

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) X Boone X Florence _____ Walton _____ Union _____
- 2. (Check One) _____ Conditional Use Permit X Variance _____ Appeal _____
 _____ Change in Non-Conforming Use _____
- 3. Applicant's Name GEORGE B. MARINO JR (AGENT)
 Phone Number 703. 354. 3000
 Applicant's Address 6611 IRON PLACE
SPRINGFIELD VA 22151
City State Zip
- 4. Description of Request: TO ALLOW THREE (3) SIGNS ON
FRONT OF BUILDING INSTEAD OF ONE
- 5. Name of Development CIRCUIT CITY SUPERSTORE
- 6. Location of Development 8125 MALL ROAD
FLORENCE KY 41042
- 7. Acreage Under Review 5.506 ACRES
- 8. Lot Number and Name of Subdivision (if part of a subdivision) _____
- 9. Owner of Property CIRCUIT CITY STORES, INC
 Phone Number 804. 281. 6840 - DEREK TIZARD.
- 10. Address of Property Owner 2040 THALBRO ST.
RICHMOND VA. 23230
City State Zip
- 11. Proposed Use(s) On Site RETAIL SALES - AUDIO - VIDEO
APPLIANCES
- 12. Total Square Footage of Existing and/or Proposed Buildings
31000 SQ FT
- 13. Current Zoning on Property SAME
- 14. Deed Book 385 Page No. 266 Group No. 231
- 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? YES
- 17. Have you submitted a list of adjoining property owners with this request? YES
- 18. Applicant's Signature: George B Marino Jr
- 19. Property Owner's Signature: _____

SECTION B

(To be completed by Boone County Planning Commission Staff)

1. Date Received 3-20-90
2. Fee Received \$ 310.00 (R4983)
3. Is application complete? _____ Yes _____ No
4. Staff Reviewer _____
5. Scheduled Board Action Date _____
6. Board Action:
_____ Approval
_____ Approved With Conditions (See #7)
_____ Disapproved (See #8)
7. Conditions: _____

8. Reasons For Disapproval: _____

BCPC:7/11/88

STAFF REPORT

APPLICANT: George B. Marino, Jr.
DEVELOPMENT: Circuit City Superstore
LOCATION: 8125 Mall Road
ZONE: Commercial Two (C-2)
DATE: April 11, 1990
REMARKS:

The applicant is requesting a Variance in the number of signs in order to allow the installation of three (3) building mounted signs instead of one (1). The 5.5 acre site, which is located on the west side of Mall Road, behind Bob Sumeral Tires, is zoned Commercial Two (C-2) and is owned by Circuit City Stores, Inc.

As an individual establishment, Circuit City is not entitled to its own free standing sign. Instead, the zoning ordinance allows it more liberal use of building mounted signs. Article 19, Section 1951 ("Mall Road Commercial Sign District") of the Boone County Zoning Regulations reads, in part:

3. Independent building[s] or individual establishments with direct frontage on, or unobstructed visibility from, Mall Road shall not be permitted individual free-standing signs but shall be permitted one building mounted sign, with a maximum size of 2 square feet per lineal foot of building width, for each wall with direct visibility from Mall Road, a secondary access road, or areas of major internal traffic circulation. (p. 19-8)

The intent of this section is to "discourage the area from becoming cluttered with sign upon sign, with each one trying to be bigger and more visible than the next." (p. 19-7)

With a 180 foot wide by 165 feet deep building, Circuit City is entitled to 360 square feet of signage along the front and 330 square feet on both the north and south sides for a total of 1020 square feet. Instead, Circuit City is requesting a Variance in order to allow three (3) signs totaling 334 square feet on the front of the building only. No signs are proposed on any other building frontage.

Marino/Circuit City
Staff Report
April 11, 1990
page 2


Review

The following reviews the standard which the Board must use when examining requests for Variances:

1. Staff does not believe that if granted, the increased number of signs on one frontage will adversely affect the public health, safety, or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations.
2. The requested variance arises from the special circumstance of setback from Mall Road and unfavorable topography to the north and south of the store. This situation is not typical of an individual establishment not located within a shopping center on Mall Road.
3. The Board must consider whether strict application of the provisions of the regulations would deprive the Circuit City of the reasonable use of the land or would create an unnecessary hardship on the applicant.
4. The special circumstance of setback is the result of Circuit City's choice of sites.

The applicant's reasons for the request are attached. At this writing, Staff has no concerns or suggested conditions should this Variance be approved.

Respectfully submitted,



Thomas W. Breidenstein
Zoning Enforcement Officer

TWB:twb

CIRCUIT CITY
SITE PLAN (approved)

6-15-88

MALL ROAD
SHOPPING
CENTER
MARD C-2

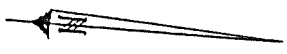
EXISTING
STRIP CENTER
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ACCESS/EASEMENT

TIRE
STORE

MALL ROAD

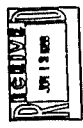
Y'ALL MALL
SWALLEN'S
ZONED C-2



AIRVIEW
SUBDIVISION
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AIRVIEW SUBDIVISION
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300' BUFFER
OF TREES
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SHOULD BE
ROUTED

LAUDERDALE	
A	WHITE PINE
B	RED MAPLE

UTERBACK
CREEK



ARNEF CREDDOY



PRELIMINARY SITE PLAN

BOUNDARY SURVEY

TOPOGRAPHIC SURVEY

CIRCUIT CITY SITE

PLANNED BY: JAMES W. SWALLEN
AT: BRAYBIDE & SONS
DATE: 6-15-88

SCALE: 1" = 40'

DATE: 6-15-88

PROJECT: Y'ALL MALL

PREPARED BY: JAMES W. SWALLEN

DATE: 6-15-88

SCALE: 1" = 40'

DATE: 6-15-88

PROJECT: Y'ALL MALL

PREPARED BY: JAMES W. SWALLEN

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DATE: 6-15-88

PROJECT: Y'ALL MALL

PREPARED BY: JAMES W. SWALLEN

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Airview Subdivisi

REMAINING W.D. -
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CONC. BLDG. OF
APART. F
SEE DTL. SUT. SP.3

REMAINING W.D. -
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CONC. BLDG. OF
APART. F
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CIRCUIT CITY
CAR STEREO
INSTALLATION 200
SEE DTL. SUT. SP.3

