

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

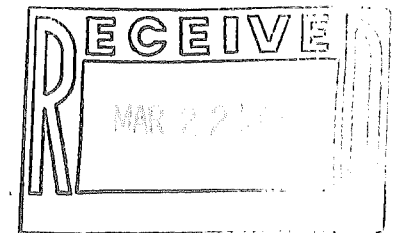
APPLICATION FORM

**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 W.S. "Buddy" Grubbs
- Phone Number 371-6644
- Applicant's Address 214 CLAYTON DR  
Florence Mo 41042  
City State Zip
- 4. Description of Request: TO CONSTRUCT A FUNERAL  
Home
- 5. Name of Development W.S. "Buddy" Grubbs Funeral Home
- 6. Location of Development 7289 BURLINGTON PIKE  
Florence, Mo
- 7. Acreage Under Review 0.69
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
- 9. Owner of Property MARGO L GRUBBS
- Phone Number 283-2000
- 10. Address of Property Owner 7289 BURLINGTON PIKE  
Florence Mo 41042  
City State Zip
- 11. Proposed Use(s) On Site FUNERAL Home & LAW OFFICE
- 12. Total Square Footage of Existing and/or Proposed Buildings  
Existing 1875 / Proposed 4500
- 13. Current Zoning on Property C-2
- 14. Deed Book 397 Page No. 162 Group No. 330
- 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: W.S. Grubbs
- 19. Property Owner's Signature: Margo L Grubbs

DB  
+ 412 - Pg 44 - 330  
6a#  
DB  
+ 412 - Pg 47 - 330





STAFF REPORT

APPLICANT: W.S. "Buddy" Grubbs  
DEVELOPMENT: funeral home and law office  
LOCATION: 7281 Burlington Pike  
ZONE: Commercial Two (C-2)  
DATE: April 11, 1990  
REMARKS:

The applicant is requesting a Conditional Use Permit and Variances in the required rear yard setback and landscaped buffer in order to allow the construction of a funeral home and law office. The 0.69 acre site, located at 7281 Burlington Pike, is owned by Margo L. Grubbs, and is zoned Commercial Two (C-2).

History

The Boone County Planning Commission approved a Site Plan to allow the conversion of a single family residence to a law office on May 15, 1988. Four months prior to this approval, this Board granted a Variance to Margo L. Grubbs in order to allow a two-way driveway aisle of 8 feet, 1 inch whereas the zoning regulations required an aisle of 25 feet. A condition of approval was:

2. That should the applicant purchase the residence to the west, the subject driveway should be expanded to more fully comply with the requirements of the Boone County Zoning Regulations. This review should only occur after the proper review process.

The applicant (owner here) has since purchased the adjoining property and is requesting a Conditional Use Permit to allow the construction of a funeral home and the above mentioned Variances to allow the relocation of one of the houses on the site.

Proposal

In fact, the owner has purchased the two improved lots to the west of the existing law office at 7281 Burlington Pike. She proposes to relocate one of the houses (now located at 7297 Burlington Pike) to the rear of the law office and use it in connection with the law practice. The house currently located at 7289 Burlington Pike will be removed. This move will require the removal of existing parking spaces. However, the plan indicates that the law office and funeral home will share 43 parking spaces since their hours of operation do not typically overlap. The applicant proposes to add the funeral home onto the west side of the existing law office. The relocated house and funeral home are proposed to be located 25 feet from the rear property line. The Boone County Zoning Regulations require a 50 foot rear yard setback when development in C-2 districts abuts SR-2 districts as well as a 25 foot landscaped buffer located on the

342-9029

commercial development. Instead of this buffer, the applicant proposes a paved trash area and a retaining wall with a wrought iron fence. No landscaping features are shown on the submitted plan. In fact, only about 8% of the site will be reserved for landscaping; approximately 92% of the site is planned for either paving or building areas.

