIL 2/14/90
6. Board Action:  
 Approval  
 Approved With Conditions (See #7)  
 Disapproved (See #8)
7. Conditions: VARIANCE GRANTED SUBJECT TO CONDITION THAT THE APPLICANT INSTALL A CURB & THAT ANY CHANGE IN USE BE SUBJECT TO FUTURE BOARD OF ADJUSTMENT APPROVAL.
8. Reasons For Disapproval: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

BCPC:7/11/88

STAFF REPORT

#2

APPLICANT: Glenn C. Utz  
DEVELOPMENT: family and cosmetic dentistry  
LOCATION: 8109 U.S. 42  
ZONE: Commercial Services (C-3) \*\*  
DATE: January 10, 1990

REMARKS:

The applicant is requesting Variances in the width of an access driveway and in the width of a driveway aisle. The 0.34 acre site, located on the southeast side of U.S. 42 between the White Castle restaurant and the law office of Knapmeyer and Wilder, is zoned Commercial Services (C-3)\*\* and is owned by Cecil Burdell and Quetta Longo. \*\*(The Zoning Administrator has determined that this site is not zoned Office Two [O-2] as indicated by the applicant.)

Article 18 of the Boone County Zoning Regulations requires twenty (20) foot wide access driveways designed for two-way traffic. The applicant is requesting permission for the use of a ten (10) foot wide access drive. Twenty-five (25) foot wide driveway aisles between parking stalls are required for this development --- the applicant is proposing aisles of twenty (20) and twenty-one (21) feet in width. A reduced copy of the submitted site plan is attached.

The following reviews the criteria the Board must use in reviewing Variance requests:

1. Staff believes that if granted, the narrow access drive (10 feet) will adversely affect the public health, safety and welfare. Such a drive will be wide enough for only one vehicle. Therefore, if a patient is waiting in the drive to pull onto U.S. 42 (a reasonable expectation due to the amount of traffic on U.S. 42), any patient wishing to enter the site will be forced to block traffic on the highway. This "point of conflict" will create a serious traffic hazard along a heavily traveled thoroughfare. Related to this concern is the applicant's request for a Variance to allow a 10 foot wide access drive along the side of the building leading to the rear of the site. Although off-site traffic will not be affected by this second "point of conflict," the applicant's patients would be required to negotiate in a difficult area.
2. The essential character of the general vicinity will not be altered should these Variances be granted.
3. Again, Staff believes that a 10 foot wide access drive

will cause a hazard and a nuisance to the public. However, a 10 foot wide driveway aisle serving the parking spaces to the rear should affect only the applicant's patients.

4. Granting of the Variance in the width of the access driveway may constitute an unreasonable circumvention of the zoning regulations. Possible alternatives to the plan submitted by the applicant are discussed below. These suggestions would bring this proposed development more in line with the intent of the zoning regulations while creating a safer means of access.

In reviewing these four points, the Board shall consider the following:

- a. The requested Variances arise from the special circumstance of lot width. This 0.34 acre site was originally laid out as a residential lot and is only fifty (50) feet wide. A 10 foot wide driveway was installed and is more than adequate for residential traffic, even on a busy highway. This driveway, however, was not designed nor intended for commercial traffic. This special circumstance does not generally apply to land in the general vicinity, although there are a number of houses in the area which have been converted for business purposes.
- b. Strict application of the provisions of the zoning regulations would deprive the applicant of the commercial or office use of the land due to circulation and parking limitations on the site. However, the property could continue to be used for residential purposes. The Board must determine whether or not an unnecessary hardship would be created on the applicant (who is not the owner of the property) if the use of the site were limited by a denial of this request.
- c. The special circumstance listed above (lot width) is not the result of action of the applicant taken subsequent to the adoption of the zoning regulations. The choice of this property as a dental office is, however, the result of the applicant's actions.

