

Tom Berling

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 _____
Change in Non-Conforming Use
- 3. Applicant's Name James W. Berling
Phone Number (606) 331-9191
Applicant's Address 1671 Park Road Suite One
Fort Wright Kentucky 41011
City State Zip
- 4. Description of Request: That a 25' Landscape Buffer not
be required on the southeast property line (140' setback)
- 5. Name of Development BESSLER'S ECONOMY MARKET
- 6. Location of Development Main Street @ Shelby Street, Florence
- 7. Acreage Under Review 0.15 Acres
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
Lot Number 16 - John Stephens Subdivision
- 9. Owner of Property Edward W. Bessler
Phone Number (606) 291-5141
- 10. Address of Property Owner 8 Rosemont
Crestview Hills KY 41017
City State Zip
- 11. Proposed Use(s) On Site _____
Parking Lot
- 12. Total Square Footage of Existing and/or Proposed Buildings
N/A
- 13. Current Zoning on Property C-2
- 14. Deed Book 253 Page No. 216 Group No. _____
- 15. Is the site subject to a zone change? No
If yes, give date of approval _____
- 16. Have you submitted a Site Plan with this request? Yes
- 17. Have you submitted a list of adjoining property owners with this request? Yes
- 18. Applicant's Signature: [Signature]
- 19. Property Owner's Signature: [Signature]

SECTION B

(To be completed by Boone County Planning Commission Staff)

1. Date Received 8-4-92
2. Fee Received \$ 35600 R 8214
3. Is application complete? _____ Yes _____ No
4. Staff Reviewer D. Gebegan
5. Scheduled Board Action Date 9/9/92
6. Board Action:
_____ Approval
_____ Approved with Conditions (See #7)
_____ Disapproved (See #8)
7. Conditions: _____

8. Reasons for Disapproval: _____

STAFF REPORT

DEVELOPMENT: Bessler's Economy Market
APPLICANT: James W. Berling
LOCATION: Main Street at Shelby Street, Florence, Kentucky
ZONING: Commercial Two (C-2)
DATE: September 9, 1992

REMARKS:

The applicant is requesting a variance to eliminate the required landscape buffer area between a Commercial Two (C-2) zone and an Urban Residential Three/Planned Development (UR-3/PD) zone in order to construct a parking area. The 0.15 acre site is located on Main Street at Shelby Street, Florence, Kentucky. The property is zoned Commercial Two (C-2) and is owned by Edward W. Bessler.

The applicant is seeking a relief from the required the 25 foot buffer area between the site and the Florence Christian Church property. Since the Florence Christian Church property is actually a paved parking lot, the applicant would like to connect his parking lot with it and delete the buffer between the two.

The following reviews the seven criteria the Board must use to judge each variance request:

1. Staff can find no reason that if the variances are granted, they would adversely affect the public health, safety or welfare.
2. The Variances will not alter the essential character of the general vicinity since the adjacent property is paved and contains a high density residential use.
3. The Variances will not cause a hazard or a nuisance to the public.

ARTICLE 31, SUPPLEMENTAL PERFORMANCE STANDARDS, SECTION 3165-Landscaping, Screening, and Buffer Yards of the *Boone County Zoning Regulations* presents the objectives for these performance standards:

"Each site plan contains information pertaining to existing proposed landscaping, screening, and buffer yards. The objectives of these regulations is to provide an alleviate buffer between land uses and/or zoning districts. In addition, landscaping requirements serve as a traffic control device in parking lots and serve as drainage areas for stormwater."

(p.180)

SECTION 3170-General Landscaping Guidelines , Item A. Perimeter Landscaping states:

"Perimeter landscaping around each development should be considered to reduce the impact of vast areas of paved parking lots. This type of landscaping should be encouraged because it enhances the visual environment and minimizes nuisances, primarily noise and glare." (p.182)

4. The Variances will not allow an unreasonable circumvention of the requirements of the zoning regulations.
5. The requested Variances do not arise from special circumstances which do not generally apply to land in the general vicinity, or in the same zone. Staff reconnaissance has found that there are contiguous parking lots in the neighboring area.
6. The Board should decide if the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.
7. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

STAFF CONCERNS:

A letter (see attached) submitted by James Berling, civil engineer describing the request for this variance states "Since the proposed parking lot abuts the Florence Christian Church parking lot the applicant would like to connect the parking lots together and eliminate the twenty five foot buffer area." The staff questions whether the applicant wants to have vehicle access between the two parking lots and joint usage with the Florence Christian Church. If so has he gained approval from Florence Christian Church for joint usage? Commercial traffic may not be desirable on the senior citizen housing site.

