

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 KENNETH & BETTY WILLIAMS
Phone Number 674 RUSCONI INDEPENDENCE, KY. 41051
Applicant's Address 356-7279
- 4. Description of Request: SITE PLAN REVIEW FOR WILLIAMS MOTORS
City State Zip
- 5. Name of Development WILLIAMS MOTORS
- 6. Location of Development 104 N. MAIN, WALTON, KY.
- 7. Acreage Under Review 0.477 AC.
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
6-7 & PART OF 5 J.A. SANDER'S SUB'D.
- 9. Owner of Property ~~XXXXXXXXXXXXXXXXXXXX~~ 525-0569
Phone Number DONALD S. BULMER, JR. & KATHLEEN L. BULMER
- 10. Address of Property Owner 16 PEPPER ROAD 178 W. Dilcrest
WALTON, KY. Florence, KY 40042
City State Zip
- 11. Proposed Use(s) On Site USED CAR SALES
- 12. Total Square Footage of Existing and/or Proposed Buildings
1200
- 13. Current Zoning on Property C-2
- 14. Deed Book 415 Page No. 77 B1 Group No. 2080
- 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? NO
- 18. Applicant's Signature: Kenneth & Betty Williams
- 19. Property Owner's Signature: Donald S. Bulmer
Kathleen L. Bulmer

NOTE. CONDITIONAL USE PERMIT
PREVIOUSLY GRANTED
ACCORDING TO TOM

TIMOTHY R. MCNEELY
Registered Land Surveyor
6256 Main Street
Burlington, KY 41005 Ph. 586-6497

SECTION B

(To be completed by Boone County Planning Commission Staff)

1. Date Received 11-29-91
2. Fee Received 8150 *min. Site Plan review fee*
3. Is application complete? X Yes No
4. Staff Reviewer RJB
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

APPLICANT: Kenneth & Betty Williams
DEVELOPMENT: "Williams Motors"; used car lot
LOCATION: 104 North Main Street, Walton
ZONE: Commercial Two (C-2)
DATE: January 8, 1992
REMARKS:

The applicant is requesting Site Plan approval to allow the development of a used car lot. The 0.477 acre site, located at the northeast corner of North Main and Locust Streets, is owned by Donald and Kathleen Bulmer and is zoned Commercial Two (C-2).

History

On November 5, 1987, this Board granted a Conditional Use Permit to William and Addie King, the previous owners, to allow the retail sale of no more than fifty (50) automobiles. Because no plan was submitted with Mr. King's application, the actual development of the lot was in question and a number of concerns were raised. The neighboring property owners were concerned with storm water runoff, access, lighting, and hours of operation. Staff raised concerns about buffering, landscaping, lot paving, and access to the site. Ultimately, the request was approved upon the condition that the developer submit a Site Plan to this Board rather than to the Planning Commission so that the Board could see that these concerns had been addressed. (A copy of the 1987 minutes is attached.)

Review

The applicant proposes to pave enough of the lot to accommodate the display of twenty-four (24) vehicles for sale and the vehicles of two (2) employees. This paved area will be in the front of the lot and will allow traffic to flow between Locust Street and North Main Street. The applicant has designated a gravel area behind the proposed paving for future parking.

Storm water from the site currently sheet flows into an existing detention basin on the site. Since no grading is proposed, this pattern of water flow will continue. In addition to water from this site, the basin also handles water from North Main Street, Locust Street, and Sanders Avenue. The applicant's engineer and surveyor have determined that the basin is adequate to hold a substantial amount of water and that it will release the water at an appropriate rate into the outlet pipe. The Planning Commission's engineer has reviewed the plan and has required that a curb be installed along the top of the perimeter of the basin.

This curb should have notches cut into it so that storm water is slowed somewhat as it enters the basin. Also, rip-rap must be installed at these notches to prevent erosion in the basin. The plan indicates that the detention basin will be cleaned out and seeded. Finally, the City has suggested that the basin be made safer by planting trees or shrubs around the top edge to discourage children from getting near the edge. The applicant has proposed a chain fence along one side of the basin to prevent cars from driving into it.

