

**FLORENCE BOARD OF ADJUSTMENT
FLORENCE GOVERNMENT CENTER
COUNCIL CHAMBERS
BUSINESS MEETING
MARCH 9, 2023
6:00 P.M.**

Mr. Duane Froelicher called the meeting to order at 6:00 P.M.

BOARD MEMBERS PRESENT

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

BOARD MEMBERS NOT PRESENT

Ms. Lois Evans

STAFF MEMBERS PRESENT

Mr. Todd K. Morgan, AICP, Senior Planner

LEGAL COUNSEL PRESENT

Mr. Dale Wilson

ELECTION OF OFFICERS

Mrs. Schaffer said she would make a motion to approve the current slate of officers by acclamation. Mr. Morgan said the current officers were Mr. Froelicher – Chairman, Ms. Evans – Vice-Chairwoman, and Mrs. Huff – Secretary. Mrs. Huff seconded the motion. Mr. Froelicher called for the 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 January 11, 2023. He asked if there were any other comments or corrections. Mrs. Schaffer said condition # 4 needed to be edited. The sentence needs to read that “no adult daycare activities shall occur outdoors on the property, other than patient pickups and drop-offs.” Mrs. Schaffer moved to approve the minutes with that change and Mrs. Huff seconded the motion. Mr. Froelicher called for the vote and it carried unanimously.

ACTION ON REVIEWS

1. Request of RVP Engineering, LLC for a Conditional Use Permit. The Conditional Use Permit is to allow a car wash. The approximate 2.5 acre site is immediately to the

southwest of Parkside Drive and is addressed as 6823 Dixie Highway, Florence, Kentucky. The parcel is zoned Commercial Two (C-2).

Staff Member, Todd Morgan, presented the Staff Report, which included a PowerPoint presentation.

Mr. Froelicher asked if the state was going to allow an access point. Mr. Morgan said they would grant access. There is an email from Linzy Brefeld in the Staff Report indicating they need to file an Encroachment Permit.

Mr. Froelicher said he has concerns about vehicles turning left into the proposed development because of the amounts of traffic. Mr. Morgan said he agrees and has recommended a condition which would limit the development to right-in/right-out access only. Mrs. Schaffer asked if the access point would be designed that way if they impose the condition. Mr. Morgan said it would and it would be reviewed by the Planning Commission and Kentucky Transportation Cabinet.

Mrs. Huff said the amount of traffic concerns her because it's hard to get in and out of the businesses in this area. However, the business owner is probably not excited about right-in/right out access. Mr. Morgan said he made the applicant aware of his concerns early on so he could share them with the property owner. He believes the site should have limited access because of the volumes of traffic and lack of a center turn lane.

Mr. Judd said the right-in/right out could cause a lot of issues for neighboring streets because people will use them as turnarounds if they can't turn out of the car wash in the direction they want to go.

Mr. Foelicher asked if anybody from RVP Engineering wanted to speak. Mr. Rob Painter, with RVP Engineering, said they are in agreement with all the comments that Mr. Morgan has made, including the right-in/right-out access point. They know there is a lot of traffic in this area and that's why his client is interested in the subject site.

He offered to answer the Staff questions. He also indicated the owner would be willing to install the glass garage door on the front façade as recommended.

1. **What are the proposed hours of business operation?** 8:00 A.M. – 8:00 P.M., 7 days a week.
2. **What is the maximum vehicle stack they have experienced at one of their other facilities?** The maximum stack they have experienced at other locations is 40 vehicles. They have stacking for 70 vehicles at this site.
3. **What is the maximum number of employees that could work from site at any given time?** 3-4 employees work on site at a time.
4. **Will the vacuums, stanchion pipes, and overhead aluminum pipe be painted? If so, what color?** The stanchion and overhead pipes will be painted black.