Surrounding Zoning and Land Uses

north: R1F; single family residences  
south: SR-2; single family residences  
east: C-2; Little Red School House day-care center  
west: C-2; single family residence

Conditional Use Permit

The following reviews the general criteria which the Board must apply to all Conditional Uses:

1. The Future Land Use Map of the 1986 Boone County Comprehensive Plan indicates the future use of this property to be Medium Density Residential. The Land Use Element of the Plan makes no specific reference to the subject property. However, the Plan does state that:  

Commercial development in this section (of the city) will remain near the arterial roads or close to the interstate. This consumer service and traffic oriented developments must be contained to specific areas adjacent to the arterials and interstate. (p. L-19)
2. With proper buffering and landscaping, Staff believes that the site has been designed so as to be harmonious and appropriate in appearance with the existing and intended character of the general vicinity and shall not change the essential character of the area.
3. A funeral home and law office will not be hazardous to existing or future neighboring uses.
4. The site is adequately served by essential public facilities.
5. The development should not create excessive additional requirements at public cost for public facilities and services.
6. A funeral home does not involve uses, activities, processes, materials and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.
7. Vehicular approaches to the property appear to be designed so as not to create an interference with traffic on surrounding public thoroughfares. This aspect of the plan will be reviewed by the Planning Commission should this Permit be approved.

Variance

The Board must use the following criteria in reviewing the applicant's request for Variances in the rear yard setback and landscaped buffer area:

1. Staff does not believe that, if granted, the reduced setback and buffer area will adversely affect the public health, safety, or welfare, nor will they cause a hazard or a nuisance to the public. However, the essential residential character of the area to the rear may be altered if the Variances are granted. The Board must also consider whether the requests, if approved, would allow an unreasonable circumvention of the requirements of the zoning regulations.
2. Staff is unaware of any special circumstances which do not generally apply to land in the general vicinity, or in the same zone, which give rise to the requested Variances.
3. Strict application of the provisions of the zoning regulations would deprive the applicant of the use of approximately one-eighth of the 0.69 acre site (25 foot landscaped buffer X 157 foot wide lot). Another one-eighth of the lot would be unbuildable to satisfy the setback requirement. The Board must decide if this restriction would be an unnecessary hardship on the applicant.
4. The circumstances which give rise to the request for these Variances are the result of the actions of the applicant. The Board must consider whether the proposed gross floor area of 6,575 square feet (22% of the total land area) is too much for this site.

Staff Concerns and Suggested Conditions

1. The elevation of this development is slightly higher than that of the houses to the rear. Therefore, the impacts of a reduced setback and lack of buffer will be magnified. Therefore, Staff recommends, should these Variances be approved, that the applicant be required to install a more substantial barrier between the commercial development and the residential area. This screen may include a wrought iron fence; however, to be effective, the fence must be higher and, perhaps, planted with a spreading ivy to create a green wall.
2. The plan indicates (what appears to be) two signs locations. This development, if approved, would be entitled to only one free standing which could advertise both businesses.

