

APPLICATION FOR ZONING ACTION

TO:

- Boone County Planning Commission
- City of Florence Board of Adjustment
- Boone County Board of Adjustment
- City of Union Board of Adjustment
- City of Walton Board of Adjustment (For Variance)
- Zoning Enforcement Officer

FOR:

- Zoning Text Amendment
- Comprehensive Plan Change
- Preliminary Plat Review
- Conditional Use Permit
- Concept Development Plan Change
- Preliminary Development Plan
- Change of Non-Conforming Use
- Design Review Board and Certificate of Appropriateness
- Zoning Map Amendment
- Planned Development Overlay Change
- Improvement Plat Review
- Final or Deed Plat Review
- Site Plan Review
- Historic District Overlay
- Appeal or Variance
- Sign or Zoning Permit

Applicant: John Diersing for Sign Design, Inc.  Owner

Address: 810 Matson Place  Agent

Cincinnati, OH 45202 Telephone: 921-1800

Location: R.R. 2, Box 687, KY Rts. 14 & 16, Walton-Verona Rd., Walton, KY

Name of Property Owner: Ken and Al Mills

Address of Property Owner: 5626 Montgomery Rd., Cincinnati, OH 45212

Zoning District: \_\_\_\_\_ Area in Acres: \_\_\_\_\_

Deed Book: 364 Page Number: 191 Group Number: 2086 A

Description of Request: Erect (1) 12' x 20' Expressway

Sign Reading "MILLS FENCE"

Applicant's Signature: John Diersing

Property Owner's Signature: Genneth Mills

FOR PLANNING COMMISSION USE ONLY

Application Fee: 181.00 Date Received: OCT 5 1987 By: MB

Referred To: Tom Breidenstein Meeting Date: \_\_\_\_\_

Action Taken: \_\_\_\_\_ Date of Action: \_\_\_\_\_

STAFF REPORT

APPLICANT: Sign Design, Inc. (agent for Mills Fence)  
LOCATION: East side of KY 14/16, south of Stephenson Mill Road  
ZONE: Commercial Services (C-3)  
DATE: November 5, 1987; 7:30 p.m.  
REMARKS:

The applicant is requesting a Variance in order to erect a 77 foot high highway identification sign. The 5.0 acre site, located between KY 14/16 and I-75, is zoned Commercial Services (C-3) and is owned by Ken and Al Mills.

With 328 feet of highway frontage, Mills Fence would be entitled to one free-standing sign, 40 feet high with 250 square feet of advertising area. Instead, they are proposing a sign with 240 square feet and 77 feet high (see attached drawing). The applicant proposes to locate the sign at the rear of their lot, 40 feet from the right-of-way of the interstate and 15 feet from their northern neighbor (see reduced site plan attached). No other signage, including building-mounted signs, has been applied for.

When reviewing applications for Variances, the Board of Adjustment must use four standards, or criteria, that are spelled out in Article 2, Section 244 of the Boone County Zoning Regulations. A copy of this section is attached. Following is staff's review of these four standards:

1. The applicant argues that the special circumstance leading to this Variance request is the existence of tall trees on the right-of-way of the interstate. This situation does not generally apply to other property in the same zone. The elevation of Mills Fence's property is equal to, and in some areas, higher than the interstate.
2. Strict application of the Zoning Regulations would allow Mills Fence one free-standing sign, 40 feet high, and up to 250 square feet in area. Staff feels that this type of business (fence sales) does not draw its customers from the interstate as would a fast-food restaurant, hotel, or gas station. Therefore, the 240 square foot sign, 40 feet high, and oriented toward KY 14/16, would adequately identify the site to retail and wholesale customers.
3. The special circumstance of trees on the interstate right-of-way is not the result of actions of the applicant. Through a copy of this report, the applicant is notified to report whether or not they have contacted the Department of Transportation to discuss removing the trees.

4. If the Variance is granted, the sign may affect the public health, safety, and welfare. Staff believes that the essential character of the area will be altered. To assess the impact of the proposed sign on the public welfare and character of the area, the Board should consider the fact that the community is attempting to promote quality development for all important areas of the community through its adoption of more restrictive sign regulations in January of 1987. Development in the vicinity of the I-75/Mary Grubbs Highway interchange will have an important impact upon the type of future development attracted into the community.

