

**FLORENCE BOARD OF ADJUSTMENT
FLORENCE GOVERNMENT CENTER
BUSINESS MEETING
April 10, 2013
7:00 P.M.**

Mr. Pieper called the meeting to order at 7:10 P.M.

BOARD MEMBERS PRESENT:

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

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

APPROVAL OF THE MINUTES:

Mr. Pieper stated the Board members received copies of the minutes of the Florence Board of Adjustment Meeting of January 9, 2013. He asked if there were any comments or corrections. There being no changes, Mr. Sparks moved to approve the minutes and Ms. Evans seconded the motion. Mr. Pieper called for a vote and it carried unanimously.

AGENDA ITEMS:

Mr. Pieper said the applicant was not here for item 1 so the Board would start with item 2.

- 2. Request of Robert J. Brown for a Conditional Use Permit to allow an automotive repair facility. The approximate 0.33 acre site is located at 7401 Dixie Highway and is currently zoned Commercial Two (C-2).**

Mr. Pieper stated that he and Mr. Brown are acquaintances but in no way will that relationship affect his judgement or the facts as presented.

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

Mr. Morgan asked Mr. Wilson if he would like to address if removing the billboard would be a reasonable condition since the application dealt with converting the use from a tool rental business to an automotive repair facility? Mr. Wilson said the billboard dates back to the 1970s and is protected as a pre-existing nonconforming legal use. The billboard could stay there forever as long as there is a lease and the property owner wants it to stay. The Board of Adjustment really does not have a basis to take it away.

Mrs. Schaffer asked if the building was a gas station at one time? Mr. Brown said that Boone County Glass and Glazing occupied the building immediately before the tool rental business. Before that the building was a Gulf Station and they did vehicle repairs.

Mr. Pieper asked Mr. Morgan if he was satisfied with the landscaping buffer behind the building? Mr. Morgan said the Zoning Regulations would require a more substantial landscaping buffer to be installed between a developing commercial use and residential use today. The building and landscape buffer are grandfathered. He initially thought about a condition which would require the existing bushes to be removed and replaced with an evergreen hedge. He decided against the condition because the bushes are tall and there isn't much room between the building and rear property line. Mr. Pieper asked if there is dead space in the middle of the rear landscaping buffer? Mr. Brown said they installed evergreen shrubs in the rear buffer at one time and they all died because they did not receive proper sunlight. They replaced the evergreens with burning bushes and they have thrived. They recently removed a tree in the middle of the buffer but the burning bushes will fill in. Ms. Heilman asked how large the gap is in the middle of the buffer? Mr. Brown estimated the gap is less than 2 feet and will fill in quickly. She asked if the bushes are all on his property? He replied yes.

Mrs. Schaffer asked if the adjoining property owner received notice? Mr. Morgan replied all the adjoining property owners received notice. Mr. Brown stated that Michael Vaniglia will be the tenant and he went around and talked to the neighbors.

Mrs. Heilman asked who did the paving in the Shenandoah Drive right-of-way? Mr. Brown said the City of Florence recently installed the curb on Shenandoah Drive. Before the curbing was installed the tool rental business had a driveway on Shenandoah Drive. The area between the wheel blocks and curb has never been a grass surface.

Ms. Evans asked if there will be a dumpster? Mr. Michael Vaniglia said he doesn't want to have a dumpster outside. He will use Rumpke 96 gallon cans and keep them inside the building.

Ms. Evans asked if he will have any vending machines outside? Mr. Vaniglia said absolutely not.

Mr. Pieper asked Mr. Vaniglia if he has read the Staff questions on pages 5 and 6 of the Staff Report? Mr. Vaniglia addressed them as follows:

- 1A. He cannot currently afford a tow truck. He will keep it inside the building if he ever purchases one.
- 1B. Vehicle Impounding will not be part of the business operation.
- 1C. No vehicle accessories will be kept or displayed outdoors.
- 1D. He will not have a trash dumpster or outside storage areas.

- 1E. He may have additional exterior lighting but he is willing to comply with all codes.
- 2B. He has no issue with excluding auto body or paint work.

Mr. Pieper asked Mr. Brown and Mr. Vaniglia if there were any plans to do anything to the outside of the building? Mr. Vaniglia said he would like to add some landscaping planters and eventually paint the building. Mr. Brown asked if there were any objections to the way it was painted now. Mr. Pieper said no but added that he did not want to see the building painted a fluorescent color. Mrs. Heilman indicated that Section 3199 of the Boone County Zoning Regulations would stop the building from being a fluorescent color. Mr. Morgan agreed.

