

Next Wed,  
Dec. 17 - deadline

APPLICATION FORM

**BOARD OF ADJUSTMENT  
AND  
ZONING APPEALS ACTION  
BOONE COUNTY PLANNING COMMISSION**

CLW  
98-WBOA-001-A

See Boone County Zoning Regulations  
**SECTION A** (To be completed by applicant)

(Check One)

1.  Boone  Florence  Walton  Union

(Check One)

2.  Conditional Use Permit  Variance  Appeal  
 Change in Non-Conforming Use

3. Applicant's Name John Jay Fossett, Esq.  
Phone Number 606-331-6440 Fax No. 606-331-5337  
Applicant's Address 1885 Dixie Highway, Suite 140  
Ft. Wright Kentucky 41011  
City State Zip

4. Description of Request: On December 9, 1997, Walton City Council approved a zone change for the subject property to Industrial One (I-1) contingent upon a variance from this Board regarding setback and buffering requirements.

5. Name of Development Ted's Tire and Repair Service

6. Location of Development 65 High Street, Walton, Kentucky

7. Acreage Under Review 1/2 acre

8. Lot Number and Name of Subdivision (if part of a subdivision)  
Tract 4 of the John Conrad Estate

9. Owner of Property Theodore and Shirley Steward  
Phone Number of Owner 485-6066

10. Address of Property Owner 60 High Street, Walton, Kentucky 41094  
City State Zip

11. Proposed Use(s) on Site Tire and Auto Repair Service and Parking for Water Trucks

12. Total Square Footage of Existing and/or Proposed Buildings 2,322

13. Current Zoning on Property I-1

14. Deed Book 522 Page No. 184 Group No. 2081 B

15. Is the site subject to a zone change? Yes. (See above)  
If yes, give date of approval December 9, 1997

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. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

Applicant's Signature: John Jay Fossett

Property Owner's Signature: Shirley Steward

(Continued on reverse side)

BOARD OF ADJUSTMENT AND  
ZONING APPEALS ACTION  
APPLICATION  
PAGE 2

**SECTION B** (To be completed by the Boone County Planning Commission Staff)

1. Date Received DEC 17 1997 Fee Received 526.00 R# 15505 + 15506
2. Is application complete? Yes \_\_\_\_\_ No
3. Staff Reviewer [Signature]
4. Scheduled Board Action Date 1/14/98
5. Board Action:  
 Approved  
 Approved with Conditions (See #6)  
 Denial (See #7)
6. Conditions of Approval: SEE THE MINUTES FROM THE 1/14/98 WJQA MEETING.
7. Reasons for Denial: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Boone County Planning Commission  
2995 Washington Street  
Burlington, Kentucky 41005  
(606) 334-2196 Phone  
(606) 334-2264 Fax

NOTE: See Boone County Planning Commission Fee Schedule for Board of Adjustment Fees.

Site Plan Review is not granted by the appropriate Board of Adjustment.

An application consists of all fees paid in full, submitted drawings and a completed application form.

BCPC: 11/96  
(Continued from front page)

Property owner-Ted Steward-requests a vance from these requirements to allow Ted's Tire and Auto Repair business to operate as it has done in the past, with its existing setbacks and no additional buffering required.

## STAFF REPORT

**APPLICANT:** John Jay Fossett for Theodore and Shirley Steward  
**LOCATION:** 65 High Street, Walton, Kentucky  
**ZONING:** Industrial One (I-1)  
**DATE:** January 14, 1998

### Proposal

The applicant is requesting a Variance to eliminate the landscaping buffer yards at 65 High Street, Walton, Kentucky, which are required by the 1996 Boone County Zoning Regulations, between the property owner's industrial zoned property and the surrounding residentially zoned property.

### Site History

On August 27, 1997, the property owners, Theodore and Shirley Steward, requested before the Boone County Planning Commission, a Zoning Map Amendment to change the current zoning of his property at 65 High Street from Suburban Residential One (SR-1) to Industrial One (I-1).

