

**FLORENCE BOARD OF ADJUSTMENT
FLORENCE GOVERNMENT CENTER
COUNCIL CHAMBERS
BUSINESS MEETING
March 8, 2022
6:30 P.M.**

Vice-Chairman Froelicher called the meeting to order at 6:30 P.M.

BOARD MEMBERS PRESENT:

Mr. Duane Froelicher
Mrs. Lila Huff
Mrs. Linda Schaffer

BOARD MEMBERS NOT PRESENT:

Mrs. Dee Begley
Ms. Lois Evans

STAFF MEMBERS PRESENT:

Mr. Todd K. Morgan, AICP, Senior Planner

LEGAL COUNSEL PRESENT:

Mr. Dale T. Wilson

Mrs. Huff indicated she had received the Oath of Office and was able to participate as a Board of Adjustment member.

Mr. Wilson said the Board could elect officers tonight or wait until they had all five members present. Mr. Froelicher made a motion to wait until all five members were present and Mrs. Schaffer seconded the motion. Mr. Froelicher called for a vote and it carried unanimously.

APPROVAL OF MINUTES

Mr. Froelicher stated the Board received copies of the minutes of the Florence Board of Adjustment meeting of December 16, 2021. He asked if there were any other comments or corrections. Mrs. Schaffer moved to approve the minutes and Mrs. Huff seconded the motion. Mr. Froelicher called for a vote and it carried unanimously.

ACTION ON REVIEWS

1. Request of Judy Bour and Sven Khan for a Conditional Use Permit. The Conditional Use Permit is to allow a short term rental house. The approximate 0.16 acre parcel is located at 516 Kentaboo Avenue, Florence Kentucky and is zoned Suburban Residential Two (SR-2).

Staff Member, Todd Morgan, presented the Staff Report, which included a PowerPoint presentation (see Staff Report). He added that he had received a letter from Nora Frost after the Staff Report was finalized and it's part of the record (see Exhibit 1).

Mrs. Schaffer asked who drew the floor plans that were in the Staff Report? Mr. Morgan responded they were submitted by Ms. Bour with the application. Mrs. Schaffer questioned some of the measurements shown and asked how they could verify they were accurate.

Mrs. Huff asked if the applicant was going to own the house or sub-lease it. Mr. Morgan said that was one of the questions he had for the applicant and would let her address that during her presentation. Ms. Judy Bour replied that she would be renting the house for two years if the application was approved and would sub-lease it out for short term rentals. The house is currently being renovated. Mrs. Huff asked if a sub-lease is allowed? Mr. Wilson said the property owner and applicant have both signed the application. Zoning laws generally allow an applicant to act as an agent of a property owner as long as the property owner is agreeable.

Mrs. Huff asked when the lease was signed. Ms. Bour said she believes it was signed in February of this year. Mrs. Huff asked if her intent was to sub-lease the house for short term rentals. Ms. Bour said that was her intent when she signed the lease.

Mrs. Huff asked what would happen if this Board approved the application and she defaulted on the lease? Ms. Bour said she will not default. Her backup plan is to do long term rentals (30 days or more) if the short-term rentals don't go well. Mr. Froelicher said the City of Florence Ordinance requires the applicant to renew the city permit every 365 days. The City of Florence can renew the permit or revoke it. Mr. Wilson agreed.

Mrs. Schaffer asked if the other Staff questions on page 7 of the Staff Report could be addressed?

Question 2 - Where do they live now and how frequently would they visit the property if the Conditional Use Permit and City Permit are approved?

Ms. Bour responded that she lives in Independence, KY and is about 15 minutes away. The property will typically be rented once or twice a week and she will come back to clean once a renter checks out.

Question 3 - Are there any plans to make any additional exterior improvements that would encourage guests to spend time outdoors? Examples are fire pits, pools, basketball goals, etc.

Ms. Bour responded they will be adding cameras to the front and back of the house. This will allow them to monitor what is going on. No other exterior improvements are proposed.

Question 4 - Could the house be rented for a night or two? Ms. Bour had previously mentioned that the minimum stay allowed would be two nights.

