

**FLORENCE BOARD OF ADJUSTMENT
FLORENCE GOVERNMENT CENTER
BUSINESS MEETING
May 12, 2010
7:00 P.M.**

Mr. Pieper, Chairman, called the meeting to order at 7:01 P.M.

BOARD MEMBERS PRESENT:

Mr. Timothy Pieper - Chairman
Ms. Lois Evans - Vice-Chairwoman
Mrs. Linda Schaffer
Mr. Ritsel Sparks

BOARD MEMBERS NOT PRESENT:

Mr. David Schneider, Jr.

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Approval of the Minutes:

Mr. Pieper stated that the Board members received copies of the minutes of the Florence Board of Adjustment Meeting of December 9, 2009. He asked if there were any comments or corrections.

There being no changes, Ms. Evans moved to approve the minutes as mailed. Mr. Sparks seconded the motion and it carried unanimously.

Agenda Items:

1. **Request of Complete Automotive Repair Specialist for a Conditional Use Permit to (1) allow a condition from the 2/14/07 Florence Board of Adjustment meeting to be modified. The condition prohibited an automotive repair facility to store vehicles in the parking lot overnight; and (2) allow the construction of four additional parking stalls in the rear parking lot. The property is located at 6602 Dixie Highway, Florence, Kentucky. The site is currently zoned Commercial Two (C-2).**

Staff Member Todd Morgan, AICP, presented the Staff Report which included a PowerPoint presentation (see Staff Report).

Mr. Michael Bruck, with Complete Automotive Repair Specialists, said he would start by addressing the questions that were outlined in the Staff Report.

- A. Do they have any current business locations? They are currently located at 4512 Dixie Highway. The property is located in Erlanger and is 6 doors down from this location. They have been there 4 years and they work on all the City of Erlanger Police vehicles. It is a very clean facility. They don't have the room to keep cars there for long and they don't do impounding or towing. All repairs are in and out.

Mr. Pieper asked if no impounding or towing was applicable to the proposed site. Mr. Bruck said that was correct. They use Florence Frame and Body for all their towing and they don't keep any tow trucks on site. Mr. Bruck passed out pictures showing the cleanliness of the existing facility (see Exhibit 1). He said their customers often comment about the cleanliness of the shop. They have a cleaning crew come in once a week and the exterior is maintained by the employees. No vehicles are stored on site for more than 14 days.

- B. What are the proposed hours of operation? They are currently open Monday-Thursday from 7:00 AM to 7:00 PM, Friday from 7:00 AM to 6:00 PM, and Saturday by appointment only. All appointments are normally done between 2:00 and 4:00 PM on Saturdays.
- C. What kind of repairs are performed on site? They do all kinds of vehicle repairs including engine, transmission, fluid exchange, tires, batteries, exhaust, etc. Mr. Pieper asked if there would be any body work or painting. Mr. Bruck responded "no."
- D. Are tow trucks kept on site? No tow trucks will be kept on site.
- E. Is vehicle impounding part of the business operation? There is no vehicle impounding.
- F. Are any vehicle accessories (tires, fluids, etc.) displayed outside during business hours? No tires or other accessories are displayed outside.
- G. Are any outside storage areas (tires, parts, etc.) being proposed? Used tires would be located in the dumpster area behind the building. The tires would not be visible to anyone. At most, there may be 50 tires located in the area before they are picked up and removed from the site.
- H. Is any additional lighting proposed? They are not sure what lighting is operational and what is not. They will probably replace the bulbs and fixtures with the exact same units. At this time, no additional site lighting is proposed.

Ms. Evans asked if they own or lease the facility. Mr. Bruck said they have been leasing their current building for the last 4 years. She said she understands that cars are not kept on site for more than 14 days. She asked him to clarify how many cars were typically left in the parking lot overnight. Mr. Bruck said they typically have 20 to 30 vehicles come to the facility for service on a typical day and that 90% of those vehicles are typically picked up before they close for the evening. Normally 2 cars are left overnight and some other customers may drop their cars off in the lot after hours.

Ms. Evans asked if the vehicles shown in the pictures were dropped off during the day for repairs. Mr. Bruck responded "that's correct". She asked if the cars would be gone by evening. Mr. Bruck stated the majority of cars are gone by evening and others are moved inside. City of Erlanger and other high dollar vehicles are kept inside. Their current facility has 5 bays so they can store 10 to 14 vehicles inside when the lifts are raised. Ms. Evans asked if the proposed location was bigger or smaller than the existing location. Mr. Bruck responded that the proposed location is larger. Ms. Evans stated that the pictures show some coke machines. She asked if vehicles, tires, and vending machines are the only things stored outside. Mr. Bruck responded "yes". She asked why the vending machines were located outside. Mr. Bruck said there wasn't enough room inside. She asked if the vending machines would be inside in the proposed location. He replied the proposed waiting room can only accommodate 6-8 people so vending would be outside.