5. **How tall are the retaining walls? Will they be constructed with CMU that matches the building?** The high parts of the western retaining wall be about 12' tall. Other areas are approximately 4' tall. The eastern retaining wall will be approximately 2-3' tall.
6. **Are any light poles being proposed? If so, how tall will they be? Will they have downcast fixtures?** Light poles would be about 15' tall and will have downcast fixtures.
7. **The building elevations show that that wallpacks are proposed on all four facades. Staff has concerns about these wallpacks because they could cause lighting and glare impacts on US 42 and adjoining residential properties.** They would like to have wallpacks on the parking lot side of the building. The fixtures would be downcast towards the sidewalks and the vacuums. As a result, he would like to see Staff recommendation #10 A. modified.
8. **The picture and specifications of the pay stations show that LED lighting is under the canopies. Is this lighting activated by a sensor?** The lighting under the canopies is activated by a sensor and the lights turn on when it's dark. All these lights are turned off when the employees leave for the night.
9. **The submitted plans show that a do not enter sign or gate is being proposed to stop customers from pulling directly into the office/vacuum parking lot from the access point. Staff would like the applicant to define this structure. Staff would be concerned if this structure is similar to a clearance bar because it will be located in the front yard and be unattractive from US 42.** The proposed structure is a waist high bar that will close after someone exits the parking lot. It will stop someone from entering the lot and getting a free vacuum. Mr. Morgan commented the Staff recommendation #8 should be changed if the Board is okay with a waist high traffic control gate.
10. **Staff has concerns about vehicles turning in an out of the facility from Dixie Highway because the subject portion of Dixie Highway does not contain a center turn lane.** They have no objection to limiting access to right-in/right-out.

Mr. Painter offered to answer any questions. Mr. Judd asked why three pay stations were needed. Mr. Painter explained that customers select the package they want to buy. Some customers ask questions and having three pay stations helps stop traffic from stacking. Mr. Froelicher said Mike's Carwash has 4-5 pay stations.

Mrs. Schaffer said she is confused by the Concept Plans because lots are shown where Dixie Highway exists. Mr. Morgan said that was a drafting error.

Mrs. Schaffer said Mr. Hunt had some concerns about the private stormwater infrastructure on the site and how it would be piped. Mr. Morgan said stormwater would be reviewed in much more detail once a Major Site Plan application was submitted for

review. Mr. Painter said he understands revisions will need to be made to the existing storm system. They will pick up all storm water, control it, and release it.

Mrs. Schaffer said retaining walls are shown near the Dortha Avenue residents and Parkside Drive. She asked who would see these walls. Mr. Painter said these would be fill walls so the faces would be seen from Dortha Avenue and Parkside Drive. Mr. Morgan asked for confirmation that the Dortha side retaining wall would be a maximum of 12' tall. Mr. Painter agreed and added that the 12' height would be in the southern corner. The western portion of the wall would be 3'-4' tall.

Mrs. Schaffer said the car wash site sits higher. She asked if there would be noise impacts from the vacuums on adjoining properties. Mr. Painter said most of the noise comes from the central vacuums and they will be located behind masonry enclosures. Mr. Froelicher commented that the enclosures would act like a sound suppression system. Mr. Morgan asked if the vacuum noise would be diminished by the road noise. Mr. Painter said the vacuums are not any louder than the road noise.

Mr. Froelicher asked if anybody from the audience wanted to speak regarding the application.

Mr. Jerry Felice said he lives at 17 Dortha Avenue and his property adjoins the car wash property. He is worried about storm water drainage. There are no creeks back there so all the water builds up and ponds. Something will need to be done about all the water that is coming from the overflow from this lot. Mr. Morgan asked if Mr. Painter could address the underground storm water vault that's proposed and how it works. Mr. Painter said the vault is proposed in the southern part of the parking lot and all storm water collected will be directed to these tanks. The tanks will be sized per the county regulations and the water will be released at a slow rate. Mr. Felice said it will become a pond when the water is released. Mrs. Huff asked for confirmation that the system only collects rainwater. Mr. Painter agreed. Mrs. Schaffer asked where the water is released. Mr. Painter replied in the southern portion of the site. Mr. Painter went to screen and pointed where the water would be released. He indicated that storm water goes there now but the system will slow down the rate at which the storm water is released. Mrs. Schaffer asked Mr. Felice where his property is at. He replied his property was located directly behind the paint store. Mr. Morgan pointed out the Sherwin Williams Paint Store property on screen. Mrs. Schaffer said it doesn't appear water is going towards his lot. Mr. Morgan said storm water will be reviewed more thoroughly if a Site Plan application is submitted for review. At that time, calculations will be submitted to verify the storm water requirements are being met. Mr. Felice asked if storm water could dump on his property. Mr. Morgan replied that a storm water report will need to be prepared and pre-development and post-development storm water flows will be analyzed by the Planning Commission and City of Florence Engineer to verify it meets county code. Mr. Felice said he eventually wants to sell his property and doesn't want to be impacted by storm water coming onto his property. Mrs. Schaffer asked if the Board could address his concern by adding a condition. Mr. Morgan said the Board could but code requires a storm water analysis to be submitted with a Major Site Plan application. Mr. Felice asked who would be responsible to fix storm water impacts on his property. Mr. Wilson replied that it would be a private lawsuit and he would need to obtain