ARTICLE 33, OFF-STREET PARKING AND LOADING FACILITIES, SECTION 3320, Joint Use of the Boone County Zoning Regulations states:

Two or more non-residential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap. The use joint parking in lieu of required parking will require a written agreement between property owner and a parking study to be approved by the Zoning Administrator.

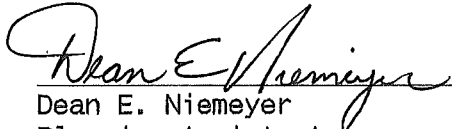
ARTICLE 32, TRANSPORTATION MANAGEMENT REGULATIONS, SECTION 3222, Change in Property Use of the *Boone County Zoning Regulations* states:

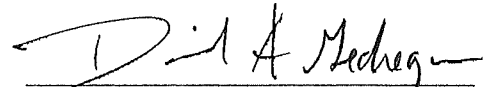
Whenever the use of a parcel of land changes, or two or more parcels of land are assembled under one purpose, plan, entity, or usage, the existing access permit(s) shall become void. The Planning Commission may require the reconstruction, relocation, or closure of the access point(s), based on the new property use. Any such new or reauthorized access point must be in compliance with all applicable sections of this regulation, and may require the submission of a traffic study.

The Staff also has concerns that a mature Mulberry tree would have to be taken down if the buffer is eliminated and the parking lot extended to Florence Christian Church's parking lot.

In addition, the proposed parking lot will require a Site Plan Review. Attached to the Staff Report are drawings of the proposed parking lot.

