

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 RONALD D. KIRKWOOD  
 Phone Number 341-0900  
 Applicant's Address 3203 DIXIE HIGHWAY  
ERLANGER KY 41018  
 City State Zip
- 4. Description of Request: VARIANCE FRONT YARD  
SET BACK 37' IN LIEU OF 75' PER C-2 ZONE
- 5. Name of Development TURFWAY PLAZA
- 6. Location of Development WEST CORNER OF TURFWAY ROAD AND  
LLOYD AVENUE
- 7. Acreage Under Review 1.1
- 8. Lot Number and Name of Subdivision (if part of a subdivision)  
N/A
- 9. Owner of Property SAME AS APPLICANT  
 Phone Number \_\_\_\_\_
- 10. Address of Property Owner \_\_\_\_\_  
 \_\_\_\_\_  
 City State Zip
- 11. Proposed Use(s) On Site COMMERCIAL/BUSINESS
- 12. Total Square Footage of Existing and/or Proposed Buildings  
9000 EXISTING + 3600 PROPOSE = 12,600 TOTAL
- 13. Current Zoning on Property C-2
- 14. Deed Book 375 Page No. 215 Group No. 897
- 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: Ronald D. Kirkwood
- 19. Property Owner's Signature: Ronald D. Kirkwood

SECTION B

(To be completed by Boone County Planning Commission Staff)

1. Date Received 4-18-90
2. Fee Received \$290.00 (R5138)
3. Is application complete? -3- 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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STAFF REPORT

#1

DEVELOPMENT: Turfway Plaza  
APPLICANT: Ronald D. Kirkwood  
LOCATION: Corner of Turfway Road and Lloyd Avenue  
Florence, Kentucky  
ZONING: Commercial Two (C-2)  
DATE: May 9, 1990

REMARKS:

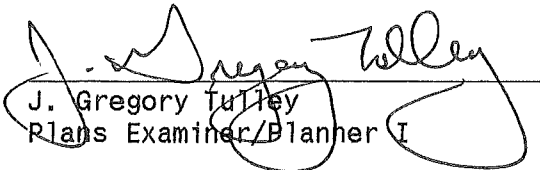
The applicant is seeking a Variance of 38 feet in the front yard setback. The 1.1 acre site is located in the western corner of Turfway Road and Lloyd Avenue in Florence. All surrounding properties are zoned Commercial Two (C-2), with the exception of the southwest property, which is Urban Residential Two (UR-2).

The applicant is requesting to build a 3,600 square foot addition 37 feet back from the property line. The required setback in a Commercial Two (C-2) zone is 75 feet.

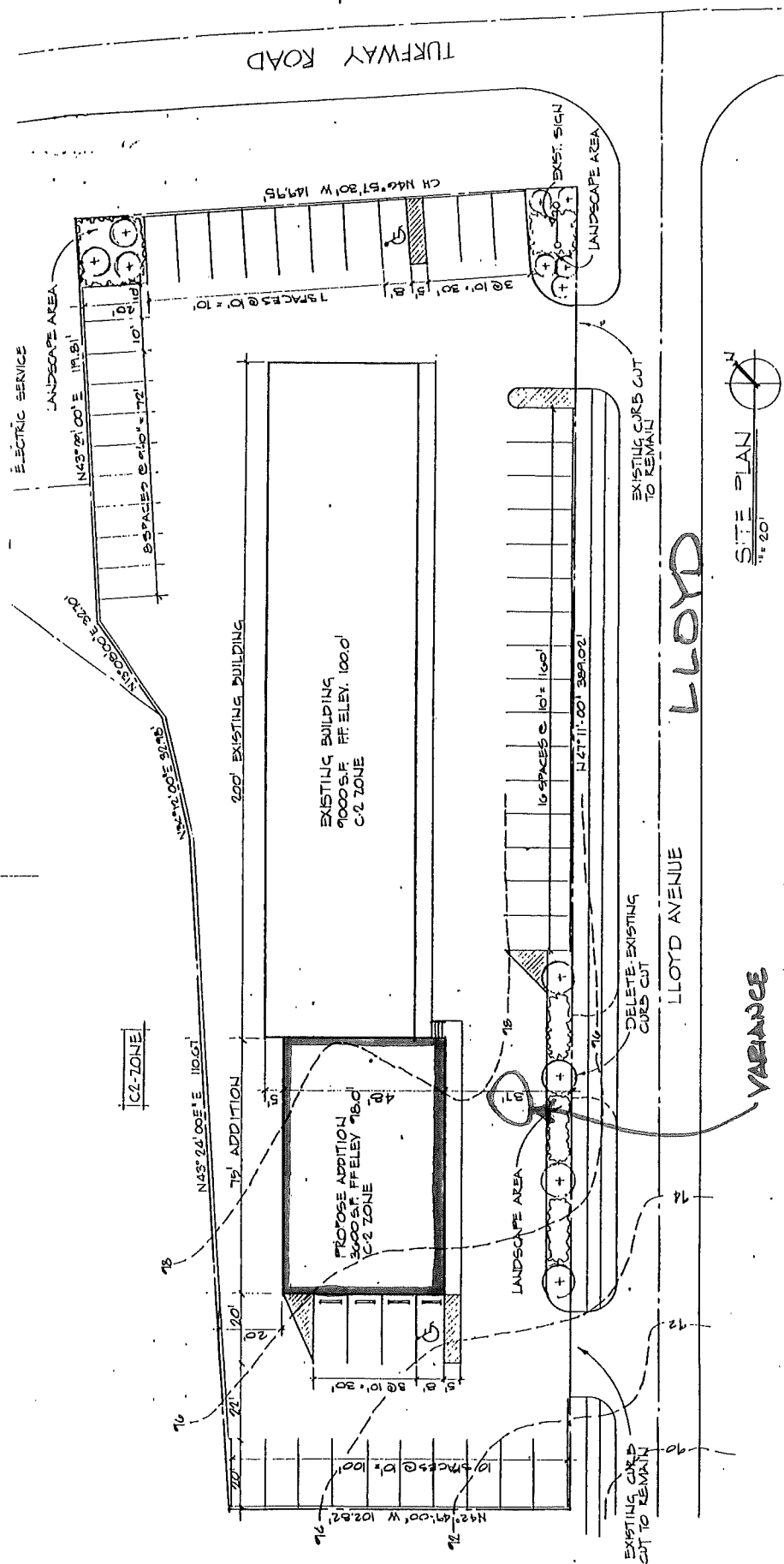
The Board must make certain considerations on determining the findings necessary for granting Variances in the City of Florence.