a lawyer and they would advise him of what his rights would be and against whom. Mr. Felice asked if he should get a lawyer before this Board approves the application. Mr. Wilson said the Board of Adjustment has a duty to address the application before them. They can approve the application, deny it, or approve it with conditions.

Mr. Froelicher said he would like to review the suggested conditions and make any needed edits. He asked if the Board wanted to edit condition 10 A. per Mr. Painter's recommendation. Mr. Morgan recommended they edit the condition because Mr. Painter said they only want wall pack fixtures on the parking lot side of the building. These fixtures would be downcast towards the sidewalks and vacuums. The Board agreed to edit the recommendation.

Mrs. Schaffer asked if there was a condition addressing which lights were to be turned off when the business closes. Mr. Morgan said condition 10 C. specifically addresses the pay station lighting. He didn't address the other lighting because he believes the car wash will want some security lighting. Mr. Painter agreed. Mr. Morgan said he was concerned about the pay station lighting because it was in the back of the site closer to the residential areas.

Mr. Froelicher said they also discussed a revision to condition 8, which would allow a waist high traffic control gate. The Board agreed to edit the recommendation.

Mr. Froelicher said he wanted to add a condition which requires all proper storm water studies to be done before any development occurs.

Mr. Wilson said he wanted to advise Mr. Felice that he has to right to appeal this Board's decision if they approve the application with conditions. The appeal must be filed within 30 days of the time of the vote.

Mrs. Schaffer asked if any of the Board members wanted to add a condition, which would limit the business hours from 8:00 A.M. to 8:00 P.M. Mr. Foelicher and Mrs. Huff said it didn't matter to them.

Mr. Froelicher made a motion to approve the project with the following conditions:

1. The approval is based on the submitted Concept Plans and pictures, except as modified by the conditions below.
2. The vinyl garage door shown on the front façade shall be upgraded to a decorative glass garage door. The final determination on the door and amount of glass shall be made by the Zoning Administrator when the Site Plan is submitted for review.
3. All rooftop mechanical equipment shall be screened from public view.
4. The vacuum turbine enclosures and trash dumpster enclosure shall be constructed with masonry materials, which match the building, and solid steel gates.

5. The vacuums and stanchion pipes shall be painted black or a neutral color. The overhead pipe shall be painted black or remain a natural aluminum color.
6. The retaining walls shall be constructed with CMU that matches the building.
7. The permitted architectural freestanding sign along the Dixie Highway frontage shall be limited to a monument sign that is 8' tall and 32 square feet in area.
8. No height clearance bars shall be permitted in the front yard but a waist high traffic control gate shall be permitted.
9. The development shall be limited to a right-in/right out access point as permitted by Kentucky Transportation Cabinet.
10. The following lighting conditions shall apply to the development:
 - A. Wallpack light fixtures shall only be permitted on the parking lot side of the building. Lighting from these fixtures shall be downcast towards the sidewalks and vacuums.
 - B. Light poles and fixtures shall be limited to 15' in height. Light fixtures shall be downcast and oriented towards the interior of the site.
 - C. The pay station canopy lighting shall be turned off once the business closes.
11. Buffer Yard B plantings shall be required where the property adjoins 17, 19, and 21 Dortha Avenue.
12. Storm water and detention shall be addressed when the Major Site Plan application is submitted for review. The Planning Commission's Engineer shall closely analyze storm water impacts on Dortha Avenue residents.