Mr. Pieper said he understands the billboard will remain on the property. Mr. Morgan asked Mr. Brown what he found out regarding the billboard? Mr. Brown said he put a phone call into LaMar but hasn't heard back from them. From his perspective, the billboard is not coming down at this time. He would like to see it removed sometime in the future. The billboard was constructed before he owned the property. He assumes Boone County Planning Commission had to approve the location or it wouldn't be there. Mrs. Schaffer asked if he was receiving rent payments? Mr. Brown replied yes but added the payments are minimal. He said the billboard payments will help pay the property taxes because he is keeping the rent low for Mr. Vaniglia until his business takes off. His understanding is that LaMar will be responsible for taking the billboard down and restoring the property if they break the lease. He doesn't know what will happen if he breaks the lease and that is why he has a phone call into them. Mrs. Heilman asked what the term of the lease was? Mr. Brown said it renews perpetually every two years.

Mr. Brown asked if he will need to get permission to repair the lot and remove the blacktop in the right-of-way? Mr. Morgan said a Minor Site Plan will need to be submitted if the Board accepts his recommendations. This Minor Site Plan will address parking lot striping, upgrading the gravel portion of the parking lot, and removing the parking improvements in the right-of-way. Mr. Morgan added that the gravel area in the parking lot needs to be converted to a hard surface because the area leads back to a garage bay and the business needs as much parking as possible.

Ms. Evans asked if the Board is requiring the blacktop between the wheel blocks and the curbing on Shenandoah Drive to be returned to grass? Mr. Morgan said he spoke with Josh Wice and Eric Hall and they all agreed that should be a condition because it is City right-of-way. Mr. Brown said he was asked if he wanted his driveway restored or a curb put in when the road work was done on Shenandoah Drive. He chose the curb.

Mr. Brown asked if decorative fencing could be put over near the billboard? Mr. Morgan asked Mr. Brown to explain the location on the aerial map. Mr. Morgan said the City of Florence regulations does not allow fencing in the front yard.

Mrs. Schaffer asked how the proposed hours of operation were determined? Mr. Vaniglia said he doesn't want to work much on the weekends. Mrs. Schaffer said the Board needs to make sure the residents are protected.

Mrs. Heilman asked if the building is currently occupied? Mr. Brown said they are trying to get the building ready for the automotive repair use. Mrs. Heilman asked how long the building has been vacant? Mr. Brown replied since the day after Thanksgiving.

Mrs. Schaffer asked why Staff excluded body and paint work? Mr. Morgan said he was concerned the noise and fumes associated with those kind of repairs could impact the residential neighbors.

Mrs. Schaffer asked why Staff was recommending a maximum of 14 days for storage of vehicles in the parking lot? Mr. Morgan said the Zoning Regulations state the presence of two or more non-operational vehicles on a lot for a time period exceeding 30 days constitutes a junkyard. He felt that imposing a 14 day limitation on car storage would be a good thing. Repair garages typically have problems with customers leaving their vehicles on the lot when they cannot afford their bill. Some customers will even abandon their vehicle on the lot. Mr. Morgan asked Mr. Vaniglia how he will deal with these type of situations? Mr. Brown said he felt the condition would give Mr. Vaniglia some leverage to get vehicles off the lot. Mr. Brown asked if 15 days or 16 days would be a problem? Mr. Morgan said it will depend on the exact wording of the condition. Mr. Morgan said the Board could go with his recommendation of 14 days or another time limit. However, in no case can two or more non-operational vehicles be kept on the lot for more than 30 days because it would constitute a junkyard. Mrs. Schaffer said they could always move non-operational or abandoned vehicles inside the building. Mr. Morgan agreed. Ms. Evans said she is concerned about setting a 14 day time limitation for car storage because she has a friend that has been waiting for her car to be repaired for three weeks. She does not want to put a burden on Mr. Vaniglia. Mrs. Heilman said her concern is the residential neighbors. She doesn't think it would be fair to have cars sitting in the lot for thirty days. Mr. Vaniglia said he doesn't want to store vehicles. He wants to have nice curb appeal. He doesn't think vehicles will be in the lot more than 10 days because he doesn't want them in his way. Mr. Sparks asked what happens when he makes a repair and the customer cannot pay the bill? Mr. Vaniglia said he has a policy that he will get 75% of the money up front if the repair is \$1,000 or more. He said he would file a lien if needed. Mr. Sparks asked how long that would take? Mr. Vaniglia said he didn't know the process. Mr. Vaniglia said he would move vehicles inside the building once they were there 14 days. He can put 6 to 10 vehicles in the building.

Mr. Brown said he lives off of Camp Ernst Road and opposite him is a repair garage near Camp Ernst Middle School. Mr. Vaniglia worked there a couple years and was responsible for cleaning the place up. He will do a good job here and will run a very clean business. Mr. Pieper asked Mr. Brown and Mr. Vaniglia if they had any objections to the Staff recommendations? Ms. Evans asked Mr. Brown if he had any problem with removing the parking lot in the Shenandoah Drive right-of-way and installing grass? He said he would love to do that because it will match the rest of the street.