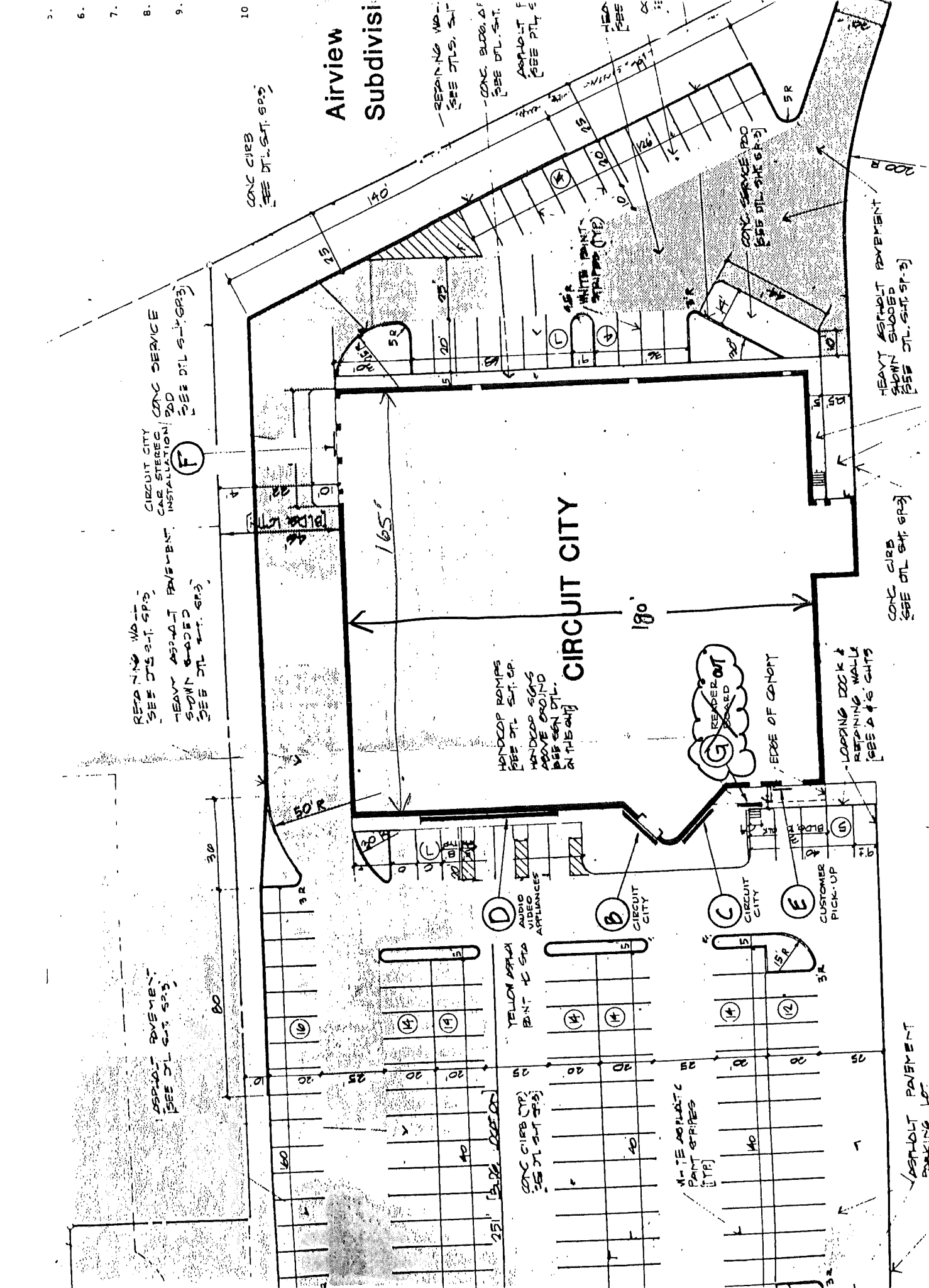
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SHOWN GRADED
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REMAINING W.D. -
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HEAVY ASPHALT PAVEMENT
SHOWN GRADED
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ASPHALT PAVEMENT
SEE DTL. SUT. SP.3



CONC. CURB
SEE DTL. SUT. SP.3

HEAVY ASPHALT PAVEMENT
SHOWN GRADED
SEE DTL. SUT. SP.3

ASPHALT PAVEMENT
PARKING LOT

WHITE ASPHALT
PAINT STRIPES
(ITP)