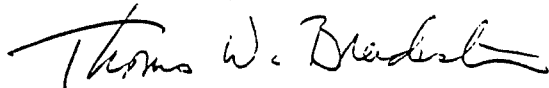
In summary, the intent of the sign regulations is stated in the Zoning Ordinance as follows:

"The purpose of this Article is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs, and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, and enhance and protect the physical appearance of the community. It is further intended to reduce sign or advertising distracting and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, and generally enhance community development."

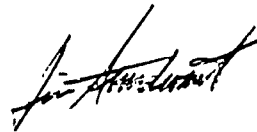
The applicant has supplied the Board with their review of these four standards. A copy of their letter is attached.

Article 2 of the Zoning Regulations allows the Board to impose supplementary conditions and safeguards when granting Variances. At this writing, staff has no suggestions for conditions should the request be granted.

Respectfully submitted,



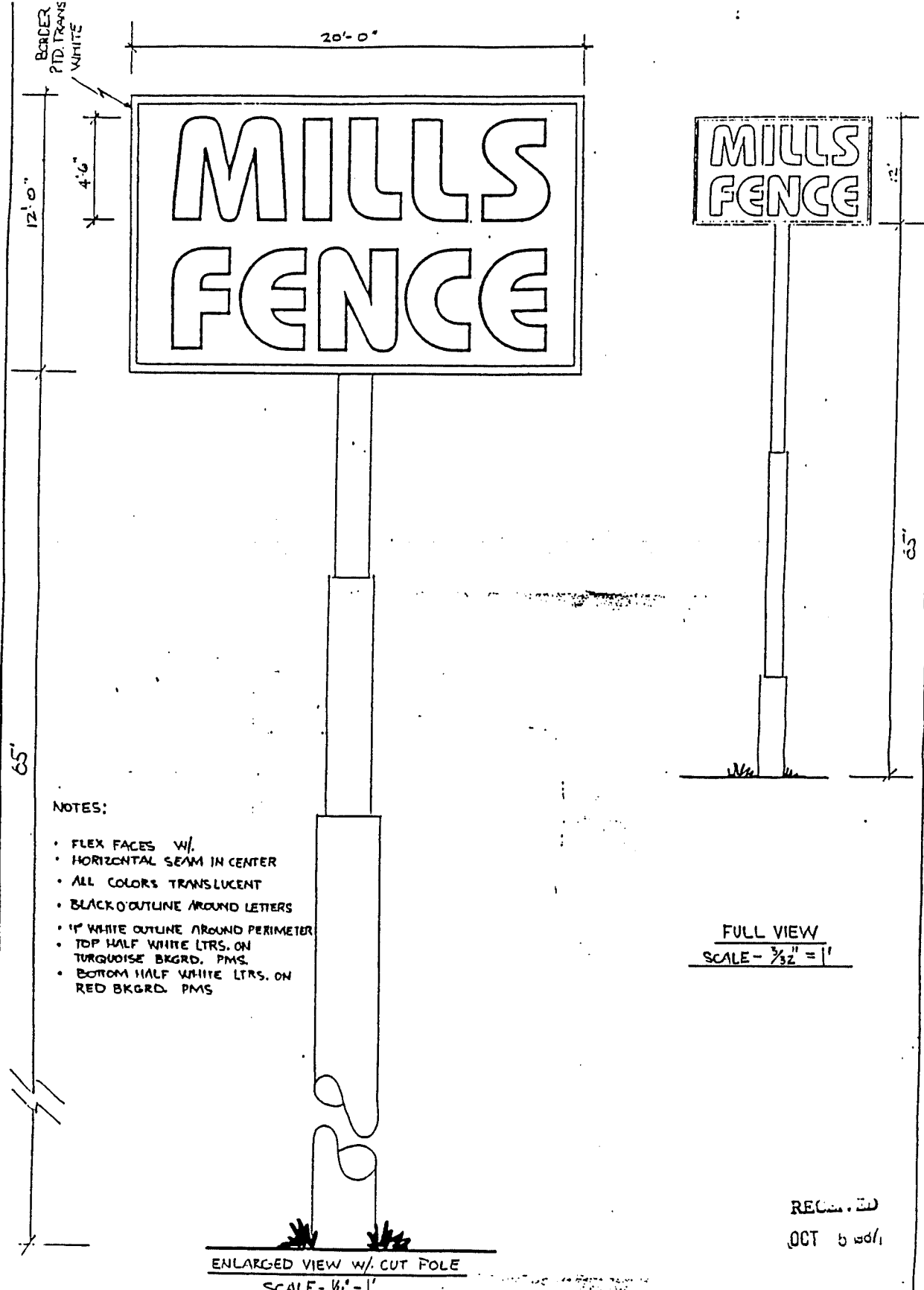
Thomas W. Breidenstein,  
Zoning Enforcement Officer