1. The requested Variance must arise from special circumstances that do not generally apply to the general vicinity or same zone. Staff can not determine any special circumstance. This request arises from the applicant's perceived need to have a 48 foot deep tenant space.
2. Strict application of the Boone County Zoning Regulations would require the applicant to maintain the existing setback of 47 feet. This is the setback of the existing center.
3. The above mentioned circumstance is the result of the applicant's desire to establish 1 48 foot deep tenant space rather than a 37 foot deep space, which would not require a Variance.
4. If granted, Staff does not feel that the public health, safety, and/or general welfare will be adversely affected or the essential character of the general vicinity will be altered.

Respectfully submitted,

  
J. Gregory Tuttle  
Plans Examiner/Planner I

JKT:mcb



N  
 SITE PLAN  
 1/4" = 20'

VARIANCE

C2 ZONE

C2 ZONE

KIRK WOOD

FLORENCE BOARD OF ADJUSTMENT  
BUSINESS MEETING

May 9, 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

Approval of the Minutes:

Chairman Holland stated that the Board members had received a copy of the Minutes of the Board of Adjustment Meeting of April 11, 1990 and asked if there were any comments or corrections.

The following corrections were noted: On Page 10, Paragraph 5, line 1, and Paragraph 7, line 1, "Mr. Marino" should be "Mr. Witte". On Page 8, Paragraph 4, line 3, "25' wrought iron fence" should be "4' wrought iron fence".

Mr. Ewing moved that the Minutes be approved as corrected. Chairman Holland seconded the motion and it carried unanimously.

AGENDA ITEMS:

1. The request of Ronald D. Kirkwood for a Variance to allow a 37-foot front setback on a 1.1-acre tract located at the west corner of Turfway Road and Lloyd Avenue, Florence, Kentucky. The property is zoned Commercial Two (C-2).

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

Mr. Joe Schwab of GBBN stated that he was representing Mr. Kirkwood. They are requesting a seven-foot Variance to maintain the 20' setback in the rear and provide 3,600 feet for a tenant. This will allow them to make better use of the property. Their tenant is the School of Hair Design, which is currently at the end of the building and will enlarge.

Chairman Holland questioned the parking spaces.

Mr. Schwab stated that there is no definite layout of parking spaces on the plan. They will provide the number of spaces required per square foot for the total development. There will be 12,600 square feet and they will provide for parking at a ratio of 4 to 1.

Mr. White questioned why they need the seven feet in front. He asked why they do not make the building flush in front and flush in back.