CONC. CURB (ITP)
SEE DTL. SUT. SP.3

YELLOW ASPHALT
PAINT 4 SPA
VIDEO APPLIANCE

CUSTOMER
PICK-UP

CIRCUIT CITY

CIRCUIT CITY

CIRCUIT CITY

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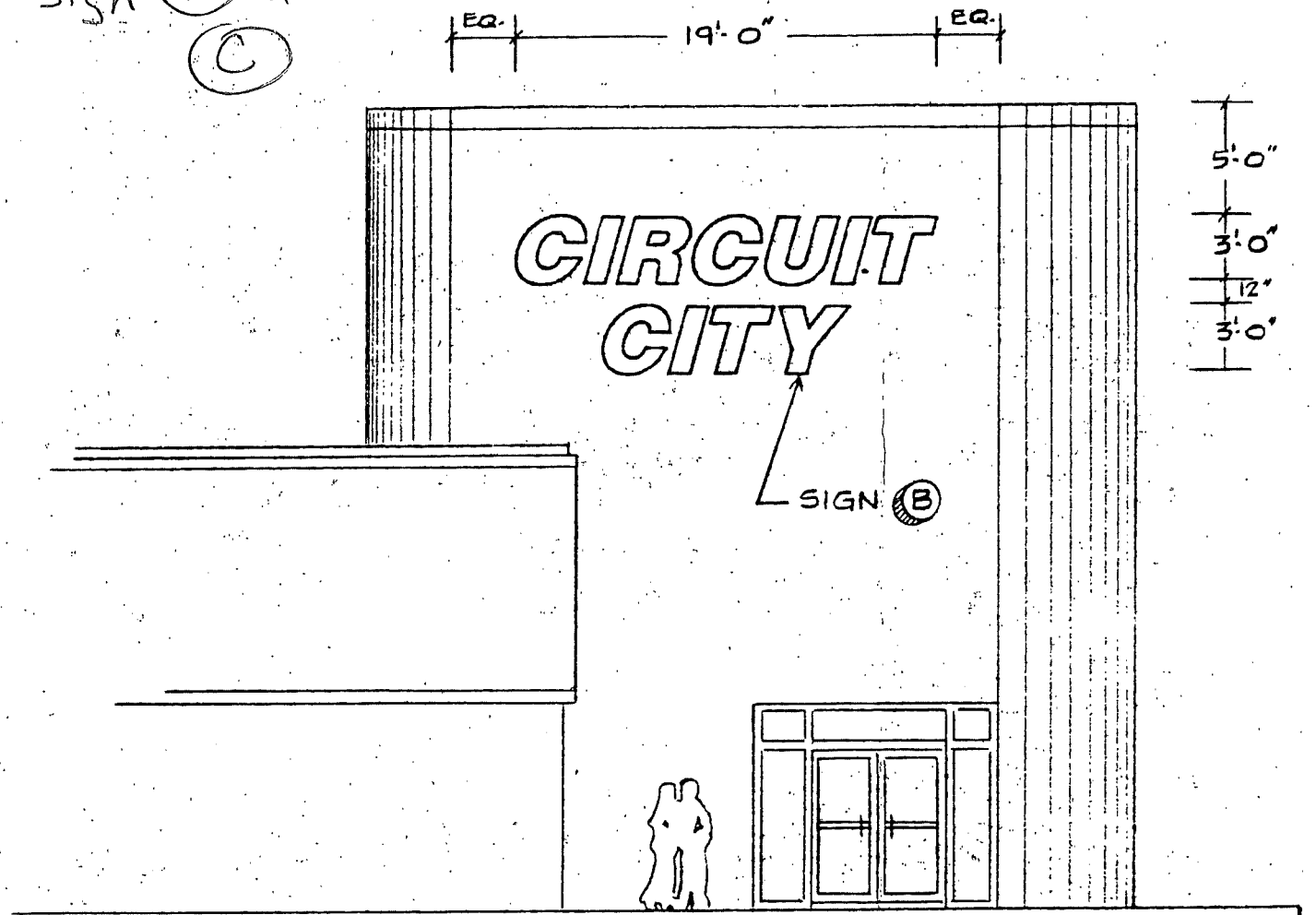
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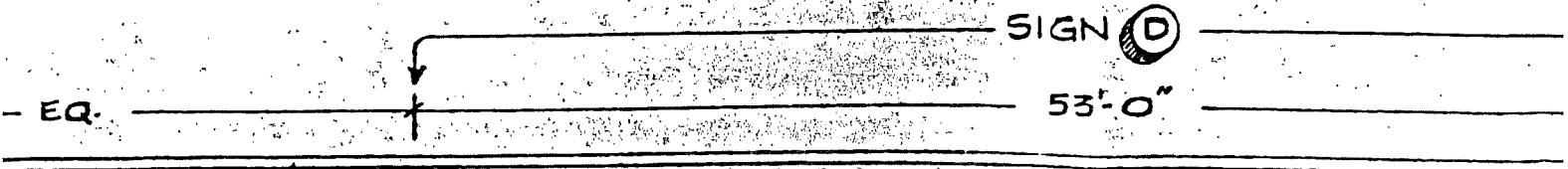
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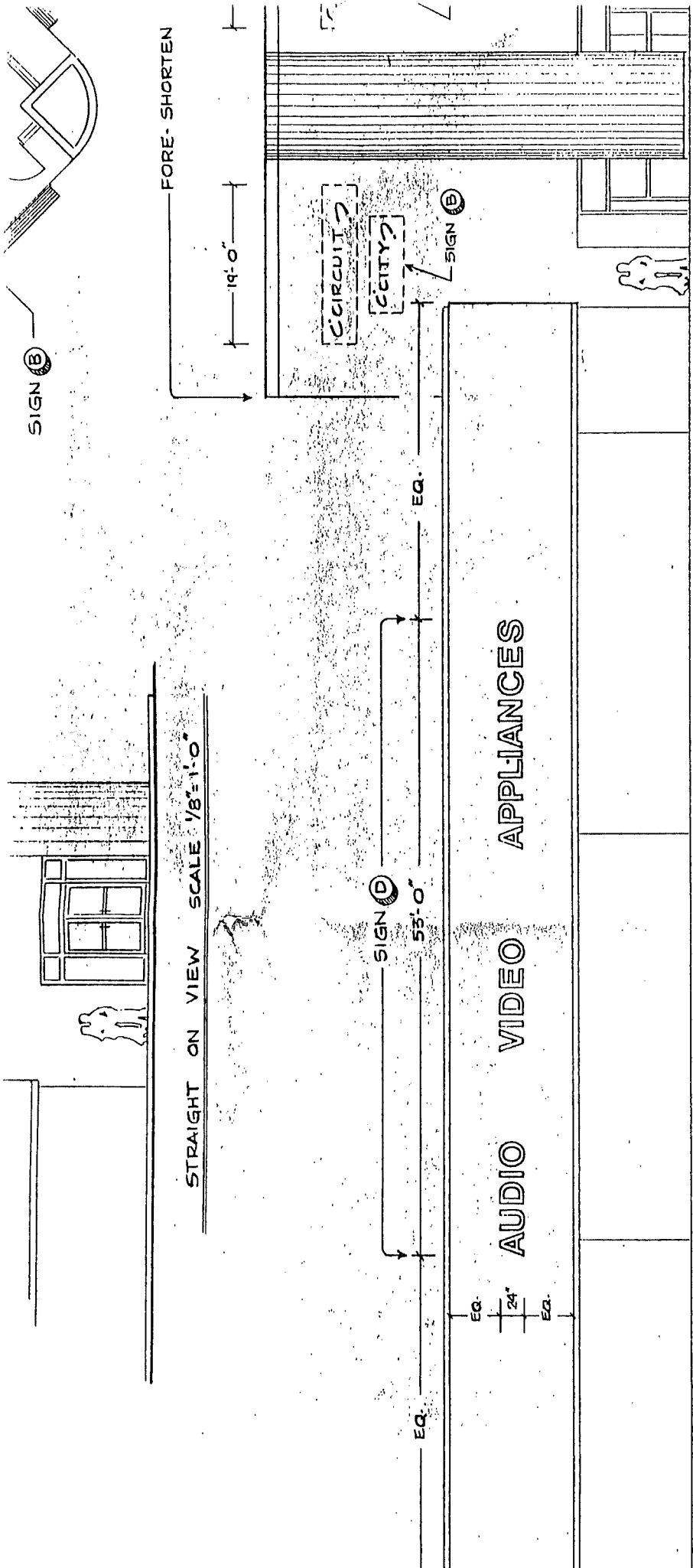
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Sign (B) &
(C)



STRAIGHT ON VIEW SCALE 1/8" = 1'-0"





FRONT ELEVATION

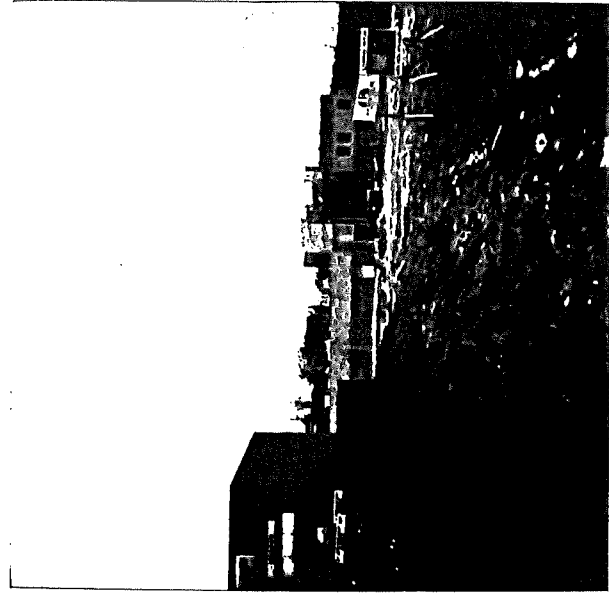
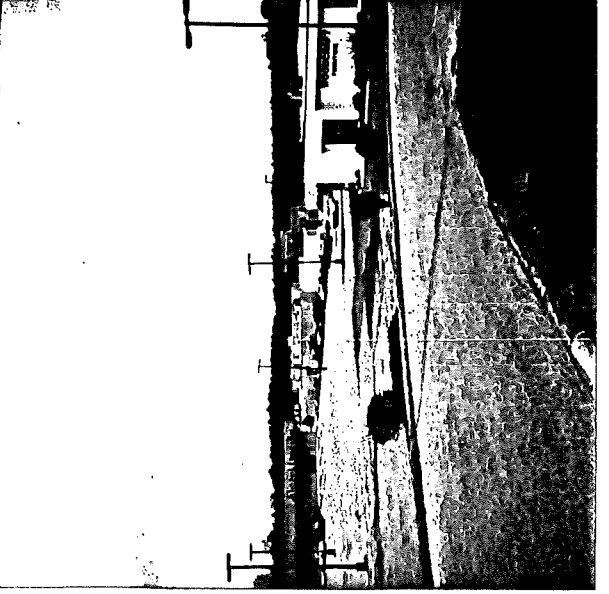
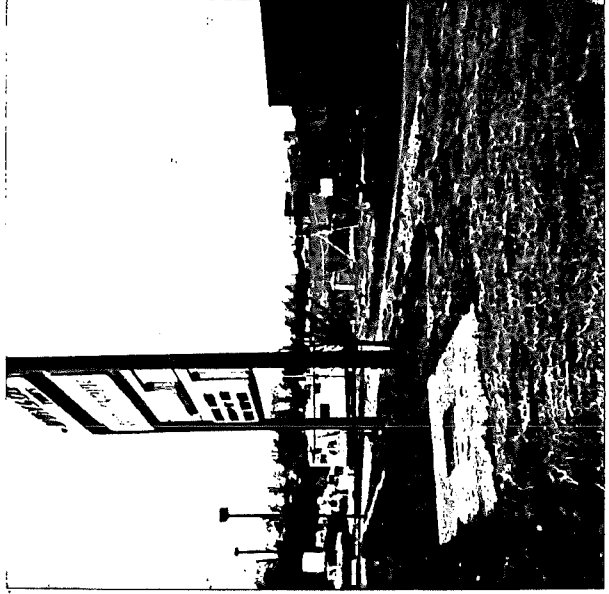
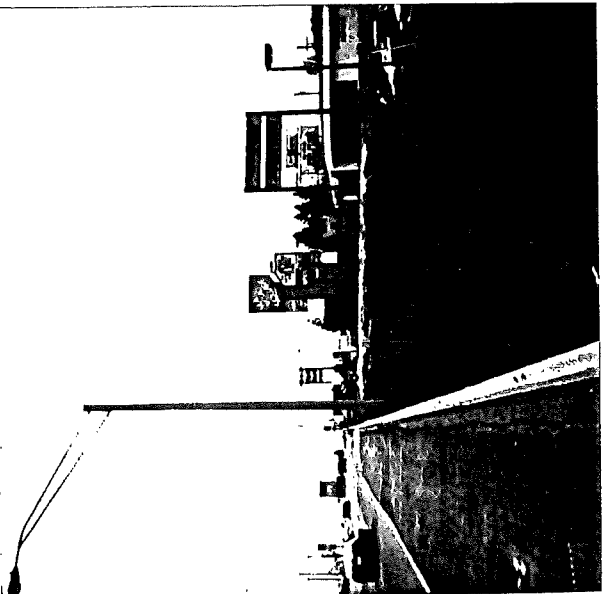
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Sign D