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

2. Request of Stephen Brown Architects for Tom's Papa Dino's for a Variance. The Variance is to allow a building addition to encroach into the 20' rear yard setback. The approximate 0.648 acre site is located at 288 Main Street, Florence, Kentucky. The parcel is zoned Florence Main Street (FMS).

Staff Member, Todd Morgan, presented the Staff Report, which included a PowerPoint presentation.

Mr. Steve Brown, with Stephen Brown Architects, said he was the applicant on behalf of the property owners. He offered to answer the Staff questions.

Staff would like the applicant to explain why the building addition cannot meet the 20' rear yard setback. The Variance is needed to address the functionality of the kitchen equipment that is proposed for the space. A commercial kitchen designer laid out the kitchen and it is too shallow unless they seek the Variance. This is a very successful, two-generation, business. They are busting at the seams and need to expand their kitchen. Mrs. Mary Crittendon, the property and business owner, explained they need to make some changes for Board of Health reasons. Customers currently walk through the kitchen to get to the restrooms and the Board of Health made them aware this needed to change if they ever expand. The renovations and additions will rectify this. The existing kitchen will become a customer waiting area and a hallway will extend to the restrooms.

Staff would like the applicant to address if there are any plans to enclose the dumpsters that are located in the northern parking lot. Mr. Brown said they would be happy to enclose the dumpsters. Mrs. Huff asked if the dumpsters would remain in the same place. Mr. Brown and Mrs. Crittendon said they would remain in the same place.

Mr. Froelicher asked if Staff had heard from Florence Christian Church or any adjoining property owners. Mr. Morgan replied he had not.

Mrs. Schaffer said there is a barn or shed in the rear yard. Mrs. Crittendon said she has a shed and the church has a shed. Mr. Morgan reviewed a slide which showed the two sheds.

Mrs. Schaffer asked if the dumpsters need to be enclosed. Mr. Morgan said the Board should add a condition if they want to see the dumpsters enclosed. Mrs. Crittendon said they are visible from the road but the location is not changing. Mr. Morgan said the dumpsters are grandfathered because they would be required to be enclosed if they were being proposed in the parking lot today. He normally asks for non-conforming structures to be brought into compliance with code. Code requires a solid enclosure, which is at least 1 foot taller than the dumpster being screened. Solid enclosures can be constructed with solid wood fencing, pvc fencing, or masonry products. Chain link fencing isn't permitted. Mrs. Crittendon said she had no issue accepting that as a condition.

Mr. Froelicher asked if anybody in the audience wanted to speak regarding the request. There was no response.

Mrs. Schaffer made a motion to approve the application based on the variance criteria listed in the Staff Report. The approval contains the following condition:

1. Trash dumpsters located on site shall be enclosed per Section 3151 of the Boone County Zoning Regulations.

Mr. Judd seconded the motion. Mr. Froelicher called for the vote and it carried unanimously.

3. Request of Voans Senior Community Care of NKY and St. Elizabeth for a Conditional Use Permit. The Conditional Use Permit is to allow an adult daycare. The approximate 1.75

acre site is located at 47 Cavalier Boulevard, Florence, Kentucky. The parcel is zoned Office Two/Planned Development (O-2/PD).

Staff Member, Todd Morgan, presented the Staff Report, which included a PowerPoint presentation.

Mr. Froelicher asked how many parking spaces they were short. Mr. Morgan said the parking formula was really written for a child daycare where parents are picking up and dropping-off their children. He added that 72 parking spaces are required for the medical clinics that will be in the building. That leaves 12 spaces for the adult daycare. Even if they reduced the parking requirement to one space per employee (8) and one space per van (6) the parking lot would be short two parking spaces.

Mr. Paul Soczynski said he was Chief of Community Healthcare for Volunteers of American National Services, which will operate the PACE programs in Northern Kentucky. He said he would like to provide one clarification. The vans are always out when the employees are at the building. They are bringing people into the center or taking them to Doctor's appointments. As a result, he believes the parking on site will be adequate. At night, the vans will be parked on site but the employees will not be present. They can approach neighbors about shared parking if it's necessary.