Ms. Evans asked if a lot of people wait for their vehicles. Mr. Bruck replied "yes". Ms. Evans asked what type of repairs do people wait for? Mr. Bruck stated oil changes, other fluid exchanges, tire rotations, and brake work can be done within an hour.

Ms. Evans asked if the dumpster facility at the proposed location was adequate. Mr. Bruck indicated that the dumpster at their existing location is smaller than the dumpster at the proposed location. Mr. Morgan showed the slide of the dumpster enclosure behind the building. Mr. Bruck stated that there is a small dumpster located inside the enclosure and there is adequate room to store tires. He estimated the fencing was 5' tall and tires located behind the enclosure would not be seen. Ms. Evans asked Staff how they should address the disposal and storage of used tires. Mr. Morgan replied that the Board could consider a condition that requires all tires which are being disposed to be located in the enclosure and hidden from view. The Board could also consider if they want to enclosure to be a little larger to accommodate more tires. Mr. Sparks asked how long it takes for them to turn over 50 tires. Mr. Bruck said it takes about 1 month to accumulate that many tires and per EPA regulations they must be covered with a tarp. Mr. Pieper asked Mr. Bruck if had checked the condition of the enclosure. Mr. Bruck said the fencing is in fair condition but a couple of modifications might be needed to make it sturdier. He realizes they are going to have to make repairs. The building and parking lot are in bad shape. Their existing facility was similar to this one when they took possession of it and they had to invest some time and money to clean it up. They plan of painting the building and fixing the parking lot. Mr. Morgan pointed out that Section 3655 of the Zoning Regulations permits fencing in commercial zones to be up to 8' tall. He recommended that the dumpster/tire enclosure should be constructed with solid fencing and solid gates. Mr. Pieper asked what the enclosure was constructed of now. Mr. Morgan replied that it was constructed of wood and Mr. Bruck agreed.

Mr. Pieper asked Mr. Bruck if he had any problems with Staff's recommendations on page 5. Mr. Bruck responded he does not because they will all improve the site. Mr. Pieper said making a one-way traffic flow around the building is a good idea because it will eliminate problems with passing cars. Mr. Bruck agreed. Mr. Pieper said he had some concerns with the recommended landscaping (Staff Comment 6 I.) because often times these buffers are not well maintained. He would like to see some language added requiring maintenance of the buffer to keep the weeds down. Mr. Bruck said he didn't have a problem with that because one of his associates owns a landscaping business and they maintain his lot.

Mr. Morgan said the Board might want to consider revising Staff recommendation 6 D. because the applicant stated they do not keep tow trucks on-site. He recommended the condition should be reworded to say that no tow trucks shall be stored on site.

Ms. Evans asked Mr. Bruck how many parking spaces he was looking at. Mr. Bruck said 4 new parking spaces would give them a total of 20. Ms. Evans asked if the existing parking would be reconfigured and Mr. Bruck replied no. Mr. Sparks added that the taxi company was probably parking as many as 40 vehicles on the site. Mr. Bruck said the taxi company laid down some gravel in the rear yard and they are proposing to remove it, black top it, and put in 4 new parking stalls.

Mr. Morgan stated it will take some time for the recommended landscaping buffer to grow and be effective because the topography falls at the rear property line. He indicated that Mr. Deatherage was issued a Conditional Use Permit in February 2007 to allow auto repair in the subject building and a Zoning Permit was issued for the adjoining house in November 2007.

Mr. Pieper asked if anybody in the audience would like to speak regarding the request.

Mr. Stephen Rowe said he was here representing Mr. Ping Lee because he cannot communicate well in English. Mr. Lee owns a house to the northeast (3 Lexington Avenue). He said there is no evergreen screening along this common property line and the subject building is clearly visible from the house in the winter months. He asked if some evergreens could be installed to screen the view.