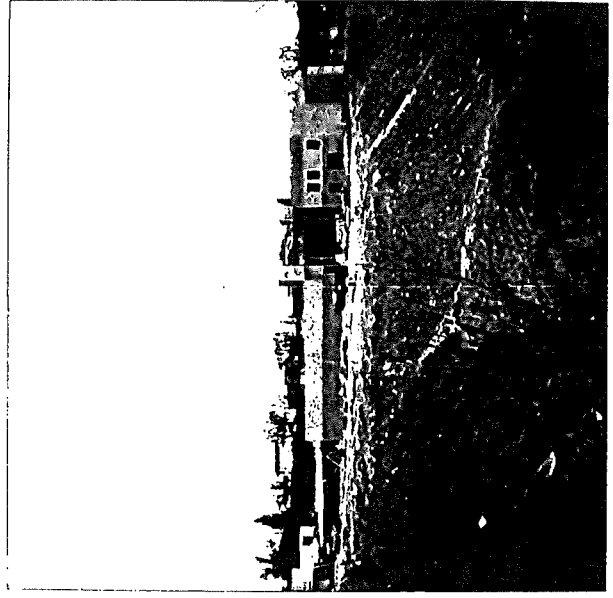
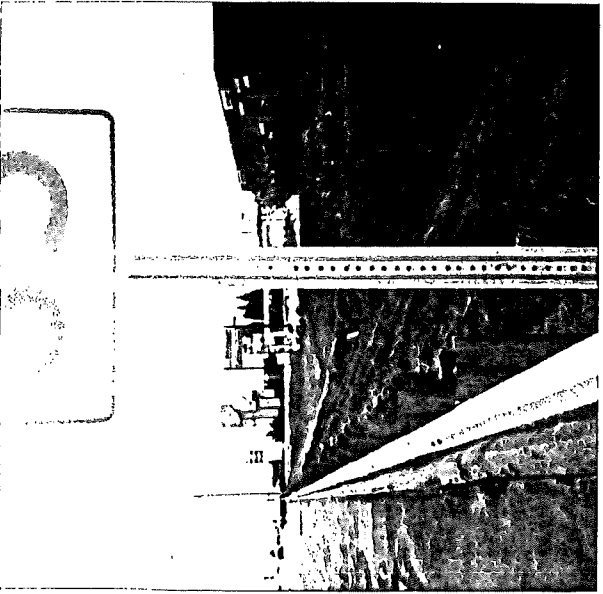
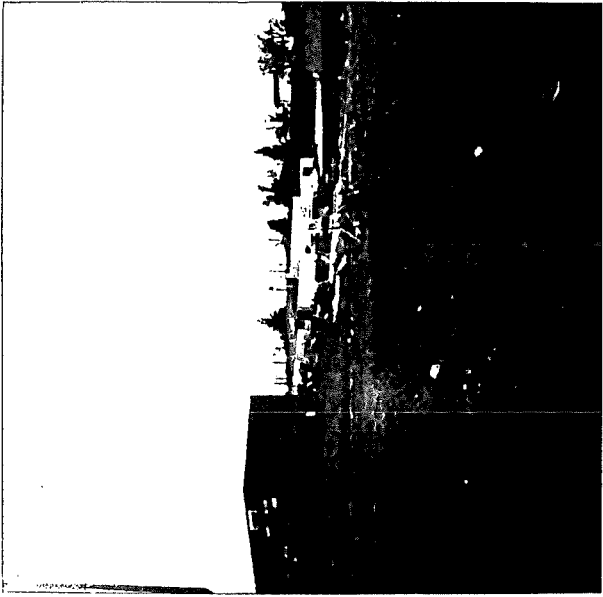
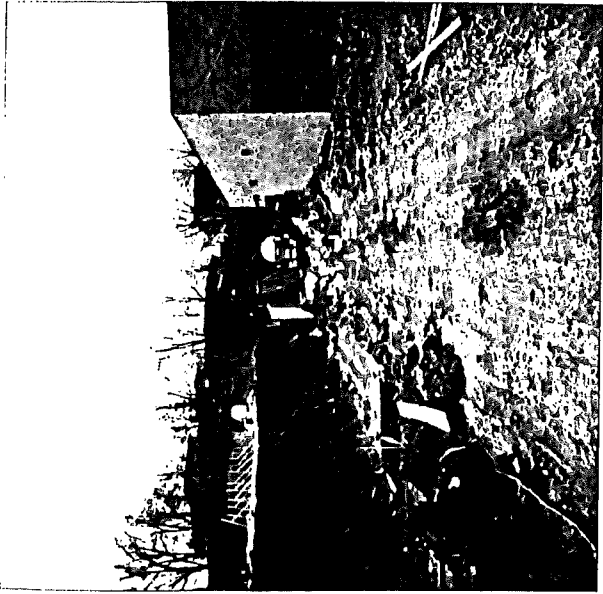
CIRCUIT CITY SUPERSTORE
8125 MALL ROAD
FLORENCE KY 41042

PHOTO 1 OF 2

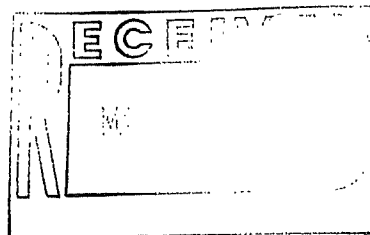


CIRCUIT CITY SUPERSTORE
8125 MALL ROAD
FLORENCE KY 41042

PHOTO 2 OF 2



**SERVICE
NEON
SIGNS
INC**



(703) 354-3000
Fax (703) 354-5810

6611 IRON PLACE, SPRINGFIELD, VA. 22151

March 16, 1990

Boone County Planning Commission
P.O. Box 697
2950 Washington Street
Burlington, KY 41005
Attn: Mr. Thomas W. Breidenstein
606-334-2196

RE: Sign Variance
Circuit City Superstore # 878
8125 Mall Road
Florence, KY 41042

Dear Mr. Breidenstein:

On behalf of Circuit City Stores, I am asking that a variance be approved allowing us to install three signs on one face of our building instead of the one sign as permitted by code.