Mrs. Schaffer said she was concerned about the sub-lease and if that arrangement would contradict the compact, but single-family character of the district. She was also concerned that the floor plan measurements may not be right. She questioned if 6 guests should be permitted in the house. If the application is approved, she recommends another condition which prohibits the use from being expanding (number of guests or driveway improvements) without coming back to the Board. She is not of favor of the request due to the sub-lease and the conditional use permit criteria not being met. Mrs. Huff said she agrees with Mrs. Schaffer.

Mr. Ayo Akinyemi said he was the property owner and did the floor plan measurements. He said the floor plan measurements are accurate.

Mr. Froelicher asked Mrs. Schaffer if she wanted the number of guests to be limited to 5 or 6 people? Mrs. Schaffer said she is not in favor of the request. She does not believe the request meets the Conditional Use Permit criteria, that the floor plan measurements are accurate, or that the neighborhood should be dealing with a sub-lessee. Mrs. Huff said she agreed.

Mrs. Huff made a motion to deny the application.

Ms. Bour asked why the application was being denied. It will bring families in to see the Creation Museum, Ark, etc. She is sub-leasing another property on Bustetter Drive and the Board approved a Conditional Use Permit allowing a duplex unit to be used for short term rentals. She hasn't had any problems.

Mrs. Schaffer said she would be agreeable to second Mrs. Huff's motion as long as it was amended to say that the denial was being based on the applicable regulations and findings found in the Staff Report. Mrs. Huff said her biggest issue is the sub-let. She also believes the house measurements are off.

Mr. Akinyemi said the house measurements are pretty accurate. Mr. Morgan said he could confirm the room measurements and report back to the Board if the applicant and property owner are agreeable. Mrs. Huff said she just went on to redfin.com and it lists that one of the bedrooms is 11' x 9' and the other is 11' x 10'. Mr. Akinyemi said he doesn't know where redfin got those measurements. He measured the rooms himself.

Mrs. Schaffer asked if Mrs. Huff was agreeable to amending her motion to deny the request based on the Staff Report and applicable regulations. Specifically, that the use is not harmonious with the existing neighborhood. Mrs. Huff said she was agreeable to amending her motion. Mrs. Schaffer seconded the motion.

Mr. Froelicher called for the vote. Mrs. Huff – "yes", Mrs. Schaffer – "yes", Mr. Froelicher – "no". The application was denied by a 2-1 vote.

2. Request of Brakes 4 Less for a Conditional Use Permit. The Conditional Use Permit is to allow a brake repair business. The approximate 0.94 acre parcel is located at 8383 US 42, Florence Kentucky and is zoned Commercial Two (C-2).

Mr. Froelicher asked who owned the property? Mr. Morgan replied that Mr. Terry Dwelly owned the property. He wasn't sure if he was on-line.

Mr. Froelicher asked who was going to speak for the applicant. Mr. Emory Williamson and Mr. John Dacey said they would be speaking. Mr. Froelicher asked if they could start by addressing the Staff comments. Mr. Williamson provided the following answers:

Are they buying or leasing the property? They will be doing a long-term lease with Mr. Dwelly.

Are any other building alterations proposed (building additions, additional garage bays, etc.)? The front and side canopies will be removed and four bay doors are proposed as shown in the rendering.

Can the proposed paint scheme be explained? What portions of the building would be painted grey and red? The building will be branded as shown in the rendering.

Are any parking lot expansions proposed? No parking lot expansions are proposed. They have about 15 stores in 6 states. They service a vehicle in about 1.5 hours or less. As a result, they have no overnight parking.

Is any parking lot striping proposed? The parking lot will be restriped and will be handicapped accessible.

Would the raised concrete pad in front of the building stay or be removed? They prefer to leave the pad out front because they do not know what they would be digging into. The sign structure is integrated into the pad and is substantial. They would like to put a decorative railing around the pad and install some seating for customers that are waiting for their vehicle.

Is any additional exterior lighting proposed? No additional lighting is proposed.

What alterations are being considered to the freestanding sign? They would like to cutdown the sign as shown in the rendering and remove the catwalks. He added that they use channel letters on all their buildings.

Would anything be stored outside? Nothing is stored outside and all work is done under roof. All they do is brake repairs.

Mrs. Schaffer asked if there will be an inside waiting area. Mr. Dacey said he has been inside the building and they can easily setup 6-12 chairs in the front portion of the building. He referred to the rendering and showed the office area on the front of the building.