Mr. Schwab stated that this would allow a better appearance for the overall development due to the grade. If they move the building back, the rear setback would be 13 feet. Using the drawings, Mr. Schwab reviewed the setbacks with the Board. He stated that they have to comply with the parking requirements, and they also need the 3,600 square feet in one large area for the School of Hair Design.

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

Mr. Kirkwood stated that this Variance would allow for major improvements for the entire front of the building and improve its appearance. Mr. Kirkwood reviewed the drawings with the Board.

There being no further comments, Mr. Ewing moved that the 38-foot Variance be granted to allow the building to setback 37 feet. Mrs. Ward seconded the motion.

Mr. Tulley clarified that the setback requirement in the Code is 75 feet. Since they are asking for a 37-foot setback, they require a 38-foot Variance.

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

2. The request of Ray Matraccia for a Variance to allow a 13-foot access drive on a 0.16-acre tract located at 6504 Dixie Highway, Florence, Kentucky. The property is zoned Commercial Two (C-2).

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

Chairman Holland stated that he was on the Board in March, 1987 and he made the motion for shared access for Mrs. Eads only, not for any future business. He also referred to the Minutes of the May, 1987 Meeting and noted that Counselor Wilson had indicated that discussion of common access was premature at that

time and should be reviewed when presented to this Board and the Planning Commission. The Board cannot make conditions for the future. Chairman Holland emphasized that he was trying to protect Mrs. Eads.

Chairman Holland asked if the applicant was trying in anyway to access Mr. Deatherage's property or the Gold Star Chili property.

Mr. Matraccia stated that the Variance is to get a driveway to the rear of the property.

Mr. Ashcraft stated that he believed the shared access was on the side street. He noted that there was concern about the curb cut and the traffic.

Mr. Tulley advised that the Minutes of the May 13, 1987 Meeting stated that there would be one common access on Dixie Highway.

Mr. Ashcraft stated that the Board wanted a connection to the rear from the Deatherage property over to the Eads property for Mrs. Eads' property only. Chairman Holland emphasized that the condition was to protect Mrs. Eads.

Mr. White commented that the county seems to have eased in their stand on curb cuts. At that time, it was almost impossible to get curb cuts. He added that he thought that in 1987 they agreed to give access to the property if and when the time comes.

Mr. Tulley stated that the motion made on March 19, 1987 is included in the Staff Report. He read the motion. He noted that the applicant came back two months later and in May, 1987 Mr. Deatherage requested that the Board reconsider the elimination of the curb cut on Dixie Highway.

Chairman Holland noted that Mr. Deatherage's curb cut was not allowed.

Mr. White questioned what the largest vehicle would be on Mr. Matraccia's property and Mr. Matraccia advised that it would be a pick-up truck.

Chairman Holland questioned the use of the site and Mr. Matraccia advised that there will be no displays, only meetings and contracts signed. It is an office building.

In response to questions from Mr. Ashcraft, Mr. Matraccia advised that there is a driveway on the right side now, but there is a four-foot drop and it would require a retaining wall and fence. The property does not have a driveway all the way to the rear.

Mr. White asked if Mr. Matraccia had talked with Mr. Deatherage about this. Mr. Matraccia stated that he needs access to the rear of the property. The shared access is not a point of his. If the Board and Mr. Deatherage want a shared access, that is fine with him. He is only requesting a Variance for the driveway.

Mrs. Ward asked if the lot would be blacktopped and Mr. Matraccia advised that it would.

Mrs. Ward noted that there are houses below this site and questioned the water runoff and drainage.

Mr. Matraccia advised that his next step will be Site Plan Review and the runoff will be addressed. He stated that they will not change the movement of the water and noted that there is a drainage swale in the rear.

Mr. Tulley advised that the Planning Commission and the engineer will review these issues.

Chairman Holland asked if anyone else wished to speak.

Mary Lloyd, a property owner at 3 Lexington Avenue, submitted her written concerns regarding this request (see Exhibit I). Her concerns involved the provision of a proper survey, types of vehicles on the parking lot, hillside slippage, drainage, maintenance of the trees and grounds, property values, taxes, and rezoning of additional properties. She also provided pictures of her property and the area to the Board. The Board reviewed her submitted memorandum. Mr. Tulley advised that her concerns regarding runoff would be addressed at Site Plan Review.

Mr. Ashcraft commented that the applicant has applied for a driveway Variance and Mrs. Lloyd's concerns may not be within the Board's authority at this time.

Mr. Tulley advised that the Board must determine if there is undue hardship on the applicant not to allow this Variance. If the property remains residential, they can use the existing driveway. The zoning is appropriate for commercial and commercial use is the applicant's intent.