#### Staff Concerns and Suggestions

1. Staff's primary concern with this request is the potential traffic hazard created by a 10 foot wide access driveway. Without direct access to a traffic control device, traffic exiting the site will be expected to wait for a considerable time, especially if turning left onto U.S. 42. Vehicles entering the site will be forced to block traffic on the roadway, thus creating not only a nuisance, but also a hazard. For this reason, Staff suggests that should the Board grant

this request that the applicant be required to eliminate the three proposed parking spaces in the front yard and widen the access driveway to 20 feet to allow two-way traffic. This requirement would allow the applicant the use of twelve parking spaces in the rear where eight are required by this type of use. There would still be the need for a Variance in the width of the access driveway because of the width of the driveway along the side of the house leading to the rear of the lot.

2. The neighbors to the south (law office) have raised the concern that the applicant's patients would be forced to drive on their lot due to the narrow width of the driveway. To eliminate this potential nuisance, Staff would suggest as a condition should this request be granted that a curb be installed along their common property line to help control traffic. Also, Staff suggests that the applicant be required to install directional signs on the front and rear of the building so that patients are informed that the drive along the side of the house is intended for one vehicle only. (Another concern raised by the neighbor - regarding the actual location of the property line and a fence - is a private concern between neighbors and need not be considered by this Board. The Board must trust in the professional integrity of the applicant's surveyor in reviewing the submitted plat.)
3. The proposed use as described by the applicant (1 dentist, 2 employees) would not generate a large volume of traffic. Therefore, problems in maneuvering in a small parking lot should be kept at a minimum. However, if the use of this property were ever to change to a use that involves more traffic, a problem may be created by narrower access drives and driveway aisles should these Variances be granted. Staff suggests as a condition should these requests be granted that any change in use from a dental office be reviewed by this Board to determine if the narrow drives are appropriate. Such a formal request to the in the future should take the form of an Appeal. Amount and type of traffic for any future use as it compares to a dental office should be the criteria the Board uses in reviewing such a change.
4. Finally, Staff would recommend as a condition should this request be granted that the existing access point be eliminated and a share parking arrangement be created if this site ever comes under the ownership of adjoining property owner to the east (White Castle lot) or the west (law office lot).