The building is 190' in width and would permit a sign of 380 square feet to be installed on one face. The three signs that are being requested total 372 sq. ft. and are designed to aesthetically compliment the standard building design in color and size.

If we chose to install these signs on separate sides of this building we feel it would detract from our overall building and corporate image. Further, the sign that would be located on south elevation of building would be obscured by a concrete retaining wall and the higher embankment of adjoining property.

You should also be aware that the building is set back from Mall Road 460' and is located behind other retail buildings along Mall Road, making it difficult to be seen heading North.

We are not allowed a separate free standing road sign in this zone and would have to participate on the existing free standing sign for "Mall Road Square" that is already cluttered.

We feel that our request will not adversely affect the public health, safety or welfare and will not alter the character of the general vicinity.

We also feel that by allowing this variance we will be able to present to the public an attractive building with our name and major services displayed so that motorists can clearly identify and understand what we offer. The proposed signs will enable motorists to read messages from a distance that will be far enough to allow reaction time to entrances off of Mall Road

Quality Electrical Displays Since 1932

**SERVICE
NEON
SIGNS
INC**

(703) 354-3000
Fax (703) 354-5810


6611 IRON PLACE, SPRINGFIELD, VA. 22151

page 2

We therefore respectfully request your favorable consideration to our variance for these building signs.

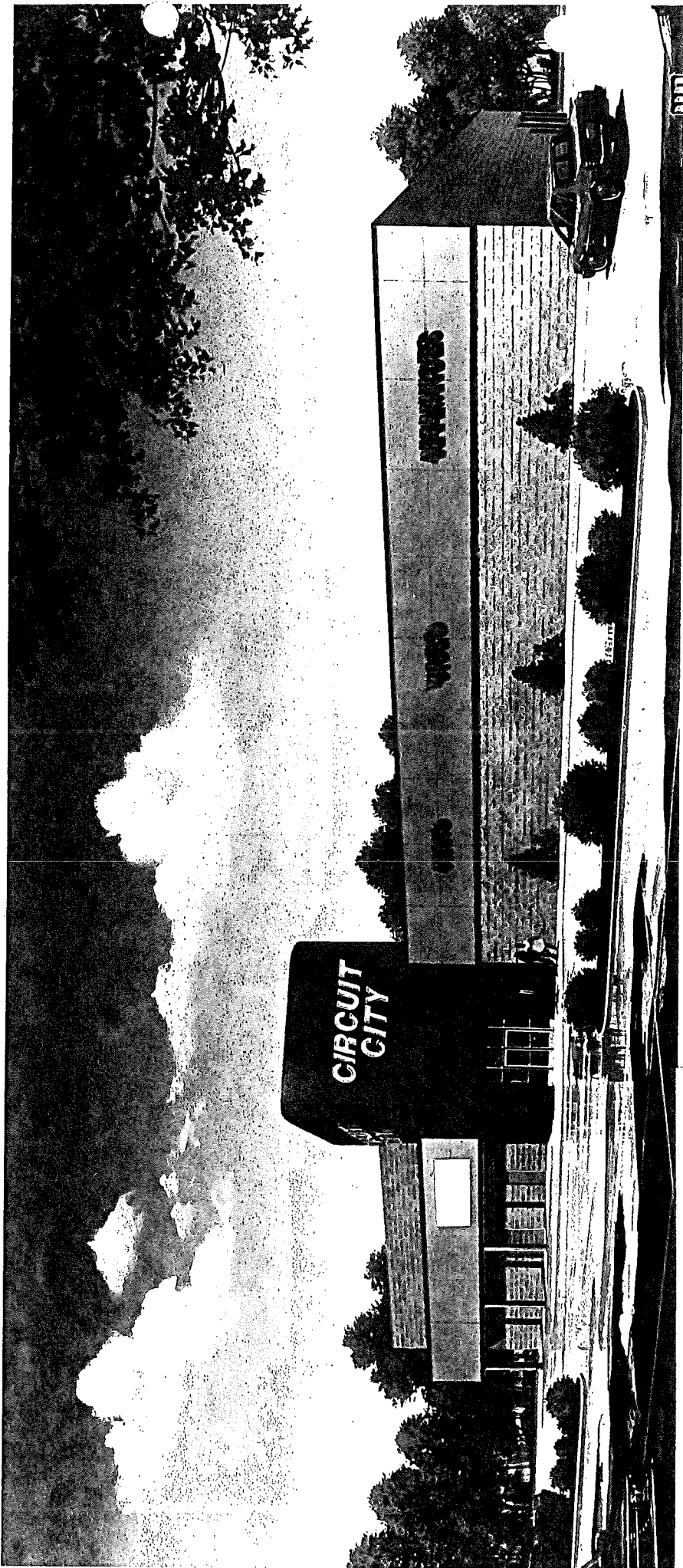
I look forward to meeting with you on the evening of April 11, 1990 to discuss this matter

Sincerely,



George B. Marino, Jr.

Copy: Mr. Derek Tizard



**SERVICE
NEON
SIGNS
INC**

GEORGE B. MARINO, JR.

(703) 354-3000

VIRGINIA • MARYLAND • WASHINGTON D C

FLORENCE BOARD OF ADJUSTMENT
BUSINESS MEETING

April 11, 1990 - 7:30 P.M.

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

BOARD MEMBERS PRESENT:

Mr. Ashcraft
Mr. Ewing
Chairman Holland
Mrs. Ward
Mr. White

BOARD MEMBERS NOT PRESENT:

None.

LEGAL COUNSEL PRESENT:

*Mr. Dale Wilson

* Mr. Wilson arrived during Agenda Item #4.

AGENDA ITEMS:

1. The request of Hills Building and Construction Services No. 1 to construct a 96 sq. ft. real estate sign. The 38-acre site is located at 8800 Old U.S. 42, Florence, Kentucky. The site is zoned Urban Residential One (UR-1) and is owned by Hills Building & Company Service No. 1.

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

Chairman Holland asked if there was anyone present from Hills Building and Construction Company. Mr. Louis Guttman was present.

Chairman Holland asked if their company met with the Florence City Council to get approval of the condominiums and Mr. Guttman advised that they did.

Chairman Holland stated that it had been brought to his attention by a member of the Florence City Council that when they were given permission to build, they agreed to a 16 sq. ft. sign and now they want something about six times as large.

Mr. Guttman stated that they asked the Staff for permission to have the off-premise sign, which was not permitted.

Following discussion, Chairman Holland stated that he must have misunderstood the councilman and asked if Mr. Guttman would tell the Board why they need the larger sign.

Mr. Guttman referred to the new U.S. 42 coming through and stated that they have no visibility from the new U.S. 42 and that there is a need for directional signs.

Chairman Holland asked if they have a study which shows that a 96 sq. ft. sign is appropriate.

Mr. Guttman stated that they did not have a study, but it is the standard size that is being put up and they felt it was appropriate.