Jim Sturdevant,  
Plans Examiner/Planner

TWB/JS:mcb

Attachments



NOTES:

- FLEX FACES W/.
- HORIZONTAL SEAM IN CENTER
- ALL COLORS TRANSLUCENT
- BLACK O'OUTLINE AROUND LETTERS
- 1" WHITE OUTLINE AROUND PERIMETER
- TOP HALF WHITE LTRS. ON TURQUOISE BKGRD. PMS.
- BOTTOM HALF WHITE LTRS. ON RED BKGRD. PMS

FULL VIEW  
SCALE - 3/32" = 1'

ENLARGED VIEW w/ CUT POLE  
SCALE - 1/4" = 1'

RECEIVED  
OCT 5 1987

<b>Specifications</b> 1111, 1111111111 TYPE OF SIGN: <input checked="" type="checkbox"/> Outdoor <input type="checkbox"/> 1111111111 <input type="checkbox"/> Aluminum <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111		SIGNAGE MATERIAL: <input type="checkbox"/> Acrylic <input type="checkbox"/> 1111111111 <input type="checkbox"/> Aluminum <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111		LETTERING: <input checked="" type="checkbox"/> Stencils <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111 <input type="checkbox"/> 1111111111		LETTERING STYLE: <b>BAUHAUS OUTLINE</b>	
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REVISIONS: <b>Revised 8-11-87</b> AS NOTED Date: <b>5-27-87</b> (Req. No. <b>M10.R.1.A.</b> )		Copyright 1987 by Sign Design, Inc. This drawing is the copyrighted property of Sign Design, Inc. and is the result of the original work of its employees. It is submitted to your company on the sole basis of your representation of interest in your project and is loaned to you for your use only. It is not to be reproduced, copied, or used in any way without the written consent of Sign Design, Inc. All rights are reserved.					
Submitted by: <i>Dennis H. Linker</i>		Date: <b>5-27-87</b>		<b>SIGN DESIGN</b> CINCINNATI			

# SIGN DESIGN

810 Matson Place  
Cincinnati, Ohio 45204  
(513) 921-1800

RECEIVED  
OCT 26 1987

October 22, 1987

Boone County Building Dept.  
2950 Washington Street  
Burlington, KY 41005  
Attn: Tom Breidenstein

Re: Mills Fence Co.  
Walton, KY

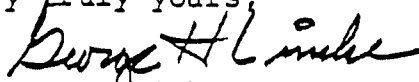
Dear Mr. Breidenstein:

Sign Design, Inc. has a contract to furnish and install a single pole internally illuminated sign for Mills Fence Co., on their property at Walton-Verona Road, Walton, KY.

We respectfully submit the following information, in accordance with Section 244 of the "Board of Adjustments Information Checklist for Variance".

- (1) The proposed sign is to be installed 40' from the west boundary of the property, which at that point abuts the I-75 right of way. Between the sign location and I-75, on Dept. of Transportation property, are trees some of which measure approx. 55' high. Our company flew a gas-filled balloon from the sign location and determined that, to provide visibility of the sign from I-75, the pole should be 65' high, with overall height of 77'.
- (2) The regulations call for a maximum sign height of 40'. Strict application of this provision would deprive the Owner of the identification and advertising value of a sign to be viewed from I-75.
- (3) These circumstances are not the result of any actions taken by the applicant before or after adoption of the regulation.
- (4) The proposed sign location is approximately 625' east of Kentucky Rt. Nos. 14 & 16, adjacent to wooded areas and an open field. The proposed additional height will cause no hazard, and in that location, will not change the character of the vicinity.

Very truly yours,



George H. Limke

GHL/pad



CITY OF WALTON  
BOARD OF ADJUSTMENT

November 5, 1987 - 7:30 P.M.