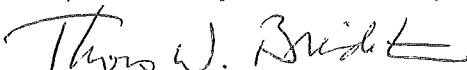
The applicant has proposed no landscaping for the site. It is understandable that the applicant would not propose plantings which would block the visibility of vehicles on display. However, there are a number of areas where trees or shrubs could be planted. For example, the areas around the front of the office building (the old restaurant) could be planted without hindering the view of the vehicles for sale. Also, the five (5) foot area between the existing public sidewalk and the proposed paving could be planted in grass. As mentioned above, the area around the detention basin could (and should) be heavily planted in trees or shrubs. Finally, there are large areas in the rear yard which could be planted in trees while still maintaining the applicant's future parking area.

The applicant is proposing to install two (2) 200 watt lights on existing power poles along the front of the lot. These lights will be angled in such a way so that there is no glare on the neighboring streets or properties. No free-standing sign is proposed at this time; however, the applicant does intend to install a sixteen (16) square foot building mounted sign on the office. This sign meets the minimum requirements of Article 19 of the zoning regulations. The applicant will be required to apply for a separate permit for any future signs.

Conclusion

In reviewing this plan, the Board must use the same criteria used by the Planning Commission, namely, Article 14 of the Boone County Zoning Regulation. If all criteria are met, the Board must approve the plan. At this writing, Staff is unable to recommend approval of the plan because of its lack of landscaping. However, the surveyor was to have discussed this issue with the applicant and should address this issue at the meeting.

Respectfully submitted,


Thomas W. Breidenstein
Zoning Enforcement Officer

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.

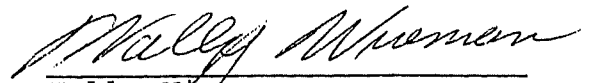
Mr. Berkemeier made the motion the Conditional Use Permit be allowed with the condition that the review comes back through the Board of Adjustment.

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:



Joy D. Hacker
Administrative Secretary

cc: sent to City of Walton
12/14/87 MCB

COPY

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)
Donald S. & Kathleen L. Bulmer
178 W. Dilcrest
Florence, KY 41042
2. ADDRESS OF PROPERTY
104 N. Main Street
Walton, KY 41094
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Williams Motors

DEED BOOK: 415 PAGE NO.: 77/81 GROUP NO.: 2080

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 checked="" type="checkbox"/> | Other: Site Plan in
accordance with a
previously approved
Conditional Use Permit |
| <input 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

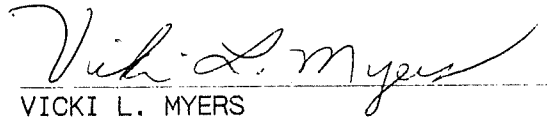
Thomas W. Breidenstein
SIGNATURE OF COMPLETING OFFICIAL

Thomas W. Breidenstein, Zoning Enforcement Off.
NAME AND TITLE OF COMPLETING OFFICIAL
(type or print)

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledge before me by Thomas W. Breidenstein
on behalf of the Boone County Planning Commission this 22nd day
of June, 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 Site Plan in accordance with a previously approved Conditional Use Permit as approved by the Walton Board of Adjustments and in accordance with the current zoning in effect as of January 8, 1992, (Certificate of Land Use Restriction # 92-WBOA-001-A), for Donald S.&Kathleen Bulmer, property owner.

The Site Plan in accordance with a previously approved Conditional Use Permit is approved with the following conditions:

1. That lot lights be angled or shielded in such a way as not to cast glare on surrounding roadways or adjoining neighbors. No strings of lights are permitted;
2. That no repair work be done at the site;
3. That there be adequate landscaping around the office building, including behind the structure. Landscaping may be planted in the following phases:
 - a) Year 1 - grass and shrubs in front of building;
 - b) Year 2 - shrubs at corner of North Main and Locust Streets + a hedge or trees along top of detention basin, and;
4. That there be landscaping between the proposed pavement for vehicle display and the public sidewalk on North Main Street;
5. That there be appropriate landscaping along Locust Street, and;
6. That paving of lot be done in phases for a period not to exceed three years.

The approved Conditional Use Permit as well as the preceding conditions apply to the property described in: DEED BOOK 415 PAGE NO. 77/81 Group No. 2080