Mrs. Schaffer asked if he ever plans on putting the curb cut back in on Shenandoah Drive? Mr. Brown replied absolutely not. He added that motorists used his lot as a cut through and that is why he installed the wheel blocks.

Mrs. Heilman asked if the regulations would allow a curb cut on Shenandoah Drive? Mr. Morgan replied the two curb cuts on Dixie Highway are grandfathered. Mr. Brown or a future owner could try to get the curb cut back on Shenandoah Drive. The Planning Commission and Florence Public Services would need to look at the spacing of the curb cut from the intersection. Mr. Brown said he absolutely does not want a curb cut on Shenandoah Drive. Mr. Morgan said the Board could impose a condition that addresses that issue and the condition will run with the land.

Ms. Evans asked if landscaping could be put in the Shenandoah Drive right-of-way once the area is converted to grass? Mr. Morgan replied that he spoke with the City about that and there were concerns about the overhead utilities. Ms. Evans said the grass will not stop people from cutting through the lot. Mr. Morgan stated the majority of parking stalls for the business will be located along Shenandoah Drive. The vehicles parked there will stop motorists from cutting through.

Mr. Pieper asked for a motion. Mrs. Schaffer made a motion to approve the request based on the Staff Report and the applicable regulations. She included the following conditions:

1. **The hours of operation shall be limited as follows:**
 - **Monday - Friday 8 AM - 6 PM**
 - **Saturday - 8 AM - 2 PM**
 - **Sunday - Closed for business.**
2. **No auto body or paint work shall be performed on site.**
3. **The facility shall only repair automobiles and light trucks.**
4. **No vehicle repairs shall be made in the parking lot.**
5. **Vehicle impounding shall be prohibited.**
6. **Tow trucks shall be stored inside the building.**
7. **No vehicle shall be stored in the parking lot for more than fourteen days.**
8. **No vehicle shall be stored outside on blocks or in any disassembled state.**
9. **Outside display or storage of car parts or accessories is prohibited.**
10. **The following driveway/circulation improvements shall be made:**
 - **The gravel area in the rear parking lot shall be improved with concrete or blacktop so it matches the rest of the parking lot.**
 - **The parking lot shall be striped per the Boone County Zoning Regulations.**

- **The portion of the parking lot in the Shenandoah Drive right-of-way shall be removed and planted with grass per Florence Public Services specifications.**
11. **Customer and employee parking shall occur in striped stalls or garage bays only.**
 12. **Any proposed building mounted signage shall comply with Section 3199 of the Boone County Zoning Regulations.**
 13. **The existing landscape buffer behind the building shall be maintained.**
 14. **No access points shall be permitted on Shenandoah Drive.**
 15. **Any proposed exterior light fixtures shall not be oriented towards residential property lines.**

Ms. Evans seconded the motion. Mr. Pieper called for the vote and it carried unanimously.

1. **Request of Leo Thomas Franxman for a Conditional Use Permit to allow the sales of fire trucks and ambulances. The approximate 0.93 acre site is located at 11 Lendale Drive, Florence, Kentucky and is currently zoned Industrial One (I-1).**

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

Mr. Tom Franxman said he was the Chief Operating Officer of Alpha Omega Industries. They have been in the facility on Lendale Drive for over 2 years and try to keep it up the best they can. He said he is planning on cleaning up the storage area behind the building. They can bring customers to the building that are in the market to purchase million dollar fire trucks and he doesn't want them seeing the storage area. He sees no reason why all that material couldn't be gone in a week.

They sell fire trucks and ambulances in Ohio, Kentucky, and Indiana. Right now they have an office and restricted dealer's license in Ohio. They would like to consolidate but in order to do that they need a Kentucky restricted dealer's license before they get rid of the Ohio office. They do not need the restricted dealer's license for fire trucks because they do not hold the contract for them. The contract is held by Spark ERV out of South Dakota. They are only considered a manufacturer representative for fire trucks. They do need a restricted dealer's license for ambulances because they hold the contract. He said the business will not change after they obtain the license. There will be no more vehicles coming to the facility. The facility is basically operated as a repair facility. Almost every ambulance and fire truck they sell is delivered to the purchaser directly from the manufacturer. The ambulances come out of Orlando, Florida and the fire trucks come from Brandon, South Dakota or Pensacola, Florida. Every once in awhile they might be asked to install a specific tool if it is coming off one truck and going on another. They do not take trades. One of the big repair customers is Life Ambulance. They are a big

company in Ohio and West Virginia. If Life Ambulances has major issues with one of their vehicles, it will come to the facility for repair. The ones that are being stored on the Homer Radiator lot have been decommissioned. They are there until he receives the Title. Once he receives the Title he calls Bessler's and they tow the vehicle away. Unfortunately, this process can take a period of time. He is willing to work with the City of Florence on this. He can force Life Ambulance to tow these vehicles away to their facility in Cincinnati if that is what needs to happen. He offered to answer any questions.