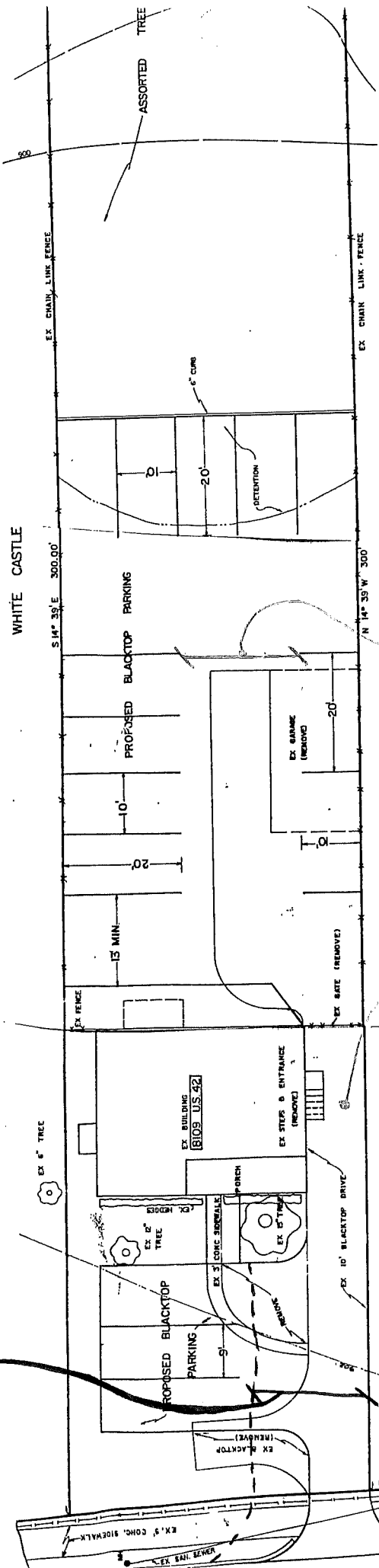
Respectfully submitted,

  
Thomas W. Breidenstein  
Zoning Enforcement Officer

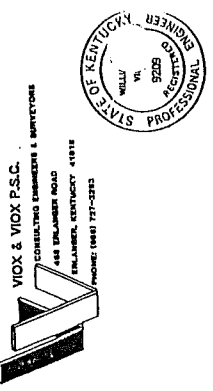
UTZ  
1-10-89

suggested 20'  
access drive for  
2 way traffic

White  
Castle



**SITE PLAN FOR  
UTZ DR. GLENN**  
FLORENCE, BOONE COUNTY, KENTUCKY  
Scale 1"=10' December 22, 1989



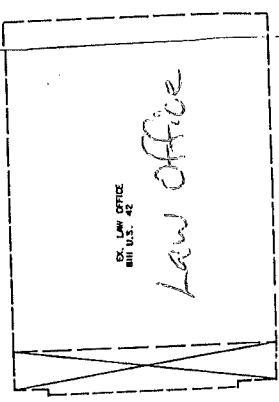
VIOX & VIOX P.S.C.  
448 ELLAMER ROAD  
FLORENCE, KENTUCKY 41116  
PHONE (606) 721-2252

driveway  
driveway  
driveway

K B W PROPERTIES  
(BILL G. WILDER)