Respectfully Submitted,

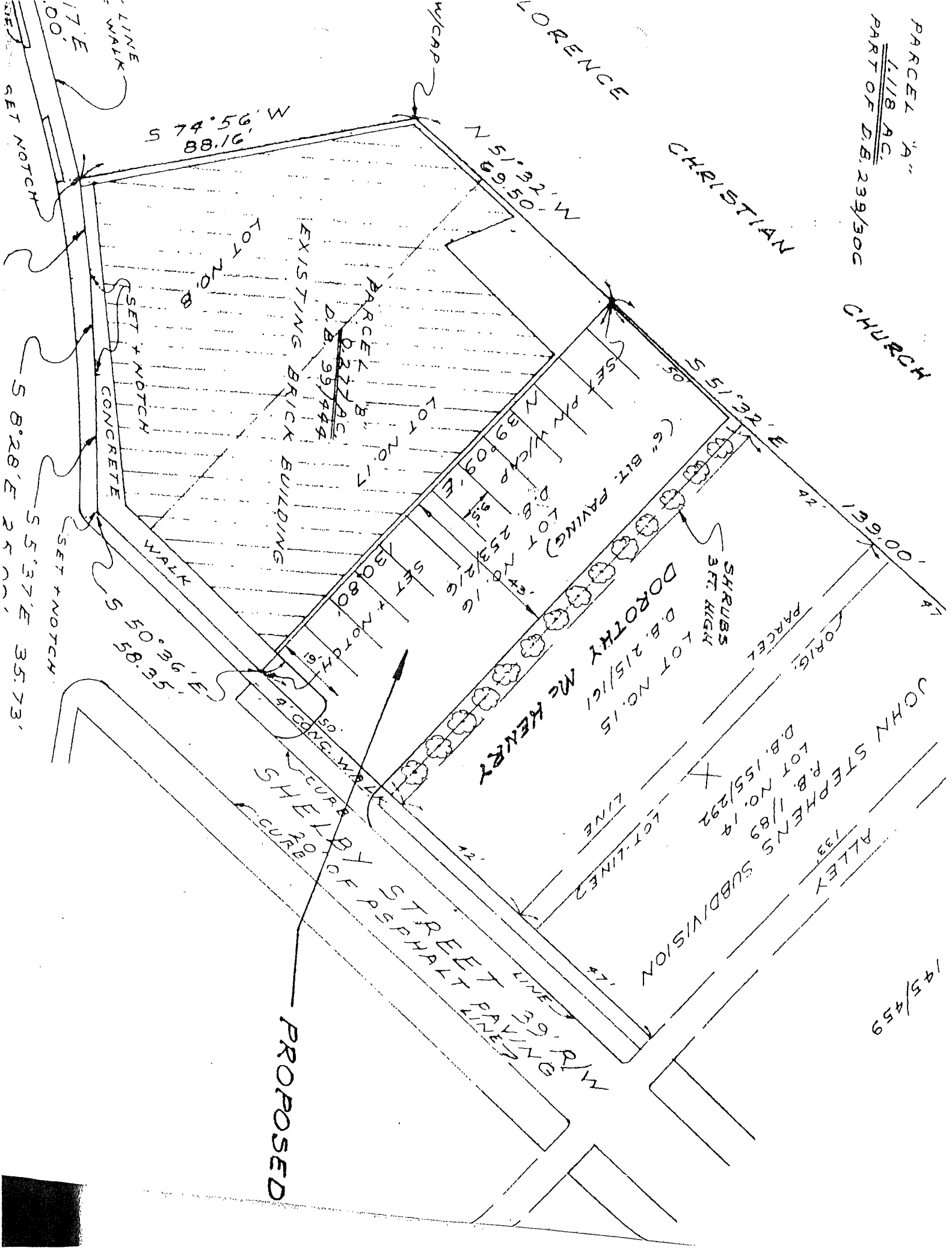

Dean E. Niemeyer
Planning Assistant


David A. Geohegan, AICP
Senior Planner

DEN/DAG:par

PARCEL "A"
1.118 AC.
PART OF D.B. 239/30C

LORENCE
CHRISTIAN CHURCH



LINE WALK
17'E
100'
GET NOTCH

SET + NOTCH
CONCRETE
WALK
S 74° 56' W 88.16'
S 8° 28' E 25.00'
S 5° 37' E 35.73'
SET + NOTCH

W/CAP
N 51° 32' W 89.50'
S 51° 32' W 90.5'

LOT NO. B
EXISTING BRICK BUILDING
PARCEL "B"
D.B. 99/444

LOT NO. 15
DOROTHY Mc KERRY
D.B. 215/161
SHRUBS 3 FT. HIGH
LOT NO. 14
D.B. 155/292

PROPOSED
STREET LINE
39' P/W
CURE OF ASPHALT PAVING

JOHN STEPHENS SUBDIVISION
R.B. 11/89
LOT NO. 14
D.B. 155/292
ALLEY 133'

145/459

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)
Edward W. Bessler
8 Rosemont
Crestview Hills, Kentucky 41017

2. ADDRESS OF PROPERTY
Main Street and Shelby Street
Florence, Kentucky 41042

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Bessler's Economy Mart

DEED BOOK: 253

PAGE NO.: 216

GROUP NO.: 2041 B

4. TYPE OF RESTRICTION (S) (Check all that apply)

- | | | | |
|-------------------------------------|---|--------------------------|---------------------------------|
| <input type="checkbox"/> | Zoning Map Amendment
from _____ to _____ | <input type="checkbox"/> | Conditional Use Permit |
| <input type="checkbox"/> | Development Plan | <input type="checkbox"/> | Conditional Zoning
Condition |
| <input type="checkbox"/> | Subdivision Plat
(unrecorded) | <input type="checkbox"/> | Other: (Specify) |
| <input checked="" type="checkbox"/> | Variance | | |

5. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION
2995 WASHINGTON STREET
BURLINGTON, KENTUCKY 41005



SIGNATURE OF COMPLETING OFFICIAL

Dave Geohegan, AICP/Senior Planner
NAME AND TITLE OF COMPLETING OFFICIAL
(type or print)

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledge before me by Dave Geohegan
on behalf of the Boone County Planning Commission this 29th day
of October, 1992.

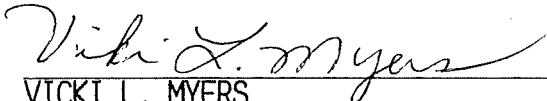


VICKI L. MYERS
NOTARY PUBLIC, State at Large

My commission Expires:

April 8, 1995

This instrument was prepared for recording purposes only by:



VICKI L. MYERS
Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)

BCPC 01/89

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Variance
as approved by the Florence Board of Adjustments and in accordance with the
current zoning in effect as of October 29th, 1992, (Certificate of Land Use
Restriction #92-FBOA-008-A), for Edward W. Bessler, property
owner.

NO CONDITIONS

The approved Variance as well as the preceding conditions apply
to the property described in: DEED BOOK 253 PAGE NO. 216 Group No. _____

State of Kentucky, County of Boone
JERRY W. ROUSE, Clerk of the Boone County
Court, do certify that the foregoing
was, on the 2nd day of
November
1992, at 3:16 P.M., lodged in my office
for record, and that it has been duly recorded in
my said office, together with this and the
certificate thereon endorsed.
Given under my hand this 2nd day of Nov.
1992.

JERRY W. ROUSE, CLERK
By Jerry Rouse D.C.