Mr. Rowe stated that the facility has eight bays (4 on front and 4 on back). He questioned how many cars could be stored inside because of the lifts. When Deatherage Oil was in the building some of the bays were set up as drive through bays only. He asked if this has changed. Mr. Bruck responded the Deatherage Oil used the two bays furthest from Nicholas Street as pits (a drive in with a basement underneath them). The bay closest to Nicholas Street was a car wash and the second bay had two lifts. Their proposal is to remove two of the pits and have a total of six lifts in the building. They would continue to have two pits in the building. Mr. Rowe said his concern was the number of lifts because it might prevent more cars from being stored in the building. Mr. Rowe also asked where the oil would be stored. Mr. Bruck responded that there are two 500 gallon tanks in the basement. One tank holds new oil and the other holds used oil. The used oil tank is pumped out about every two weeks by a waste oil company.

Mr. Pieper asked if the Aerial Map could be shown so Mr. Lee's house could be pointed out. Mr. Rowe said evergreen trees would provide a buffer in the winter months. Mr. Morgan responded his only concern with doing that is that they would have to clear the deciduous trees out and the site would become more visible until the new evergreen trees grew. Mr. Rowe asked if fencing could be installed. Mr. Morgan said the Board could analyze a fence against Mr. Lee's property line. Mrs. Schaffer asked the length of Mr. Lee's rear property line. Mr. Rowe estimated the rear property line was 50 feet long.

Mr. Ping Lee said he would like to see a fence put closer to the parking lot because there are trash problems. In the winter time he can see the facility because of the difference in elevation. He said the business parking lot is at about the same elevation as his roof. Mr. Pieper indicated that a fence against the property line would not be effective because of the change in topography.

Ms. Evans asked Mr. Morgan if he recalled what the Board did when Gold Star Chili submitted a request for a drive-through. Mr. Morgan said there were landscaping conditions but the drive-through and landscaping have not been installed. Mrs. Schaffer asked if the property between Gold Star and the subject property was still residential. Mr. Morgan reviewed the slide and it showed a State Farm office.

Mr. Bruck asked Mr. Morgan if he could show a slide of the rear property line (area adjoining Mr. Lee's property). He was concerned that they would have to remove a lot of the deciduous trees if they installed a fence. Mr. Morgan said the buffer requirement will be based on how many trees can be preserved. Mr. Pieper asked if the fence had to be along the property line or could it be installed somewhere else. Mr. Morgan said fencing in a buffer is normally required in the middle of the buffer so the adjoining property owner is seeing some trees. Mr. Wilson said Mr. Lee and Mr. Rowe were wanting a fence in closer proximity to the parking lot so there is a buffer in the winter. Mr. Bruck said he could put fencing right on the edge of the blacktop if that is what everybody wants. Mr. Rowe asked if they could put evergreens near the edge of the blacktop. Mr. Morgan said they could do that but they would probably need to remove some of the deciduous tree line. Mr. Bruck estimated they would probably have to clear 6 to 8 feet past the blacktop to put evergreens in there. Mr. Sparks said evergreen trees don't do well in shade.

Ms. Evans asked Mr. Bruck what he planned on doing with the lighting in the back lot. Mr. Bruck said he wasn't 100% sure because the electricity has been turned off. She asked for the photos of the building to be shown. Mrs. Schaffer asked if the zoning regulations would require the illumination to be kept on the subject property. Mr. Morgan responded that the applicant would be allowed to maintain and repair what's there unless the Board imposes a condition requiring the lighting to be brought into compliance with the current code. Mr. Lee was asked if the parking lot seems bright when the leaves are off the trees. He responded "no". Mrs. Schaffer said she would like to see the lighting brought into compliance with the current code because she is concerned about the adjoining residential properties. Mr. Pieper agreed. Mr. Bruck said there is vandalism in the area and they plan on putting cameras on the corners of the building. As a result, they will need to keep the lighting fixtures in place for security purposes.

Mr. Pieper said he would like to see evergreen screening up against the residential areas but he isn't sure there will be enough room. He is also concerned that they will be planted on the bottom of a hillside and will not be that effective. Mr. Bruck responded that they could put in some fill. Mr. Morgan stated that any fill brought in would need to be analyzed by the Planning Commission and City of Florence Engineer because it could create storm water issues. Mr. Pieper said he would like to see some type of fence. Mr. Rowe said Mr. Lee would be happy with that.

Mr. Pieper asked for the Board members thoughts regarding the overnight parking. Mr. Sparks said he didn't see the difference because the taxi company had 40 vehicles in the lot. Mrs. Schaffer said she doesn't know why they have to limit the approval to 4 additional parking spaces. A reasonable condition would be to limit the parking to the designated parking stalls. Mr. Pieper said he doesn't believe there will be that many cars parked in the lot overnight.