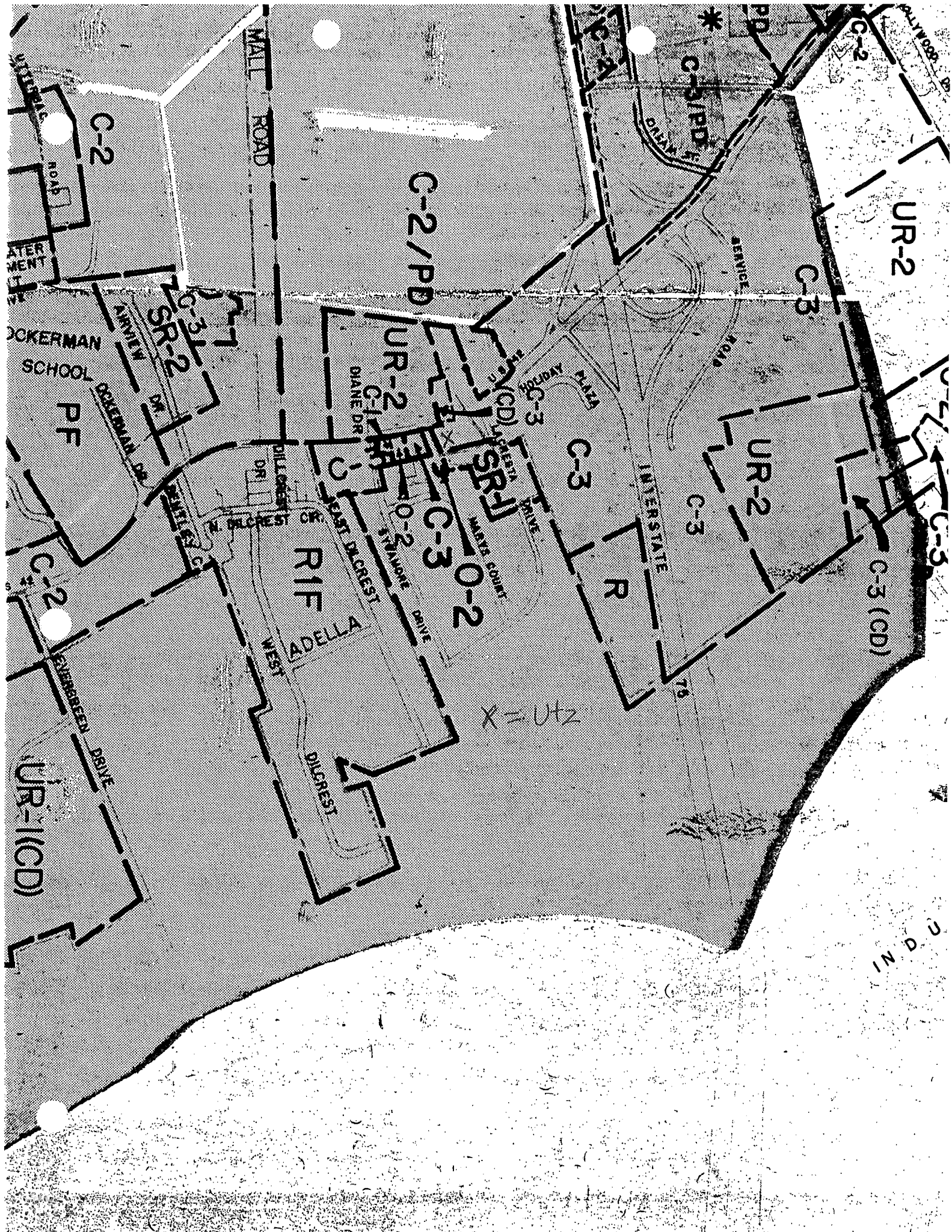
**NOTES**

1. ZONING - D-2.
2. TOTAL AREA - 24 AC.
3. EX. BUILDING - SEE EXISTING & NO NEW PROPOSED STRUCTURES.
4. WATER - FLORENCE WATER & SEWER COMM.
5. GAS & ELECTRIC - U.K.R.P.
6. TELEPHONE - INT'L. BELL.
7. NO UTILITY TO BE PROPOSED FOR THIS SITE.
8. SANITARY SEWER - FLORENCE WATER & SEWER COMMISSION.



10 foot access  
driveway





UR-2

C-3

C-3/PD

C-2/PD

C-2

SR-2

DICKERMAN SCHOOL

PF

UR-2

DIANE DR

SR-1

C-3

O-2

C-3

R

UR-2

C-3

C-3 (CD)

RIF

ADELLA

WEST

DILCREST

C-2

EMERBEEB DRIVE

UR-1(CD)

X=Utz

INDU

CITY OF FLORENCE  
BOARD OF ADJUSTMENT  
January 10, 1990 - 7:30 P.M.

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Mr. Charles Holland, Chairman, called the meeting to order at 7:30 P.M..

BOARD MEMBERS PRESENT:

Mr. Ashcraft  
Chairman Holland  
Mr. White

BOARD MEMBERS NOT PRESENT:

Mrs. Ward

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Approval of the Minutes:

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

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

AGENDA ITEMS:

1. The request of The Chelsea Moore Company for a Conditional Use Permit to allow the operation of a satellite car rental station/convenience pick-up point. The 750 sq. ft. retail space, located at 8165 Mall Road, is zoned Commercial Two (C-2) and is owned by Alfred C. Moore.

Staff Member, Greg Tulley, presented the Staff Report which included a slide presentation (see Staff Report).

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

Mr. Lee Ward of McGill, Smith, and Punshon (architects/engineers); and Mr. Anthony Palazollo of Chelse Moore Corporation were present.

Mr. Ward reviewed the illustration they had prepared with the Board. He stated that they will reserve five parking spaces as requested by the Staff. He stated that they do not intend for this to be a large auto sales facility or a repair/service facility. He requested approval of the Conditional Use Permit.

In response to questions from Chairman Holland, Mr. Ward added that it is a convenience pick-up location to serve those who would rather pick up a car here than at the airport, shoppers, etc.. It is not a warehousing activity.