Mr. Ashcraft asked how long they would need the sign and Mr. Guttman stated that they need it for about 18 months.

Mr. White asked if they were going with a regular sign company and if the sign had been flagged.

Mr. Guttman stated that they are going with a professional sign company. The sign has not been flagged as it is only 8 feet high and four to five feet off the ground.

Chairman Holland stated that if the sign is granted, the Board generally requests that it be landscaped and that the landscaping be maintained.

Mr. Guttman advised that they have a professional management company.

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

Mr. Tom Nienaber, present in behalf of Erpenbeck Construction, the owners of Farmview Subdivision which is next door, stated that he agrees with the Staff Report that there are no special circumstances warranting this Variance. He added that to approve this the Board would have to make findings of fact to justify the granting of the Variance. He stated that the land can be adequately used in a reasonable manner without the Variance. He stated that the sign they put up is not visible until you are coming around the corner and already going toward the project. He stated that this project has better visibility off U.S. 42 than Farmview. He added that this corridor along U.S. 42 has the potential to be one of the highest quality housing areas in the county and the Erpenbecks want to maintain this. This sign will take away the quality image of the area. The Erpenbecks spend nearly a quarter million dollars on the entrance to Farmview and do not want this sign next to it. Mr. Nienaber stated that this is a destination trip and people know

where they are going before they get in their car. They do not need the sign to attract the traveling type of customer. He added that there is a big gap in the terrain coming up the hill and the project can be seen. He stated that they have excellent visibility from the road and Farmview does not. He stated that if anybody should be entitled to the sign, it should be Farmview, but the Erpenbecks do not want the sign. He stated that there can be no findings to justify this Variance. He stated that they have no problem with signage that is allowed. He stated that the Erpenbecks spent a lot of money on the entrance and do not want a large sign to grab your eye as you approach the development.

Mr. Guttman stated that Farmview has a sign at the corner of U.S. 42 which is on the Erpenbecks property and exceeds 16 sq. ft.. Mr. Nienaber stated that this is an approved sign which did not require a Variance.

Mr. Aschraft stated that ordinarily his inclination is that the signs be temporary to permit sales. He noted that there is a lot of development around town and if this is approved for Mr. Guttman, then the Board would almost have to grant the same approval for everyone else, including the Erpenbecks, to be consistent.

Mr. Aschraft moved that the Variance be denied and that the applicant be restricted to a 16 sq. ft. sign. Mr. Ewing commented that the sales are going well and seconded the motion.

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

2. The request of Williamsburg Properties for a Variance to construct a 150 sq. ft. sign for Saddlebrook Farms. The 119.51-acre site is located east of the U.S. 42 Connector Road and west of I-75. The site is zoned Suburban Residential Two/Planned Development (SR-2/PD) and is owned by Saddlebrook Partners.

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

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

Mr. Ryan of Williamsburg Properties was present. He stated that they initially trying to draw people from communities as far away as Georgetown. He stated that the development is on the Connector Road but people cannot tell what is going on there due to the speed of the traffic. They are requesting the 150 sq. ft. sign which is allowed by the state Highway Department. He stated that it is not a directional sign, but tells why all the construction is there.

Mr. Ashcraft asked if they were proposing a V-shaped sign and Mr. Ryan stated that it will be a back-to-back sign.

Mr. Ashcraft asked if they had a permit for the V-shaped sign.

Mr. Ryan advised that they did not have a permit for the sign which blew down. The Highway Department told them to mend the fence knocked down by the sign and get a permit.

Chairman Holland stated that he was told by one of the neighbors that when the sign was constructed it tore down some of his fencing. This occurred on the Hudson property.

Mr. Ryan stated that they have talked to his daughter. He stated that they did not take down the fencing, but will fix it in the course of fixing the other fence.

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

Mr. Dave Wert, 8363 Juniper Lane, stated that his property adjoins the development. He has no problem with this sign, but would be opposed to a large sign on Weaver Road close to his property.

Mr. Ryan stated that they do not propose anything on Weaver Road at this time.

Mr. Wert stated that he would like to know how the development is going and would like a schedule of what they are going to do. He stated that they were taking soil samples about 80 feet from his house.

Mr. Tulley stated that he will advise Mr. Wert how to contact Planning and Zoning and that the records are available to him in the office.

Chairman Holland asked how long the sign would be needed.

Mr. Ryan stated that the project is 750 units and is a five-year project. The sign is relative to some of the work in the front. The back is zoned multi-family and is for sale.

Mr. Ashcraft asked if they could go two years and then come back. Mr. Ryan stated that they could.

Chairman Holland stated that the Board wants the sign landscaped and maintained and Mr. Ryan agreed.

Mr. Ashcraft asked if the sign shown is the sign that will be erected and if it is illuminated.

Mr. Ryan stated that the sign shown is the one they will erect. They do not have any lights planned.

Mr. White moved that the Variance be approved to 150 sq. ft. and that the sign be properly landscaped, that the fences be repaired, and that the Variance be for a maximum of two years. Mr. Ashcraft seconded the motion.

A vote on the motion made by Mr. White found Mrs. Ward, Mr. Ashcraft, and Mr. White in favor. Mr. Ewing and Chairman Holland were opposed. The motion carried by a vote of 3 to 2.

3. The request of David Mardis for a Variance in the width of an access drive. The 0.22-acre site is located at 7602 Dixie Highway, Florence, Kentucky. The site is zoned Commercial One (C-1) and is owned by David Mardis.

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

Mr. Joseph Hoh of Cardinal Engineering stated that he prepared the plan. He stated that Mr. Mardis has a catering business. Due to additions to the building and the increase in square footage, nine parking spaces were required. There are seven spaces in the rear and two in the front. They would post a sign at the front and rear of the building saying "One Way Traffic" and a sign in the rear to yield to incoming traffic. The property is zoned Commercial and the Planning Commission must have taken into account that at some time the house would be converted to commercial use. The business will be catering and a wedding related specialty shop upstairs for invitations, decorations, etc.. Business will be done by appointment. The catering business is done on a contract basis and the food delivered to customers. He stated that the business as it exists is a non-conforming use and they want to bring it into conformance. He stated that the driveway should have no detrimental effect on U.S. 25. The driveway at the street is wider than at the rear and could be widened to allow cars to pass at the entrance. The 12 feet is the area between the property line and the house and is all that is available. There is only four feet on the other side. The house sits back 50 feet from the road, but there will be an addition on the front making it 40 feet from the road. There will be a 25' addition to the rear.

Mr. Ewing stated that the Staff suggested that they eliminate the two parking spaces in the front.

Mr. Mardis stated that they would move the two parking spaces in the front to the south and widen the driveway access from Dixie Highway to the building. He stated that they will be preparing food there and there might be twelve people in and out on the weekend.

Chairman Holland questioned if a large garbage truck would be driving back there. Mr. Mardis advised that they use Rumpke and have not had any problem. He added that there will be delivery trucks and panel trucks, not semi's. He stated that they operate their business on Edgewood Road and have not had any problems. The deliveries come right up the residential driveway. He is trying to get his business out of his home and create an all-inclusive wedding store -- a place to display specialty type things. There will be no more traffic than a residence. He stated that 80% of the people will have appointments.

Chairman Holland asked if they had talked to the neighbors about shared access.

Mr. Mardis stated that the man on the right does not object to a driveway house-to-house. The man does not know what he wants to do with his property. If he ever makes parking in the back, there could be a circle drive in and out.