Mr. White commented that the intent in 1987 was that if the adjoining property developed commercially, then Mr. Deatherage would get his curb cut.

Chairman Holland asked if anyone else wished to speak.

Mr. Dave Nader, owner of the property next door, questioned a buffer zone for his property. He stated that people park in his lot. He stated that people will not come off Dixie Highway and pull around the back of Mr. Matraccia's building, they will park in his lot. He noted that Mr. Tulley parked in his lot.

Mr. Tulley stated that he first entered Mr. Nader's establishment and advised him that he was there and walked to the other establishments.

Mr. Nader stated that he does not have a lot of parking spaces. If he puts up signs, no one will read them. He wants a buffer between the two properties. He stated that the Matraccia building is close to the highway and that there is a sight distance problem when exiting the site.

Mr. Ashcraft stated that he could not envision a buffer area there.

Mr. Nader stated that if the Matraccia building were moved back and had parking in front, he would not be concerned. He stated that he has only three parking spaces in the front.

Mrs. Ward stated that there is additional parking around the building and Mr. Nader agreed. He noted that the employees move their cars to the back lot and even park on the street at times. He stated that ideally the Matraccia building could be moved back and have parking in front.

Chairman Holland stated that he is against parking in the front. It is a traffic hazard. He stated that a 3/4 ton truck could have its bumper sticking out. Mr. White commented that there will be a new sidewalk.

Mr. John Lloyd stated that the parking spots in the rear could be used for employee parking. Mr. Matraccia stated that he does not have customers. They might have someone come in to go over plans or to bid a project. He is now in the basement of a building on Banklick Street with the same parking situation. They have not had any trouble with people parking in other parking lots and there is no parking on the street.

Mr. Harold Deatherage stated that Banklick Street is nowhere close to Dixie Highway, which has 30,000+ cars per day. He noted that he went through a lot about his curb cut. He was proposing a curb cut that would work. Dixie Highway is dangerous when cars are stopping. The subject driveway is not very wide and it will be difficult for pick-up trucks to get in there. He noted that in 1989 on Dixie Highway between Kentaboo and Turfway there were 30 accidents -- 7 of which required ambulance and paramedics. He has called 911 many times for people trying to get into Sanders Drive.

Mr. Tulley stated that the proposed entrance off Dixie Highway is 24 feet wide. The Variance needed is down the side of the building. He stated that a car can pull in even if another car is leaving.

Chairman Holland stated that there is not enough room for a car between the sidewalk and the porch. Mr. Tulley stated that there is 30 feet from the porch to the right-of-way line of Dixie Highway, which would give 30 feet from Dixie Highway to the end of the 24-foot wide driveway, which would easily allow stacking.

Mr. Deatherage stated that he has a problem with the safety. He stated that water retention on his site was expensive. Mr. Deatherage discussed his application in 1987. He stated that Mr. Matraccia has contractors that visit him. He stated that a plumber truck is bigger than a pick-up truck. He questioned where a big truck would go. He stated that the trucks will come across his lot and go down the 13-foot driveway. He noted that he was limited to 20 cars on his lot. He stated that there would need to be a full wide driveway and a light, or there will be a safety problem. He stated that private truck access to a Class II roadway should be permitted only when the property has no other reasonable access. The house already has a driveway. He stated that if the highway is widened, it will go through the front porch. He added that the house should be torn down and moved back 75 feet. He stated that what the Staff is reading in regard to the common access in the Minutes is not there.

Mr. Deatherage reviewed a drawing with the Board indicating the sites, their accesses, and the traffic patterns in the area. He emphasized that his curb cut was denied.

Mr. Matraccia stated that he is planning to put five or six parking spaces next door to Mr. Nader that he can use on the weekend. His people will be told not to park in Mr. Nader's lot. He is not planning to add any more water to Mrs. Lloyd's back yard. He is asking for a Variance from a 24' to a 12' driveway.

Chairman Holland moved that the Variance be denied due to safety factors, including the parking in the front and the 13' driveway. He stated that he does not believe there is enough time for making a right turn off the driveway off Dixie Highway with the traffic coming down Dixie Highway. There have been a lot of traffic and accident problems in the area. Also, there is not enough room in the front for parking cars. He emphasized that it is not safe and should be denied for that reason.

Mr. Ashcraft seconded the motion. Mr. Ashcraft added that the Board fully explored this subject in denying Mr. Deatherage's curb cut and he sees no reason to change that position at this time. He stated that it would be an accident waiting to happen. He noted that one of the Board's responsibilities is public safety.

The Chairman asked for a roll call vote on the motion to deny the Variance and it carried unanimously.

There being no further business to come before the Board, Mr. Ashcraft 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