On September 17, 1997, the Boone County Planning Commission Zone Change Committee made a recommendation the full-Commission to deny the request based upon the following findings of fact:

1. The approved 1995 Boone County Comprehensive Plan, Future Land Use Map shows this site as Suburban Density Residential; more specifically though, the text states:

"The City of Walton is being surrounded by industrial development and zoning to the north, south, and west of the City. Therefore, to ensure the integrity of the central portion of Walton, the area from the Turner Fishing Lake to Boone Lake should have a land use designation of Suburban Residential. This would allow the central portion of Walton to experience residential growth in response to the employment growth and utility expansion in the area. The suitability of this area for residential use is enhanced by proximity to developing recreation areas, commercial services, and the Walton-Verona schools."

Suburban Residential (SR) is defined on page 209 in the Comprehensive Plan as:

"Single Family housing of up to four units per acre. This classification also includes any low density or estate residential developed as a formal subdivision."

Thus, the Committee has concluded that the request is not in agreement with the Comprehensive Plan. In addition, neither the applicant nor the property owner have presented any evidence which demonstrates that the proposal is in agreement with the Comprehensive Plan.

2. Neither the applicant nor the property owner provided evidence, nor has the Committee identified any evidence, which demonstrates that the existing zoning classification of Suburban Residential One (SR-1) is inappropriate and that the proposed zoning classification of Industrial One (I-1) would be appropriate.
3. Neither the applicant nor the property owner have demonstrated that there have been major changes of a physical, social or economic nature within the area which were not anticipated in the adopted 1995 Boone County Comprehensive Plan which have substantially altered the basic character of the area. Also, the Committee has not identified any major changes of an economic, physical, or social nature that have substantially altered the basic character of the area.
4. Based on findings 1, 2, and 3, the Committee concludes that this proposal does not fulfill any of the three statutory criteria necessary for a Zoning Map Amendment.

On December 8, 1997, the Walton City Council held a first reading of Mr. Steward's request.

On December 9, 1997, the Walton City Council held a second reading of Mr. Steward's request and passed the request as City of Walton, Kentucky, Ordinance No. 97-19. The City's Ordinance contained the following conditions:

#### SECTION II

"...the property shall be used only for repair, storage and parking of vehicles (including water hauling trucks), for the storage of vehicle parts, automotive repair tools and equipment. Further, all repairs of vehicles at 65 High Street shall be performed inside the building on the property. "Repairs of vehicles" shall not include changing tires or "jump-starting" vehicles."

#### SECTION III

"Approval of the above-referenced map amendment is conditioned upon the applicant complying with setback and buffering at the subject site, as required by the Walton Board of Adjustment. If these issues are satisfactorily resolved by the Board of Adjustment, then the effective date of the map amendment will be the second reading of this ordinance."

Article 36, Section 3645, of the Boone County Zoning Regulations, requires that industrial zoned property, which adjoins residentially zoned property, shall have and maintain 80 foot wide buffer yards along all boundaries of the industrial zoned property which are adjacent with property zoned for residential uses. A buffer yard D requires the following:

Buffer Yard D - 80 Foot Width

Landscaping required per 100 linear feet at 80 and 40 feet wide.

20 evergreens-Plant List D Planted in a double row spaced 10 feet on center in a equal lateral triangle configuration.

10 Small Trees-Plant List C

5 Large Trees-Plant List A

90 Shrubs-Plant List E

40 Foot Width

The same number of trees and 30 shrubs are required as for the 80 foot width buffer yard, but the width may be reduced to 40 feet if a 6 foot high berm, fence or masonry wall is used. The maximum slope for a berm is 2.5 to 1.

Mr. Steward's property at 65 High Street, Walton, Kentucky, is required to have these buffer yards along the north, east, and west sides of this property.