Mrs. Huff asked for clarification that the vans are used for more than pickups and drop-offs. Mr. Soczynski said they are used to take participants to Doctor appointments for things like dialysis. As a result, the vans are on the road most of the day because they cover several counties. Mr. Morgan said the parking waiver would be analyzed by the Zoning Administrator.

Mrs. Schaffer said PACE stands for Program for All Inclusive Care for the Elderly. She asked what this facility would do. Mr. Soczynski said it's a Medicare and Medicaid funded program where participants enroll. The program services include physicians, nurses, social workers, rehab, personal care, such as showers, and social activities. The daycare is run out of the blue area shown on the submitted plans but the participants may go see a doctor in another part of the building.

Mrs. Schaffer asked what the staff and patient ratio would be. Mr. Soczynski said it all depends on the types of patients they have. It can vary slightly but 1 to 8 patients is typical. With 45 patients, you would expect 6 or 7 staff members. Everything is regulated by the State.

Mr. Schaffer said she is concerned about the parking because the daycare is only taking up a small part of the building and they could have up to 50 patients. Mrs. Huff said no patients drive and they are transported. Mrs. Schaffer said she feels that 50 patients is too much for that space and the parking lot. Mr. Soczynski said the state will set the maximum occupancy. Mrs. Schaffer agreed but said this Board is looking at the use and the parking to make sure it's reasonable. Mr. Soczynski said they would be willing to reduce the maximum number of participants to 45 if the Board feels it's necessary.

Mr. Judd said he believes it would be easy to obtain a shared parking agreement with one of the neighbors. Mr. Froelicher agreed.

Mrs. Schaffer said she feels that a condition should be imposed which requires them to have a shared parking agreement with one of their neighbors. Mr. Morgan said the Zoning Administrator is going to look at this issue and determine if the parking is adequate or if a shared parking agreement is needed. He believes the issue before the Board is should 50 participants be permitted.

Mr. Froelicher asked Mr. Morgan if he saw parking as an issue. Mr. Morgan replied that is a hard question to answer because the building is largely vacant right now. He typically has owners provide parking studies when buildings are largely occupied. These studies include parking counts being taken at peak times to see how many vacant stalls are left in the lot. This is useless when the building is largely vacant.

Mrs. Schaffer said her experience with medical clinics is that it is hard to find vacant parking spaces at peak times. Mr. Soczynski said they have no participants driving to the facility. Mrs. Schaffer asked where the participants reside. Mr. Soczynski said at their home and added this is an alternative to nursing home placement.

Mr. Froelicher asked if any patients drive. Mr. Soczynski said they don't. They are nursing home eligible.

Mr. Morgan said he feels better about the parking with the knowledge that the vans are out on the road all day long.

Mr. Wilson said he had drafted a condition for the Board to consider in the event that a parking waiver is needed. It reads "if the Zoning Administrator is requested to grant a parking waiver, then the Zoning Administrator shall consider all requirements for a waiver, including shared parking agreements".

Mrs. Schaffer asked how quickly they would have 50 participants. Mr. Soczynski said in about 12-18 months.

Mr. Morgan said the applicants will have to submit a Tenant Finish Permit application to their office to document that they are meeting this Board's conditions and the parking requirements. This Tenant Finish Permit needs to be approved before they occupy the tenant space. At this time, the Zoning Administrator will review the parking and determine if a shared parking agreement is needed.

Mr. Froelicher asked if anybody else in the audience wanted to speak. There was no response.

Mr. Froelicher asked for a motion. Mrs. Huff made a motion to approve the application with the following condition:

1. If the Zoning Administrator is requested to grant a parking waiver, then the Zoning Administrator shall consider all requirements for a waiver, including shared parking agreements.

Mr. Judd seconded the motion. Mr. Froelicher called for the vote and it carried unanimously.

OTHER

No other business was discussed.

ADJOURNMENT

Mrs. Schaffer made a motion to adjourn the meeting and Mrs. Huff seconded the motion. Mrs. Huff called for the vote and the meeting was adjourned by unanimous consent at 7:26 P.M.

APPROVED

Mr. Duane Froelicher

ATTEST:

Todd K. Morgan, AICP
Senior Planner