Mr. White questioned the water runoff due to the blacktop.

Mr. Hoh stated that they have created a detention basin at the rear of the site. There is an existing storm sewer system flowing to the southwest. Also, there are some white pines planted below the parking area.

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

Mr. Ewing moved that the Variance of 8 feet to allow a 12-foot drive be granted, that the two parking spaces in the front be moved to the south to allow a 24' drive in the front, that any change from the catering business needs to come back before the Board, and should the property to the right develop in the future there is the possibility of shared access for going one-way in and out on a circular drive. Mr. White seconded the motion and it carried unanimously.

4. The request of W. S. "Buddy" Grubbs for a Conditional Use Permit, a Variance in the rear yard setback, and a Variance in the required landscaped buffer to allow the construction of a funeral home and law office. The 0.69-acre site, located at 7281 Burlington Pike, Florence, Kentucky, is owned by Margo L. Grubbs and is zoned Commercial Two (C-2).

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

Mr. Grubbs reviewed the plans with the Board, indicating the house which will be removed and the houses that will be placed wall-to-wall.

Mr. Harley Fisk, architect, stated that they do not object to the ivy, but it will take a while to grow. He stated that the fence will be seven feet high at the top. He added that Mr. Grubbs has talked to the neighbors and they are here this evening.

Chairman Holland asked if there would be a retaining wall at the back.

Mr. Fisk stated that there will be a wall with a wrought iron fence on top.

Mr. Ashcraft asked why the Staff feels the fence should be higher and Mr. Breidenstein stated that the Zoning Regulations require a 25' landscape buffer, and Staff is trying to work a trade off of the evergreen trees being compared to a wrought iron fence. Staff suggests that the fence be six feet high with the posts closer together so that ivy can intertwine to be as effective as an 8' high fence.

Mr. Fisk stated that they would be happy to do this any way that pleases the neighbors and the Board. He stated that a board fence is not attractive.

Chairman Holland questioned where the law office parks and Mr. Grubbs reviewed the drawing with him. Mr. Fisk stated that there are 43 parking spaces and due to the frequency of use there would be no problem.

Mr. Grubbs stated that the fence would be six feet on one end and due to the wall, it would be ten feet high at the other.

Mr. Ashcraft questioned stepping the fence. Mr. Fisk stated that he believes they have the fence at the right height. He stated that there are four abutting lots and from 4' to 7' gives a good screen with the ivy.

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

Reverend Robert Richter stated that he objects to the pipe for the water going through his yard and the other two yards. Mr. Grubbs advised that the intent to go down the west side

Rev. Richter stated that his property would have to be brought back to normal height and resodded. He stated that if they go on other properties with the pipe, that is fine,

Mr. Fisk stated that the wall will be pretty much on the property line and Buddy Grubbs talked to Rev. Richter about an easement. He added that they will put Rev. Richter's property back into the condition it is now.

Rev. Richter added that he wants a fence up and no water in his yard.

Mr. Richard Workman indicated the location of his property. He stated that the wall will start at ground level and get higher as it goes down. He stated that all the water from The Red Schoolhouse runs into the backyards and into the storm sewer at the apartment building. He added that the residents do not agree with a 25' setback and would like to to be 50 feet. He also does not want a six foot fence. It should start at ground level and be raised as it goes across.

Mr. White stated that they should approach the city in regard to the water problem. Mr. Breidenstein added that storm water management will be part of Site Plan Review.

Mr. Breidenstein added, in response to additional comments regarding the water situation from Mr. Workman and Mrs. Richter, that this plans calls for the collection of all the water on the three lots and piping it away from the backyards belonging to the Richters and the Workmans. He stated that this development will lessen the water problem. He added that there is a pipe right at the edge of The Little Red School House and he will review the plan and investigate this as Mr. Workman indicated that his property had dropped about four feet since KY 18 was improved.

In response to a question from Mr. Workman, Mr. Fisk stated that they are taking three residential curb cuts and making one business curb cut, which will be an improvement. He added that they are obligated not to put any more water on Mr. Workman's property than he has now.

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

Mr. Ewing moved that the Conditional Use Permit be granted. Mr. White seconded the motion and it carried unanimously.

Mr. White moved that the rear yard setback Variance of 25 feet be granted, reducing the required setback from 50 feet to 25 feet. Mr. Ewing seconded the motion and it carried unanimously.

Mr. Ashcraft moved that the Variance of the required landscaped buffer, eliminating the necessity for a 25' buffer, be granted subject to the condition that the 25' wrought iron fence, as proposed by the applicant, be installed with the proper ivy or green cover, and also the retaining wall. Mr. Ewing seconded the motion and it carried unanimously.

5. The request of George B. Marino, Jr. (agent) for a Variance in the number of building mounted signs. The 5.5-acre site, located at 8125 Mall Road, Florence, Kentucky, is zoned Commercial Two (C-2) and is owned by Circuit City Stores, Inc.

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

Chairman Holland asked if the applicant was present.

Mr. George Marino presented pictures to the Board of the building and also a "read-a-board", which will not be used at this location. They are allowed 330 sq. ft. on the north and south elevations, and an additional 360 sq. ft. on the front elevation. They cannot put a sign on the southern elevation due to an embankment obstructing the visibility. He added that they are trying to keep their proto-typical building in tact. He stated that their application calls for 334 sq. ft., which is less than the 360 sq. ft. allowed.

The Board members reviewed the drawings submitted by Mr. Marino and Mr. Ashcraft questioned a future sign on the north side. Mr. Marino stated that there would be no need for a sign on the north side as it drops off into a ravine. He added that the sign on the south side, which identifies the car stereo installation, is non-electric.

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

Mr. Bob Harpenau of Chelsea Moore stated that they manage the adjoining Mall Road Square for Mall Road Associates. He stated that they are concerned that a fence with a guard rail and proper reinforcements be installed to prevent cars from going over the side of the embankment and reviewed an on-going legal matter regarding the parking lot.

Chairman Holland advised Mr. Harpenau that the Board is only concerned with the sign at this time and suggested that he contact the Staff in regard to other matters.

Mr. Harpenau questioned how the sign would be illuminated and Mr. Marino advised that they will have exposed neon for Circuit City. The audio signs will have a plastic face over the letters and neon. The other signs are non-electric.

Mr. Dick Cameron stated that the applicant failed to provide notice to the adjoining property owners and, therefore, they are not present. He stated that he does not believe they would object after hearing what the signs entail.

Chairman Holland advised that this was advertised in the newspaper two weeks ago. Mr. Breidenstein stated that it is the applicant's responsibility to supply the list of adjoining property owners and it is not double-checked.

There being no further comments, Chairman Holland moved that a sign totalling 330 sq. ft. be permitted, but that no signs be permitted to be placed on the north or south sides of the building. Mr. Ashcraft seconded the motion and it carried unanimously.

6. The request of Bluegrass Recycling, Inc. for an Appeal of the Zoning Administrator's and Zoning Enforcement Officer's decision regarding the use of temporary signs and a semi-trailer for the collection of recyclable products.

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

Chairman Holland stated that the applicant's letter of April 6, 1990 withdraws their appeal. Mr. Breidenstein advised that they are constructing a building for a permanent recycling collection point. The building is nearing completion and they feel that they need the signs from now until the building is complete.

Chairman Holland asked Mr. Breidenstein if he would be pursuing Ameri-Can Recycling Company and Mr. Breidenstein advised that they have been notified. However, their business operates differently in that they do not have a permanent pick-up point, but their pick-up points vary from place to place. He stated that any decision made by the Board will affect their business.