Mrs. Schaffer questioned how the Board should do the fencing. She asked if the item could be worked out with Staff. Mr. Morgan replied that he would like to see a sem-circular fence required between the easternmost parking stall in the rear parking lot and Mr. Lee's rear property line. Solid privacy fencing needs to be installed before the topography falls off and the fencing shall not encroach into the rear buffer. He recommended that plantings should be located on both sides of the fence.

Mr. Pieper asked for a motion.

Mrs. Schaffer moved to approve the request based on the Staff Report and applicable criteria and with the following conditions:

1. **No auto body or paint work shall be performed on site.**
2. **No car repairs shall be made outside the building.**
3. **Vehicle impounding shall be prohibited.**
4. **Tow trucks shall not be parked or stored on site.**
5. **No vehicles shall be stored in the parking lot for more than fourteen days.**
6. **No vehicles shall be stored outside on blocks or in any disassembled state.**
7. **Outside display and vending is prohibited.**

8. The following driveway/circulation improvements shall be made:
 - The driveway aisle located on the west side of the building shall be a minimum of 14' wide if the 2 parallel parking spaces are retained.
 - The curb cut located closest to Dixie Highway shall be a one-way in and the curb cut located furthest from Dixie Highway shall be a one-way out. Pavement marking and directional signs shall be required.
9. An approximate twenty (20) foot wide landscaping buffer with Buffer Yard B Plantings (5 evergreen trees, 6 large/medium/or small trees, and 15 large shrubs per 100 linear feet) shall be required along the rear property line. Healthy vegetation that is retained in the Buffer can be credited toward the requirements.
10. Parking of vehicles shall occur in designated parking spaces only.
11. Used tires shall be stored outside in the existing solid dumpster enclosure until such time they are properly disposed of. The tires shall be covered and completely hidden from view in the enclosure. No other outside storage of auto parts or accessories is permitted.
12. A semi-circular privacy fence shall be required between the easternmost parking stall in the rear parking lot and Mr. Lee's rear property line based on Staff's discretion of the written record. The privacy fence shall be installed on a high spot on the subject property and shall not encroach into the rear buffer yard.
13. The following lighting conditions apply:
 - A photometric plan shall be required before any replacement lighting is installed on the southern and eastern facades. The photometric plan shall show that there is no footcandle spillover onto adjoining residential properties.
 - Any additional lighting shall be in compliance with the zoning regulations.

Mr. Sparks seconded the motion and Mr. Pieper asked for a roll call vote.

Mr. Pieper - "yes"; Ms. Evans - "yes"; Mrs. Schaffer - "yes"; and Mr. Sparks - "yes".

The motion carried 4-0.

Other

Mrs. Schaffer asked about Thorntons approval on U.S. 42. When the Board approved their request for an electronic gas sign it was represented that they were going to modify the existing gas sign. Since that time they have demolished the building and all the free-standing signage. She questioned if they would have the right to install a 30 foot free-standing sign based on this approval or if they would have to follow the current code. Mr. Morgan replied that Staff would take that issue up with legal counsel when somebody wanted to redevelop the site and install signage. They would have to look at how long the sign has been abandoned. Mr. Sparks said another business might ask for something

else. Mr. Morgan said they would have to look at all the facts at the time somebody made a proposal. Mrs. Schaffer asked if the situation could be looked at now. Ms. Evans asked if there was something in the regulations which addresses pre-existing non-conforming structures being taken down. Mr. Wilson said the structure has to be abandoned. Mr. Pieper asked how long that takes. Mr. Wilson responded there is not an exact answer. Mrs. Schaffer asked if the Board should be proactive. Mr. Morgan stated he would like to gather the facts when somebody makes a specific proposal.

Mrs. Schaffer said the Board had a wonderful training session regarding electronic signage. She asked if Staff would be following the recommendations that were given at the training session. Mr. Morgan replied that there has was an electronic sign request in the county after the training session. He recommended several conditions based on information he received during the training session.

Adjournment

Mr. Pieper asked for a motion to adjourn. Mr. Sparks so moved and Ms. Evans seconded the motion. The motion carried by unanimous consent and the meeting adjourned at 8:05 p.m.

APPROVED

Timothy L. Pieper, Chairman

Attest:

Todd K. Morgan, AICP
Senior Planner, Zoning Services

Exhibit

1. Pictures Submitted by Michael Bruck