Chairman Holland asked if there was anyone else present who wished to speak in regard to this request. There being no further comments, Chairman Holland moved that the request be granted, subject to the condition that up to five parking spaces be allowed, and that there be no maintenance on the premises, other than sweeping out of the cars. Mr. Ashcraft seconded the motion and it carried unanimously.

2. The request of Glenn C. Utz for Variances in the width of an access driveway and in the width of a driveway aisle. The 0.34-acre site, located on the southeast side of U.S. 42 between the White Castle Restaurant and the law office of Knapmeyer and Wilder, is zoned Commercial Services (C-3) and is owned by Cecil Burdell and Quetta Longo.

Staff Member, Greg Tulley, presented the Staff Report which included a slide presentation (see Staff Report).

Chairman Holland questioned if the steps on the side of the house would be removed and Mr. Utz stated that they would be removed.

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

Mr. Glenn Utz distributed copies of a Site Plan to the Board Members which indicated a 20-foot wide access driveway. He stated that due to the lot width of 50 feet, the driveway is narrower to the back of the building. He stated that a similar situation exists at the Scott Medical Lab and there is a similar driveway system. The owner of that Lab, Dr. Rattey, has had no complaints or problems due to the narrow access drive. Mr. Utz stated

that limiting the use of the property would create an unnecessary hardship as the traffic and oil stations make this location unsuitable for residential purposes on a permanent basis. He added that the applicant is not responsible for any of the existing circumstances. He agreed that a 10-foot wide entrance from U.S. 42 may create a hazard and agreed to amend his submittal to create an in/out situation for traffic and add a parking space for the handicapped. He stated that there had been a question from an adjacent property owner and that the placement of a rolled curb or equivalent is a reasonable solution. Dr. Utz reviewed the submitted Site Plan to show the location of the access drive and the parking spot to be used by the handicapped or by UPS and Federal Express.

Mr. Ashcraft questioned the need for screening of residential properties to the south.

Dr. Utz advised that the property extends the full length of the fence line, it is 300 feet deep and heavily forested. There would be 13 parking spaces at the rear of the building. The Variance would be for the two parking spaces on the driveway aisle.

Mr. Tulley commented that if the two parking spaces on the driveway aisle were eliminated the Variance would not be needed as the parking aisle would be 25 feet wide.

Dr. Utz stated that he sees 5 to 10 patients per day, with .5 deliveries per day, for a total of 5.5 to 10.5 cars per day, with a maximum of two patients in the office at a time. Therefore, .93 cars per hour use the driveway. He could grow to a maximum of four patients there at once and 2.3 cars per hour using the driveway. He stated that there will be a maximum of three chairs.

Mr. White noted that there is a turning lane in front of the property to help relieve a potential problem.

In response to comments from Mr. White, Dr. Utz stated that he did not want to classify the use as a "dental office", but as "health related" as he may do nutritional counseling. Mr. White commented that this term was too broad and could involve a lot of traffic.

In answer to questions from Chairman Holland, Dr. Utz stated that he had no intention of renting offices in his building. However, he may not do strictly dentistry and he may do nutritional counseling.

Mr. Ashcraft commented that "nutritional counseling" could involve an activity such as Diet Workshops. Dr. Utz stated that an activity of this type was not his intention. He would see the patients firsthand in a dental nature. He added that he would be purchasing this property.

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

Mr. Bill Welder, an adjoining property owner to the west, presented photographs of the site to the Board and stated that there is not room for a ten-foot driveway. He reviewed the pictures and stated that the corner of the house is 8'3" from his property line.

Mr. Tulley stated that the drawings are stamped by an engineer and indicate that there would be a ten-foot width.

Mr. Ashcraft stated that the Board does not have the right to grant access onto Mr. Welder's property.

Dr. Utz questioned if a Variance could be granted for 8'3".

Mr. Tulley stated that the Board must trust in the professional integrity of the applicant's engineer who has indicated that there would be a ten-foot width.