Chairman Holland questioned how the Goodwill trailer at Kroger's is justified. Mr. Breidenstein advised the former Zoning Administrator determined that it is pre-existing. It is also not a business, but a non-profit organization and a public service. He stated that there is a fine line.

Counselor Wilson stated that there are three criteria to determine if something is an accessory use. The test is that the activity is customary, incidental, and subordinate to a primary activity. The Board must determine if this activity meets the test of being an accessory use.

Mr. Ashcraft asked if it would be appropriate to allow them six months as they are building a permanent facility. Counselor Wilson advised that the Board does not have the authority to allow a use in clear violation of the regulations.

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

Mr. Guy Witte of Bluegrass Recycling stated that their facility is clean and well kept. He has worked in the recycling business for ten years. He is a life long resident of Northern Kentucky and wanted to see recycling become a part of Northern Kentucky's activities. Bluegrass Recycling is here to help the county address the environmental issues of recycling. He stated that there is a trailer at the Kroger store in Covington, there is a curb side program in Cincinnati, and Alcoa Recycling has provided trailers at numerous locations throughout the Greater Cincinnati area. He stated that Mr. Remke is not concerned about the parking spaces being used for recycling. The trailer does not interfere with the store's activities. He stated that Ameri-Can does not have business permits in Boone County or Florence. He stated that they put the signs up with the understanding that they were permitted, but they have withdrawn the request for the signs. They want to work with the Zoning Commission and the community. The trailer is their main concern. Their permanent facility is in a different part of the county. They want to have a trailer available to the major population area of the community. He added that without their efforts, the landfill and litter problems will escalate. He stated that Mr. Newton suggested that they move the trailer to the rear of the building, but they don't know how they could do business from the back. They do not have the resources to conduct a massive advertising campaign.

Mr. Breidenstein stated that the discrepancy is not with the use itself. He added that there has been a complaint from a resident on Manderlay Drive.

Mr. Witte stated that the parking lot is 15' to 25' below U.S. 25 and you can only see the top three or four feet of the trailer from the road. He will gladly move the trailer to where it was previously. He stated that if they put the trailer next to the building, it would be in the shrubs, sidewalks, and parking spaces. Remke's allowed them to put the trailer on distant parking spaces that are not used.

In response to a question from Mrs. Ward, Mr. Marino stated that the trailer would be open three or four hours a day. Since they cannot have signs to promote their pick-up points, they feel that the trailer is an accessible area and should be open more frequently.

Mrs. Ward commented that the trailer could go against the building and not be as noticeable as it is.

Mr. Marino stated that there would be a safety problem with the trailer against the building as people would be selling their recyclables very close to the traffic flow. He added that the trailer is freshly painted and looks nice. He asked if the Board would rather have the trailer there or 150 to 200 pounds of trash along the road.

Mrs. Ward stated that this is not the issue. The issue is the location of the trailer.

Mr. Breidenstein stated that if this trailer is allowed, it will give carte blanche to any trailer -- including those not as clean -- to locate anywhere. He stated that this matter will need to be addressed in the update of the Zoning Regulations.

Mr. Ashcraft emphasized that the issue is the regulations, not whether the Board agrees with recycling. He asked if cans are stored in the trailer.

Mr. Marino stated that the trailer is sold to a major aluminum processor. They switch the trailers and the cans are hydraulically lifted. They are then made back into recyclable products.

Mr. Ashcraft commented that even though they are building a permanent facility, their intention is to maintain this facility.

Mr. Marino stated that Mr. Ashcraft's comments were correct. This location is for convenience. They will also collect papers at the new location.

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

Mr. White stated that the "A" signs were not objectionable. He stated that even if it were a permanent location, they could not qualify for this amount of signage. He stated that he did not see the need for them to be there seven days a week.

Mr. Ashcraft stated that the Board must deal with the regulations, and he does not see how this activity is incidental to Remke's Market.

Mr. Marino stated that they are a major player in the county's solid waste management issue. He stated that he paid \$575 to come here and, if he is going to be overruled, he would like part of the money refunded. He stated that he believes the fee is steep.

Mr. Ashcraft advised that he had come to the right place for the appeal, but what he wants is beyond the jurisdiction of the Board -- the Board cannot overrule the Planning and Zoning Regulations and grant him a Conditional Use Permit.

Mr. Larry Johns stated that the City of Covington recently had to make the same interpretation and their determination was the opposite of Boone County's determination and this is being allowed in an adjoining county.

Mr. Jeff Sanders of Can-Do Recycling stated that they have a permanent fixed facility and pay taxes, as well as employ people from the area. Alcoa in Covington pays no property or payroll taxes and employs people from outside Kentucky. The Zoning Administrator admitted that this use had never been done before they did it in Covington, but under the Zoning Regulations it is a customary accessory use. The Zoning Board approved it. They are asking that there be a uniform interpretation of the Zoning Regulations. He stated that the decision in Covington is not binding on this Board.

Mr. White stated that he agrees that a fee of \$575 for an appeal is steep. Mr. Breidenstein advised that in the past the Board has issued refunds, or partial refunds, for non-profit organizations. Counselor Wilson stated that the Board can refund all or part of the fee. He noted that this appeal is not as time-consuming as a McDonald's appeal.

Mr. Marino stated that if he removes his signs and his trailer, and his competitor removes his signs, recycling will not be seen anywhere in Boone County which is a travesty in light of the solid waste problems.

Mr. White stated that he can see where the signs would be more important than having a semi at Remke's. He stated that the trailer could create a bug problem.

Mrs. Ward asked if they would have a problem with having a truck there for so many hours on certain days of the week.

Mr. Marino stated that the trucks are already committed in other communities. He is relying on another company to truck the semi's in and out and they do not work on Saturday. He does not have the resources to buy a truck to move the trailer. He pays about \$100 to move the trailer twenty miles. He stated that they work Saturdays and handle people's garbage - they are making an extra effort and are asking for a little extra treatment. He stated that they are keeping trash out of the landfills and off the streets.

Mr. White stated that a semi is not permanent and does not conform to any rules or regulations.

Mr. Marino stated that the people who pick up the trash rely on the \$15 or \$20 they make each week. They have paid \$75,000 to \$80,000 out of the trailer in the last month. He stated that not having this trailer could put him out of business.

In response to a question from Mr. Ashcraft in regard to the signs, Mr. Breidenstein stated that the only relief he could offer is for them to make an application for a permanent sign. Mr. Marino stated that he did not want relief in regard to the signs.

Mr. Ashcraft moved that the Board uphold the Zoning Administrator's decision in regard to this matter. Mr. Ewing seconded the motion and it carried unanimously.

Following discussion of the fee, Mrs. Ward moved that \$280 of the fee be refunded. Mr. Ewing seconded the motion and it carried unanimously.

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 March 14, 1990 and asked if there were any comments or corrections.

Chairman Holland stated that on Page 3, "Ackerman" should be "Ockerman".

Chairman Holland moved that the Minutes be approved as amended. Mrs. Ward seconded the motion and it carried unanimously.

There being no further business to come before the Board, Chairman Holland moved that the meeting be adjourned. Mrs. Ward seconded the motion. The meeting was adjourned by unanimous consent at 10:40 P.M..

APPROVED:


Charles F. Holland, Chairman

Attest:


Jan Hancock, Recording Secretary