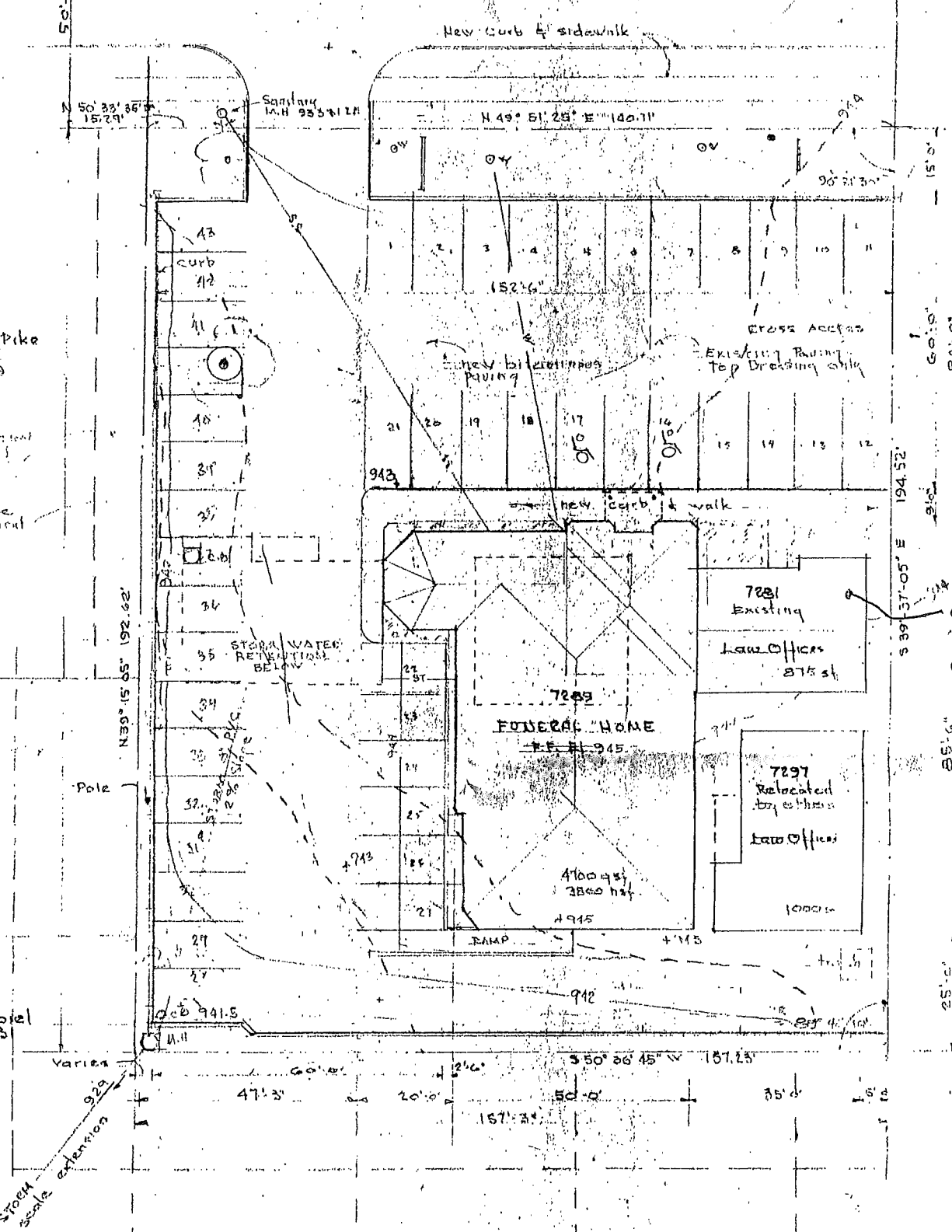
Grubbs  
April 11, 1990  
page 4

3. Staff is concerned with the lack of green space compared to the amount of developed area. Therefore, Staff suggests that the applicant be required to increase the amount of landscaping on the site. This may be accomplished by creating planting areas around the building and creating landscaped islands in the parking lot.

Respectfully submitted,

  
Thomas W. Breidenstein  
Zoning Enforcement Officer

KY 18



Burlington Pike  
11 B Byrd  
13 PG 155  
144 B

Conservation Easement

5'0" poleline easement

APR 11-90  
CUP  
JAC

Production Easement

Barta Dennis  
S. PG 109

Barta Gary Zumbiel  
S. PG 23

Roberta Liam Young  
S. PG 169

126 Center St  
Kenneth D. Buitt  
D.B. 228 PG 149

124 Center St  
Richard Workman  
D.B. 136 PG 353

122 Center St  
Robert G. Richter  
D.B. 225 PG 141

120 Center St  
Clarence E. Bengt  
D.B. 243 PG 124

### SITE PLAN

1" = 20'  
30,000 sq ft

Grubbs  
4-11-90

City Storm  
S.A. H.

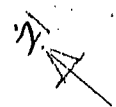
WEST LINE

GRADE AT PROPERTY LINE

ROUGH LINE

1/8" = 10'

WALKWAY



BURLINGTON PIKE

SITE

7267

164

162

160

130 Center  
128 Center  
126 Center  
124 Center  
122 Center  
120 Center

CITY Stormwater  
Intercept &  
Easement

S.F.S./W.E.

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ROBERTA

164

162

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154

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FUNERAL HOME for  
W. S. "BUDDY" GRUBBS

7289 BURLINGTON PIKE  
FLORENCE, KY

VICINITY PLAN  
1" = 100'

HARLEY BELFISH ARCHITECT  
KY 434 MARCH 20 19



FLORENCE BOARD OF ADJUSTMENT  
BUSINESS MEETING

April 11, 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  
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:

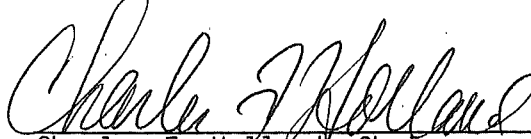
Chairman Holland stated that each Board member had received a copy of the Minutes of the Board of Adjustment Meeting of March 14, 1990 and asked if there were any comments or corrections.

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.

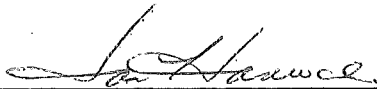
There being no further business to come before the Board, Chairman Holland moved that the meeting be adjourned. Mrs. Ward seconded the motion. The meeting was adjourned by unanimous consent at 10:40 P.M..

APPROVED:



Charles F. Holland, Chairman

Attest:



Jan Hancock, Recording Secretary