Counselor Wilson advised that the Board members have the right to visit the site before making a decision. The Board members indicated that they had visited the site and Mr. Ashcraft commented that the Board could measure the pavement, but cannot determine the property line.

Mr. Welder stated that the fence is the property line. He stated that if an 8-foot driveway is allowed, every car will go on his property. He added that the property has not been used since the elderly couple used it for a residence for many years. He does not want a curb there. He does not want to share in the cost or have it on his property.

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

Mr. Aschraft reviewed the pictures and stated that there would appear to be more than 8'3" if the steps are 30" and used as a scale.

Mr. Welder stated that you cannot get into the garage at the rear of the property. It was used for storage. Cars never pulled past the front portion of the property and that is the reason why the front parking space was blacktopped.

Dr. Utz stated that he had driven his van to the back without going off the pavement. He noted that the neighboring property is for sale. He added that if the site cannot handle two cars per hour, it cannot be used for anything.

Mr. Ashcraft stated that he did not want to grant a Variance for ten feet if there is not ten feet available. He questioned who the engineer was and Mr. Tulley advised that it was Bill Viox.

Chairman Holland moved that the request be tabled until the next meeting of the Board to allow for remeasuring. He emphasized that he was not questioning Bill Viox, but would like to be sure of the exact location of the property line. Mr. White seconded the motion and it carried unanimously. The request was tabled until the February, 1990 meeting of the Board.

There being no further business to come before the Board, Mr. White moved that the meeting be adjourned. Chairman Holland seconded the motion. The meeting was adjourned by unanimous consent.

APPROVED:

  
Charles F. Holland, Chairman

Attest:

  
Jan Hancock, Recording Secretary

CITY OF FLORENCE  
BOARD OF ADJUSTMENT

February 14, 1990 - 7:30 P.M.

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Mr. Charles Holland, Chairman, called the meeting to order at 7:30 P.M..

BOARD MEMBERS PRESENT:

Mr. Ashcraft  
Mr. Ewing  
Chairman Holland  
Mr. White

BOARD MEMBERS NOT PRESENT:

Mrs. Ward

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Counselor Wilson stated that Mr. Ewing had taken the oath.

Approval of the Minutes:

Chairman Holland stated that each Board member had received a copy of the Minutes of the Board of Adjustment Meeting of January 10, 1990 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. Mr. White seconded the motion and it carried unanimously.

AGENDA ITEMS:

1. The request of Glenn C. Utz for Variances in the width of an access driveway and in the width of a driveway aisle. The 0.34-acre site, located on the southeast side of U.S. 42 between the White Castle Restaurant and the law office of Knapmeyer and Wilder, is zoned Commercial Services (C-3) and is owned by Cecil Burdell and Quetta Longo. This request was deferred at the January 10, 1990 meeting.

Staff Member, Greg Tulley, presented the Staff Report which included a slide presentation (see Staff Report).

Chairman Holland stated that at the last meeting, there was question in regard to the width of the driveway. He asked if the driveway had been measured.

Mr. Tulley stated that he measured the driveway, as did the applicant's engineer, and it was found to be 9.55 feet from the corner of the porch to the property line. This measurement was indicated to be ten feet at the last meeting. Mr. Tulley stated that one would be able to maneuver a car through there with the elimination of the stairs. The concrete-type curb would have to be 4 or 5 inches wide, leaving nine feet, which is the width of a parking stall.

Mr. Wilder, attorney and adjoining property owner, stated that his concerns are still the same. He stated that if this request is granted, it will create a hazard for his property. He stated that there is still a tax base on the property if it is residential.

Chairman Holland stated that Mr. White had also measured the driveway and had given an estimate of 9'2". Mr. Ashcraft stated that a car could get back there and the driveway is usable. Mr. Ashcraft added that he is not sure the property is suitable for residential use and, if it is not suitable for commercial use, then it is only suitable for attachment to the adjoining property.