Mrs. Schaffer asked if the previous conditions would still apply. One of the conditions prohibited the rear half acre of the site from being used. Mr. Morgan said their proposal is asking to use the existing building and parking lot and no expansions are proposed. He drafted a couple of recommended conditions (#3 and #9) which would prohibit outside

storage and require any future building or parking additions not shown on the rendering to come back before the Board.

Mr. Schaffer said the 1995 approval required two rows of staggered pine trees to be planted at the rear of the property. Mr. Morgan referred to his photo of the rear of the site and said there is a fence along the rear property line but not much vegetation. He is not sure if the trees were ever planted or if they died. The Board could add a condition requiring that landscaping to be installed if they feel that it's necessary. He added that there is a good distance between the building and rear property line. Single-family residential dwellings, fronting on Tamarack Drive, are located on the other side of the fence. Mrs. Schaffer asked who owned the fence. Mr. Morgan said he think it belongs to Mr. Dwelly but is not sure about that. Mr. Jeff Aylor said he was representing Mr. Dwelly. He believes the fence is owned by Mr. Dwelly and can confirm that if necessary. Mrs. Schaffer said she wanted to confirm the fence will remain and be maintained so the residential neighbors have some protection. He added that the long-term lease would require Brakes 4 Less to assume full responsibility for improving and maintaining the property. The property will be greatly improved and generate tax revenue.

Mrs. Schaffer asked if the lighting was okay? Mr. Morgan referred to the PowerPoint slide of the rear yard. The photo shows that all light fixtures are oriented into the rear yard. He is not aware of any lighting complaints. Mrs. Schaffer asked if the recommended lighting condition could be changed to prohibit changes or additions to the existing lighting. Mr. Morgan said he could make that change if the Board is agreeable.

Mrs. Schaffer said she would like to talk about the elevated pad in the front yard. Mr. Dacey said they want to make the property look better and they have other facilities with outside seating. They would put a metal railing around the pad and add a couple benches. Their concern with removing the pad is that the freestanding sign is built into it. Mr. Morgan said one thing that will need to be looked at is the City of Florence fence regulations. They do not allow fencing in the front yard of a development. He would need to confirm the proposed structure is a railing and not a fence. This determination could be made with Minor Site Plan application to allow the site improvements.

Mr. Schaffer made a motion to approve the application based with the following conditions:

1. The only automotive repair use that is being approved is brake repair.
2. All brake repairs shall occur within the building.
3. No outside storage or display shall be permitted.
4. The parking lot shall be striped and a van accessible handicapped stall shall be provided.
5. The exterior lighting on site shall not change or be expanded.
6. The building shall be improved per the applicant's description, rendering, and photos.
7. The freestanding sign on site shall be replaced or reconstructed as follows:

Option 1 - Remove the existing sign and replace it with a maximum 10' tall, 100 square foot monument sign (see the applicant's street view photo).

Option 2 - Alter the existing sign.

- Remove the top sign cabinet and supporting steel structure.
 - The manually changeable reader board shall be replaced with a Brakes 4 Less sign cabinet. No more than 50% of the new sign panel can contain manually changeable copy.
 - The catwalk structures shall be removed from the sign.
8. All proposed building mounted signs shall use channel letters.
 9. Any future business expansion not shown on the submitted rendering shall be subject to another Conditional Use Permit approval. This includes building additions, garage bay additions, and parking additions.
 10. The fence along the rear property line shall remain and be maintained.
 11. The elevated parking pad in the front parking lot can remain and be converted to a small seating area. The railing installed around the pad shall be approved by Boone County Planning Commission Staff through the Minor Site Plan application process to verify it meets code.

Mrs. Huff seconded the motion. Mr. Froelicher called for a vote and it carried unanimously.

OTHER

Mr. Froelicher asked if there was anything to discuss. Mr. Morgan said he wasn't aware of anything.

ADJOURNMENT

Mrs. Schaffer made a motion to adjourn the meeting and Mrs. Huff seconded the motion. Mr. Froelicher called for the vote and the meeting was adjourned by unanimous consent at 7:44 P.M.

APPROVED

Mr. Duane Froelicher

ATTEST:

Todd K. Morgan, AICP
Senior Planner

Exhibit 1 – Letter Submitted by Nora Frost