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BOARD MEMBERS PRESENT

Mr. Ed Berkemeier  
Mr. Wally Wireman

BOARD MEMBERS NOT PRESENT

Mr. Roscoe Denney, Chairman

LEGAL COUNSEL PRESENT

Mr. Dale T. Wilson

In the absence of Chairman Roscoe Denney, Mr. Wally Wireman presided over the meeting as Acting Chairman.

Acting Chairman Wireman called the meeting to order.

AGENDA ITEMS

1. A request of Sign Design, Inc., agent for Mills Fence, for a variance in order to erect a 77 foot high highway identification sign. The 5.0 acre site, located between KY 14/16 and I-75, is zoned Commercial Services (C-3) and is owned by Ken and Al Mills.

Staff member, Tom Breidenstein, presented the Staff Report (see Staff Report) and a slide presentation. This presentation included scenes of the approximate area for the sign to be placed; the rear portion of the Mills Fence site (storage area); the tree line that the sign is to extend above; and the existing signs along I-75 in the same direction and on the same side as Mills Fence is requesting their sign be located.

Acting Chairman Wireman inquired about the size of the Union 76 sign.

Mr. Breidenstein stated that he did not measure the 76 sign, however, he would guess it to be approximately 65-70 feet high.

Acting Chairman Wireman inquired how a sign can alter "public health, safety, and welfare" of the area. He further inquired why hotels and fast food restaurants can benefit from these signs along the freeway and not a business such as Mills Fence.

Staff member, Jim Sturdevant, stated that the State and Highway Administration is trying to develop policies discouraging billboards and similar advertising along the freeway system itself and as a compromise and as a service to motorists who are dependent on information that this is one system of developing a compromise identifying establishments and trying to cut down on the number of billboards and other signs.

Acting Chairman Wireman again inquired how a sign can effect the "public health, safety, and welfare" of the area.

Mr. Sturdevant stated that the primary idea behind that statement is that the City of Walton has a strong interest to attract developments that will help the city economically and to help create an image for the city to the motorists who pass by on the freeway. Right now there are certain types of businesses, that due to the past economic attractiveness or property values in the area had not been such as they would attract high price businesses so to speak. The City is hoping to attract higher price businesses in the future to help in the overall development and to spur growth of the City. Controlling signage is one step in trying to create the types of development and environment that the city is hoping to attract in the area. Sign control is just one element that is a necessary element.

Counselor Wilson stated that the comments of the staff are for informational purposes only and that the Board does not have to agree.

Acting Chairman Wireman stated that he does not agree. He does not feel that this sign should have any detracting to the area. He stated that there are certainly signs existing that should be removed in order to improve the appearance of the area.

Mr. Sturdevant stated that over time and as property values go up, certain uses can be pressured out by people who would purchase out existing property owners and develop sites of greater attractiveness.

Mr. Kenneth Mills, co-owner of Mills Fence Co., stated that there are 15 private homes behind their site in Cincinnati and have not had any problems in the eight (8) years they have been in business. Regarding maintaining a good environment, Mr. Mills feels that their business is one of the best. It is necessary that their business reach two (2) million people in order for the business to survive. It is their desire, with this sign, to reach the Lexington and Louisville market and other surrounding and distant areas. Mr. Mills feels that without the sign, their business would be cut down 60-70 percent. He finally stated that the business is a competitive business and it is their desire to be an asset to the community of Walton.

Mr. Al Mills, co-owner of Mills Fence, stated that the business must cover at least 50 square miles in order to maintain their business.

Mr. George Limke of Sign Design presented a drawing of the proposed sign showing its relationship to the existing trees. He does not feel that the sign would create any less of an environmental effect. Mr. Limke stated that he had spoken to Mr. Michael Schneider of the Kentucky Department of Transportation in regard to the removal or trimming of the trees in the state right-of-way. Mr. Limke was informed that unless a safety hazard is present caused by the trees, no one would be allowed to cut or trim any trees in the right-of-way to allow a sign to be more visible.

Mr. Phil Trzop, Walton Building Inspector, inquired whether or not the sign would come down on the interstate if it were to fall.

Mr. Al Mills stated that the sign is such a distance that the sign would not hit the freeway. There is an estimated 80-90 feet between the sign and the freeway.