Mr. Wilder stated that the building could be torn down. The lot is 300 feet deep and a building could be built on the back of the lot. Mr. Ashcraft commented that it would be a very narrow building.

Mr. Wilder stated that everybody else along the street had to live up to all the building and zoning standards and an exception should not be made for this one property.

In response to questions from the Chairman, Mr. Tulley advised that it was originally thought that the property was zoned O-2, but the Zoning Administrator determined that it is zoned C-3.

Mr. Wilder questioned how a blacktop machine and equipment would get to the rear of the property. Dr. Utz advised that a cement truck would be a smaller vehicle. Mr. Tulley stated that the Staff would not object to concrete.

Mr. Wilder stated that the tree trimmers would not be able to get to the back of the lot and the trees are all grown up. He stated that the walls and the barbecue pit would have to be removed to put in the parking lot and questioned how this could be done.

Chairman Holland stated that Mr. Wilder's points may be valid, but he is not in construction and cannot answer his questions. Mr. Ashcraft stated that these are not concerns for the Board to address.

Chairman Holland asked if anyone else wished to speak.

There being no further comments, Mr. Ashcraft moved that the Variances be granted subject to the condition that the applicant install a curb and that any change in the use of the property from a dental office must be appealed to this Board. Mr. White seconded the motion.

Mr. Wilder stated that it had been indicated that there would be one dentist and two employees and questioned if there would be more dentists.

Dr. Utz stated that his intentions were for a total of three to four employees, with two or three chairs at the most. There is not room for more than this. He stated that the nutritional counseling will be done by the dentists.

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

2. The request of Claude Robinson for a rear yard Variance to allow the construction of a single-family residence. The 0.23-acre lot, located on Burgess Lane (lot #33, Williamsburg West Subdivision), is zoned Suburban Residential One (SR-1).

Staff Member, Greg Tulley, presented the Staff Report which included a slide presentation (see Staff Report).

Chairman Holland commented that the excavating had already been started. He asked who was present to speak in regard to this request.

Mr. Claude Robinson, the builder, stated that this will be a two-story house, with each floor being 2,200 sq. ft..

Mr. White stated that there is concern about the split rail fence.

Mr. Jim Elliot, 211 Burgess Lane, stated that the split rail fence will conform to the other fences in the neighborhood. He stated that they want an obvious property line so that the people coming in do not have a misunderstanding. (See Mr. Elliot's letter dated January 27, 1990 which is attached to the Staff Report.)

Mr. Ashcraft stated that the Board can ask that the fence be built, but cannot impose the maintenance of the fence on the eventual owner.

Mr. Elliot stated that the split rail will hold up better and require less maintenance. Mr. White commented that the idea of the fence is the power of suggestion as to the property line.

Mr. Hoppenjans stated that his property is Lot #34. Mr. Hoppenjans, Mr. Elliot, Mr. Robinson, and the Board members reviewed the Plot Plan and Mr. Robinson indicated where he would put the fence.

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

There being no response, Mr. White moved that a Variance of eight feet be granted subject to the condition that a split rail fence be constructed along the corner of the house at Lot #34 and #31 (the Hoppenjans property and the Elliot property) as discussed and reviewed on the Plan. Chairman Holland seconded the motion and it carried unanimously.

BOARD ITEMS:

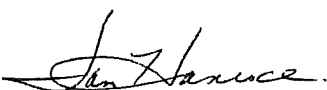
1. Chairman Holland stated that the election of officers will be held at the March meeting and the current officers will continue until that time.
2. Chairman Holland asked that a letter be sent to Mrs. Meihaus thanking her for serving on the Board and wishing her well in her elected office.

There being no further business to come before the Board, Mr. White moved that the meeting be adjourned. Chairman Holland seconded the motion. The meeting was adjourned by unanimous consent at 8:10 P.M..

APPROVED:

  
Charles F. Holland, Chairman

Attest:

  
Jan Hancock, Recording Secretary