Mrs. Schaffer asked if he could explain a restricted dealer's license? Mr. Franxman said a restricted license means they can only sell specialty vehicles, such as fire trucks and ambulances. Mrs. Schaffer asked if the license was issued by the State? Mr. Franxman replied it was. He added that there are a lot of requirements for a non-restricted dealer's license. They have no plans on carrying any inventory on the lot. The manufacturers do not build anything until an order is placed because the vehicles are customized.

Mr. Franxman said one of the questions that he was asked to explain was the size of the biggest fire truck that can be brought to the site. He said it's possible that an aerial truck could come to the facility for service. These vehicles can be brought into the back bay of the shop.

Mrs. Schaffer said the request really does not involve bringing new fire trucks to the site? Mr. Franxman agreed and said it would not be cost effective. Mrs. Schaffer asked if the same was true for ambulances? Mr. Franxman said they occasionally buy demo vehicles to show potential customers. The demo vehicles are constantly on the road. Any demo vehicle that came back to the site would be parked inside because he will not keep a \$120,000 vehicle in the parking lot.

Mrs. Heilman asked for clarification that the vehicle repair part of the operation was a permitted use. Mr. Morgan agreed.

Ms. Evans asked how many vehicles can be kept inside the building? Mr. Franxman said it depends. He knows they have had up to 15 ambulances in the back bay at one time. Mrs. Heilman asked if the parking lot was currently striped? Mr. Franxman replied it was striped but is currently faded. She asked if an ambulance would fit in those parking stalls. Mr. Franxman replied yes.

Mr. Franxman asked if the side parking lot could be extended towards the street? Mr. Morgan replied that the area is clearly a drainage swale and a Site Plan prepared by a Professional Engineer would need to be submitted and reviewed before a final determination could be made.

Mr. Pieper asked if any new fire trucks are delivered to their facility? Mr. Franxman said only if it is a local delivery. The fire trucks only get 4 miles to the gallon. He added that any new fire truck would be kept inside the building because they do not have keys. They have push button starts.

Mrs. Heilman asked if the final detailing of a fire truck would be seen as repair. Mr. Morgan said he sees it as repair. He noted that they will be able to do sales and repair if the Conditional Use Permit approved.

Mrs. Heilman said it sounds like all the Board is considering is keeping new fire trucks and ambulances on the site. The repairs and detailing are already principally permitted. Mr. Morgan agreed.

Mr. Wilson said he just read the automotive repair definition and feels like detailing would fall under that definition. However, the final determination would be made by the Zoning Administrator.

Mrs. Schaffer said the issue would be solved if they imposed a condition requiring vehicle parking in striped parking stalls or inside the building. She thought another condition could be that they are limiting the vehicle sales to fire trucks and ambulances only.

Mr. Sparks asked Mr. Franxman what percentage of their new fire truck orders do they do final customization? Mr. Franxman said maybe 5% of them and they are normally for local departments.

Mr. Wilson asked if his application was only to sell fire trucks and ambulances? Mr. Franxman said it was. Mr. Morgan said that is also how the legal ad was written. The Board could impose a condition that would reinforce that limitation. Mrs. Schaffer said she didn't feel like a condition would be necessary based on the application and legal ad.

Mrs. Heilman made a motion to approve the request with the following conditions. Mrs. Schaffer seconded the motion

1. **The outside storage area behind the building shall be eliminated or be brought into compliance with the Boone County Zoning Regulations. The storage of refuse, motor vehicle parts, scrap metal, old oil drums, machinery, etc. for a period of more than 30 days constitutes a junkyard per the Boone County Zoning Regulations.**
2. **The business shall not be run as a junkyard or cause any other business to be classified as a junkyard per the Boone County Zoning Regulations.**
3. **The front and northeastern parking lots shall be striped and all vehicles parked there shall be located in striped parking stalls. Vehicle parking can also occur in the shared gravel lot to the southwest of the building or inside the building.**

OTHER

No other business was discussed.

ADJOURNMENT

Mr. Pieper asked for a motion to adjourn. Ms. Evans so moved and Mr. Sparks seconded the motion. Mr. Pieper called for a vote and the meeting adjourned by unanimous consent at 8:45 P.M.

APPROVED

Timothy L. Pieper, Chairman

Attest:

**Todd K. Morgan, AICP
Senior Planner, Zoning Services**