Dimensional Variance

A Variance is defined as a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of K.R.S. 100.241 to 100.47.

Variations are appropriate by reason of exceptional narrowness, shallowness, or unusual shape of a site on the effective date of the zoning regulations or amendment thereof or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of the site. The literal enforcement of the above dimensional terms of the zoning regulation would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone. The dimensional terms pertaining to height, width and location involve such items as structures, parking space stalls, driveway aisles, landscaped buffers and signs. Lot frontages, the size of yards, and open spaces refer to minimum yard dimensions such as building setbacks.

Conclusion

K.R.S. 100.241 gives the Walton Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for a Variance to eliminate the buffer yards required at 65 High Street, between the owner's industrial zoned property and the surrounding residentially zoned property.

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a Variance, stated in Article 2, Section 251 of the Boone County Zoning Regulations.

Before any variance is granted, the Board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Board shall consider whether:

- a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
- b. 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;
- c. the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

The Board should also consider the conditions, which were placed on the property, by the Walton City Council, through Ordinance 97-19 and then determine, whether or not, those conditions, along with the applicant's request, meets the criteria for granting a variance.

Respectfully Submitted,

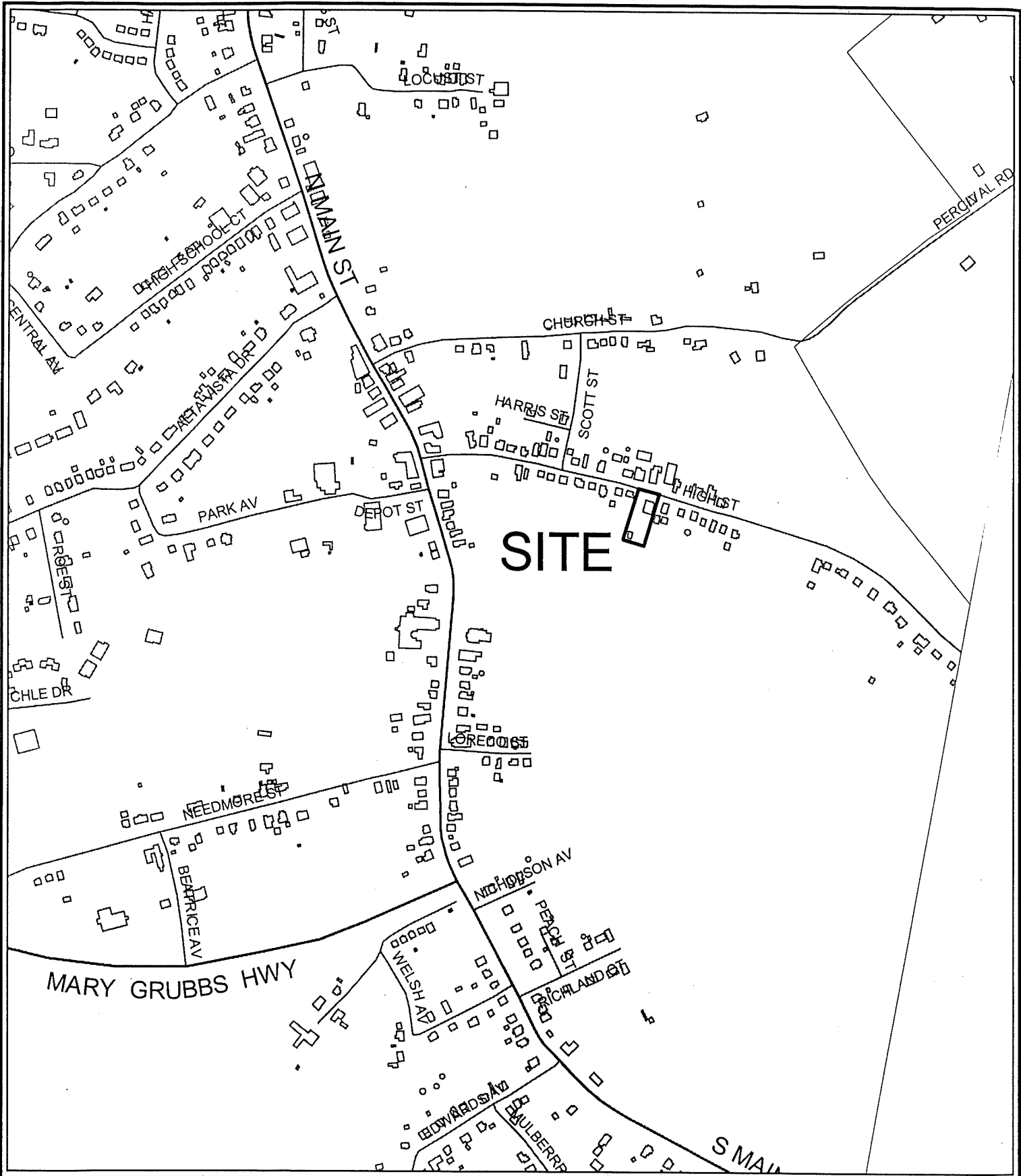


Edward Coleman  
Planner

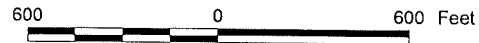
EC\pr

Attachments

- Location Map
- Site Map
- Boone County Planning Commission Committee Report
- City of Walton, Kentucky, Ordinance 97-19