Mr. Breidenstein stated that a building permit would be required to erect the sign and that through that process the setback requirements would have to be met.

Acting Chairman Wireman inquired about lighting of the sign and whether any glare could be possible to motorists.

Mr. Limke stated that the sign would be internally lit and that no glare would be possible.

Mr. Berkemeier stated that if the sign is granted, then every business that comes in will request signs such as this.

Acting Chairman Wireman agreed to the possibility, however, stated that this would not mean that every sign request has to be granted. Each one would be treated on a case by case method.

Mr. Berkemeier made a motion that the sign be granted as requested. Acting Chairman Wireman seconded the motion. The motion carried by unanimous vote.

2. A request of William and Addie King for a Conditional Use Permit to allow the retail sales of automobiles. The 0.69 acre site, located at 104 North Main Street, Walton, is zoned Commercial Two (C-2) and is owned by William and Addie King. The subject property is currently being used as King's Family Restaurant. The proposed car lot will be south of and behind the restaurant itself.

Staff member, Tom Breidenstein, presented the Staff Report and a slide presentation (see Staff Report).

Acting Chairman Wireman inquired if this is a method done often to obtain a Conditional Use Permit before the submittal of a Site Plan.

Mr. Breidenstein stated that this practice is fairly common.

Mayor King stated that he has the opportunity to sell the property and was asked by the possible buyers to apply for the conditional use permit. They would not be interested in the property if the use would not be allowed. Mayor King further stated that he does expect the proposed buyer to abide by all the requirements of the Zoning Regulations.

Acting Chairman Wireman inquired if anyone objected to the use.

Mrs. Falls, an adjoining property owner, stated that she is in favor of the use.

Acting Chairman Wireman stated that he had received some written complaints.

Mr. Berkemeier inquired as to who was notified by mail of the proposed use.

Mr. Breidenstein stated that all of the adjoining property owners were notified as required by law.

Mr. Maynard Meadows, 13 Old Stephenson Mill Road, stated that he has no objections.

Mr. Bill Wethington stated that he would like a better idea of who would be developing the lot before a use would be permitted. If the Board could know who the possible buyers are, they could check on other sites, if they exist, to see if the developers maintained a reputable site. Mr. Wethington inquired of Mayor King whether or not he would continue to run the restaurant.

Mayor King stated that he would not run the restaurant. The entire property is for sale.

Mr. Wethington inquired of the location of the office building. He stated that he felt that water runoff, paving of the parking lot, access and exit off of Sanders Drive, the effect of lighting, and the hours the business would be open are all issues that need to be addressed. Mr. Wethington stated that he felt there was not enough information submitted to properly address the request. Mr. Wethington suggested that at least some of these issues be conditions to the request.

Acting Chairman Wireman stated his concern regarding not knowing who the developer is or who subsequent buyers would be.

Mayor King stated that the people buying the property are reputable people.

Mr. Wethington stated that he feels the people of Walton are looking for communication and inquired if the proposed buyers couldn't at least draw a rough draft of their intended use and give the people some idea.

Acting Chairman Wireman stated that he would like to have more information also (e.g. What kind of office building would be built).

Mr. Wethington inquired if the prospective buyers would do any repair or body work on the site.

Mayor King stated that they would not be doing any repair or body work on this site.

Acting Chairman Wireman stated again that he had received several complaints by mail opposing the use of the lot as a used car lot.

Mrs. Falls inquired why these people were not at the meeting.

Mr. Phil Trzop, Walton Building Inspector, inquired of staff member, Jim Sturdevant, whether this request, if approved by the Board of Adjustment, would have to go through the Planning and Zoning process and what review would take place.

Mr. Sturdevant stated that the applicant would have to go through Site Plan Review. The applicant would have to address buffering along the adjoining property line, paving the lot, properly designing the drainage, lighting of the lot so as not to have any glare or nuisance to adjoining property owners and motorists, access, the office building setback requirements, and the number of cars allowed on the lot (50 maximum in the current zoning). These are some of the issues that would have to be addressed.

Mr. Wethington again inquired whether the proposed use would include auto body repair.

Mr. Sturdevant stated that auto body repair would not be allowed in the current zone.

Mr. Sturdevant further stated that a Conditional Use Permit is a binding document that is recorded with the deed to the property. This Permit will follow the deed to every purchaser unless a new request is brought before the Board of Adjustment.