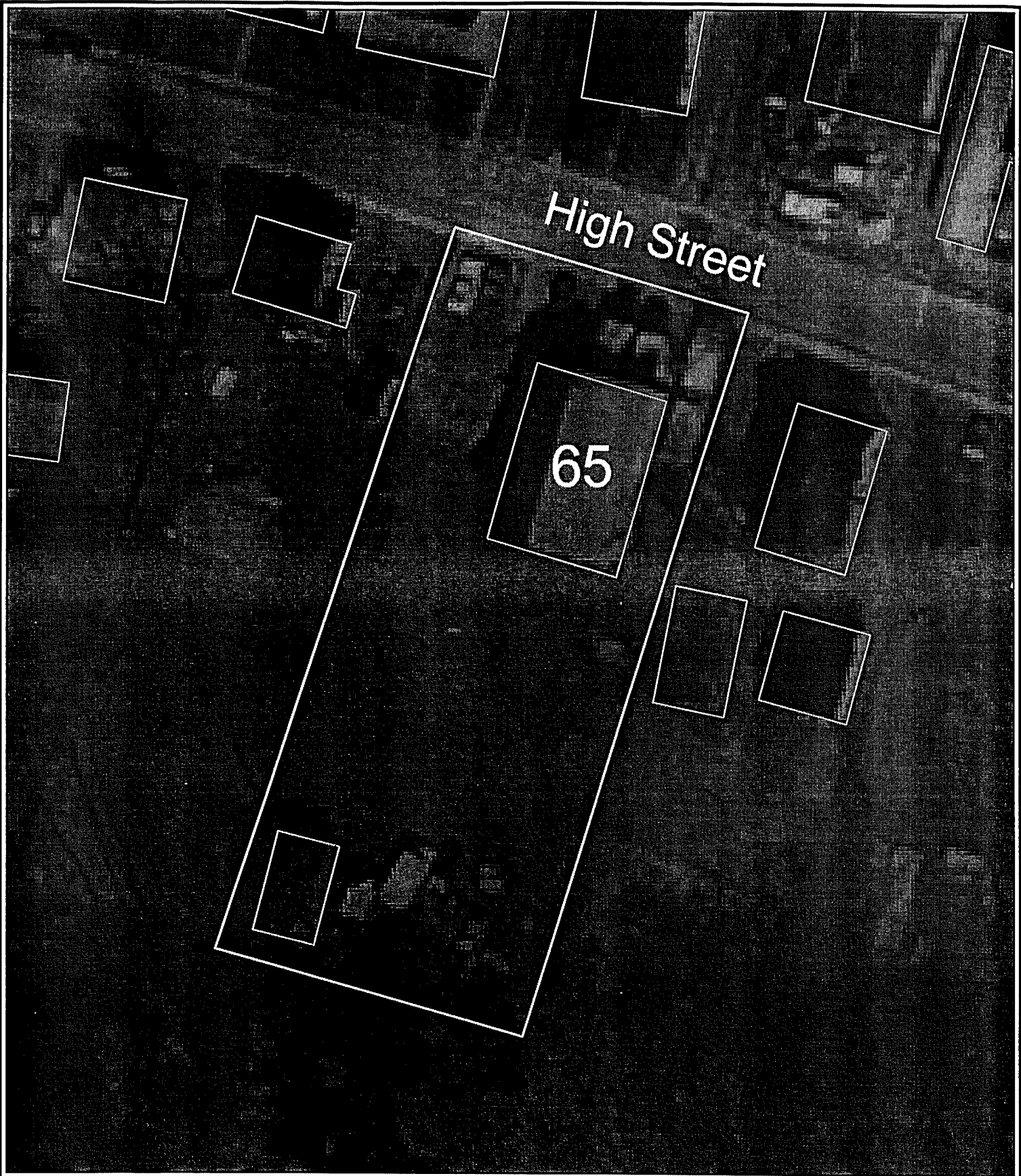


# 65 High Street, Walton, KY



1 inch equals 600 feet  
 Produced by the  
 Boone County Planning Commission  
 GIS Services Division  
 January 8, 1998





65 High Street, Walton, KY



1 inch equals 40 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
January 8, 1998



COPY

CLUR # 98-WBOA-001-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)

Theodore and Shirley Stewart  
60 High Street  
Walton, Kentucky 41094

2. ADDRESS OF PROPERTY

65 High Street  
Walton, Kentucky

3. NAME OF SUBDIVISION OR  
DEVELOPMENT (if applicable)

Ted's Tire and Auto Repair

DEED BOOK: 522

PAGE NO.:184

GROUP NO.:2081 B

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

Zoning Map Amendment:  
From to

Conditional Use Permit

Development Plan

Conditional Zoning

Subdivision Plat  
(Unrecorded)

Other: Site Plan Review

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

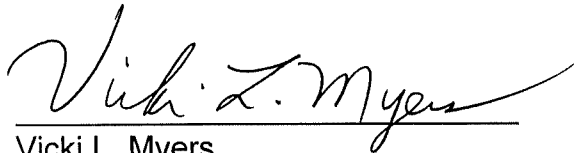
Edward Coleman, Planner

Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledge before me by Edward Coleman on behalf of  
the Boone County Planning Commission this 6th day of February 1998.

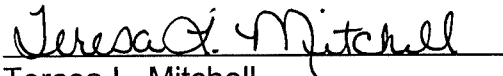


Vicki L. Myers  
NOTARY PUBLIC, State at Large

My commission Expires:

April 17, 1999

This instrument was prepared for recording purposes only by:



Teresa L. Mitchell  
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.)

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Variance approved by the Walton Board of Adjustments and in accordance with the current zoning in effect as of January 14, 1998 Certificate of Land Use Restriction (# 98-WBOA -001-A), for Theodore and Shirley Steward, property Owners

The following conditions will apply: 1). The conditions of Ordinance No. 97-19 that were approved by the Walton City Council shall run with the property regardless of ownership. The applicant's council shall draft a document indicating that the applicant understands and agrees that these conditions run with the property, regardless of ownership. This document shall be signed by the applicant and forwarded to the Boone County Planning Commission.

The approved Variance as well as the preceding conditions apply to the property described in: DEED BOOK 522 PAGE NO. 184 Group No. 2081 B