Mr. Breidenstein verified that a Conditional Use Permit goes with a deed every time the property is sold.

Counselor Wilson suggested that if the Board would decide they would like to permit this use, they could state as a condition that no major auto repair or auto body work be allowed and that Site Plan Review be approved.

Mr. Wethington inquired of the definition of a "used car." Could a semi-truck be sold on this lot or even a pick-up truck?

Mr. Breidenstein stated that the Zoning Regulations allow "small scale sales or leasing of new and used motor vehicles requiring the storage of no more than fifty (50) vehicles on the premises." Therefore, vehicles is a general term used in the use allowed.

Counselor Wilson inquired if the Zoning Regulations stated a definition in Article 20 for "vehicles."

Mr. Breidenstein stated that the definition is not stated in the Zoning Regulations.

Acting Chairman Wireman inquired if the approval could be contingent on the approval of the Site Plan.

Counselor Wilson stated that if the Board wanted the reserve the right to give final approval after Site Plan Review, they could defer action tonight and meet after the Site Plan Review process is finished.

Mayor King stated the prospective buyers have discussed the request with staff from the Planning and Zoning office. They know what is expected if the use is allowed.

Mr. Wethington stated that he thinks he knows the people that would be buying the property and that they are fine reputable people. He would still like to know that the type of vehicle allowed to be sold would be defined. He has seen "used car lots" that sell camper tops, recreational vehicles, pick-up trucks, etc.

Acting Chairman Wireman suggested that a motion be made that the permit be approved with conditions.

Mr. Berkemeier referred to the suggestion of legal counsel as mentioned earlier.

Counselor Wilson stated that the use could be approved as a concept that requires Site Plan Review or it could be a conditional approval requiring the applicant to come back for further review from the Board. The second suggestion would be similar to a deferral and would require the applicant to submit more information.

Mayor King stated that he wanted to know for sure if the use would be allowed. The prospective buyers would not conclude the transaction unless they are certain that their intended use would be allowed.

Acting Chairman Wireman stated that he felt it was the Board's position to protect the City of Walton.

Acting Chairman Wireman stated that if the meeting was to be extended for more information that the record show that there was no one in opposition of the use present at tonight's meeting.

Mayor King stated that he did not see the need for a deferral. Either the permit be granted or it not be granted.

Acting Chairman Wireman stated again that he had received some complaints in the mail. He felt that the potential buyers should have been willing to attend the meeting and present some plans.

Acting Chairman Wireman inquired of Mr. Breidenstein who was notified for this request.

Mr. Breidenstein stated that all adjoining property owners (5) were notified plus a legal notice was placed in the Boone County Recorder.

Mr. Trzop stated that people would still have the opportunity to oppose the Site Plan at the Boone County Planning Commission meetings if they so desire.

Mr. Berkemeier stated that he feels that the people of Walton have the right to know about the request. They have been notified either by letter or advertisement in the local paper and have chosen not to attend to oppose or show favor with the exception of three people.

Mr. Berkemeier made a motion to allow the Conditional Use Permit, however, to have the condition that something come back to this Board so that the process can be followed through by the Board as it progresses.

Mr. Breidenstein suggested that the Site Plan could have to meet the approval of the Board rather than the Planning Commission.

Counselor Wilson stated the Board of Adjustment has the power to review Site Plans. He stated that no further notice would be required if a meeting would follow within a month. The action taken at tonight's meeting would meet the requirements. If, however, the meeting does not take place for weeks, then additional notice should be required.


Mr. Berkemeier made the motion the Conditional Use Permit be allowed with the condition that the review comes back through the Board of Adjustment.

Mr. Berkemeier added to his motion that a meeting be scheduled with the Walton Board of Adjustment to review this request further, but that no date be set tonight. The Board members would be notified to agree upon a date.

Mr. Breidenstein stated that the review would be done by the Board of Adjustment along with staff.

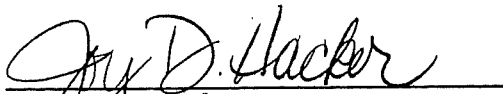
Acting Chairman Wireman seconded the motion. The request carried unanimously.

APPROVED:



Wally Wireman  
Acting Chairman

ATTEST:



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Joy D. Hacker  
Administrative Secretary