

APPLICATION FOR ZONING ACTION

TO:

- Boone County Planning Commission
- City of Florence Board of Adjustment
- Boone County Board of Adjustment
- City of Union Board of Adjustment
- City of Walton Board of Adjustment
- Zoning Enforcement Officer

FOR:

- Zoning Text Amendment
- Comprehensive Plan Change
- Preliminary Plat Review
- Conditional Use Permit
- Concept Development Plan Change
- Preliminary Development Plan
- Change of Non-Conforming Use
- Design Review Board and Certificate of Appropriateness
- Zoning Map Amendment
- Planned Development Overlay Change
- Improvement Plat Review
- Final or Deed Plat Review
- Site Plan Review
- Historic District Overlay
- Appeal or Variance
- Sign or Zoning Permit

Applicant: SFR PROPERTIES  Owner  
 Address: 41 E 3RD ST. NEWPORT, KY 41071  Agent  
 Telephone: 431-5790 <sup>ANNEMCBEE</sup> 586-7500

Location: SIMON & FISCHER HONDA 1020 BURLINGTON PIKE, FLORENCE, KY

Name of Property Owner: SFR PROPERTIES

Address of Property Owner: 41 E 3rd St. Newport, KY 41071

Zoning District: C-3 Commercial Services Area in Acres: 3.12

Deed Book: 313 Page Number: 239 Group Number: 2033

Description of Request: Variance from 25 foot green belt area to 10 ft green belt area for paving of lot.

Applicant's Signature: Wm E Simon

Property Owner's Signature: Wm E Simon

Application Fee: \$229 PAID FOR PLANNING COMMISSION USE ONLY Date Received: 6/17/88 By: \_\_\_\_\_

Referred To: \_\_\_\_\_ Meeting Date: \_\_\_\_\_

Action Taken: \_\_\_\_\_ Date of Action: \_\_\_\_\_

STAFF REPORT

DEVELOPMENT:           Simon & Fischer Honda  
APPLICANT:             El Grande Corporation  
LOCATION:                Burlington Pike, Boone County, Kentucky  
ZONING:                 Commercial Services (C-3)  
DATE:                   July 13, 1988        6:30 P.M.

REMARKS:

The applicant is requesting a Variance in the width of the 25 foot landscape buffer yard required when a C-3 zone abuts a residential zone. The 3 acre site has been developed as an automobile dealership since the early 1980's. The applicant is requesting the Variance in order to expand the existing outdoor parking, sales, and display area.

Surrounding Land Use and Zoning

North and East -     Single-family homes, Greenview Subdivision  
                          Zoned Suburban Residential Two (SR-2)

South                -     Across KY 18, Rightway Nursery and single-  
                          family homes, zoned Suburban Residential Two  
                          (SR-2); doctors office, Lipp's Pools, future  
                          Andy's Glass, zoned Commercial One (C-1)

West                 -     Greenview Baptist Church  
                          Zoned Commercial Services (C-3)

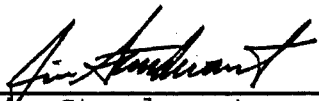
Attached is the applicant's review of the four standards for variances outlined by Section 244 of the Boone County Zoning Regulations. Staff's review is as follows:

1. The special circumstance applicable to this particular site is that the development was approved prior to the adoption of the current landscape buffer yard requirement.
2. Staff does not believe that the cost of adequate buffering would create an unreasonable financial hardship on the applicant.
3. The special circumstance listed in #1 above are not the result of the applicant's actions.

4. If adequate alternate forms of buffering are provided, the request should not have an adverse impact on the neighborhood or substantially change the area's character. However, there is presently a problem with outdoor lighting on the site and glare or reflection into the adjacent residential neighborhood. Corrective measures are necessary to reduce the problem and assure that it does not increase.

Should the Board decide to approve this request, staff recommends that the Board require a detailed outdoor lighting plan be submitted with the Site Plan for review by the Planning Commission.

Respectfully Submitted,

  
\_\_\_\_\_  
Jim Sturdevant  
Plans Examiner/Planner

JS:jdh



Work shown is based on field notes of James W. Gandy FTS - 206  
dated 11-14-11

- GENERAL NOTES:**
1. All utility lines shown are for general information only. The utility owner should be contacted for exact location and depth.
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GREENVIEW  
BAPTIST CHURCH  
(C-3)

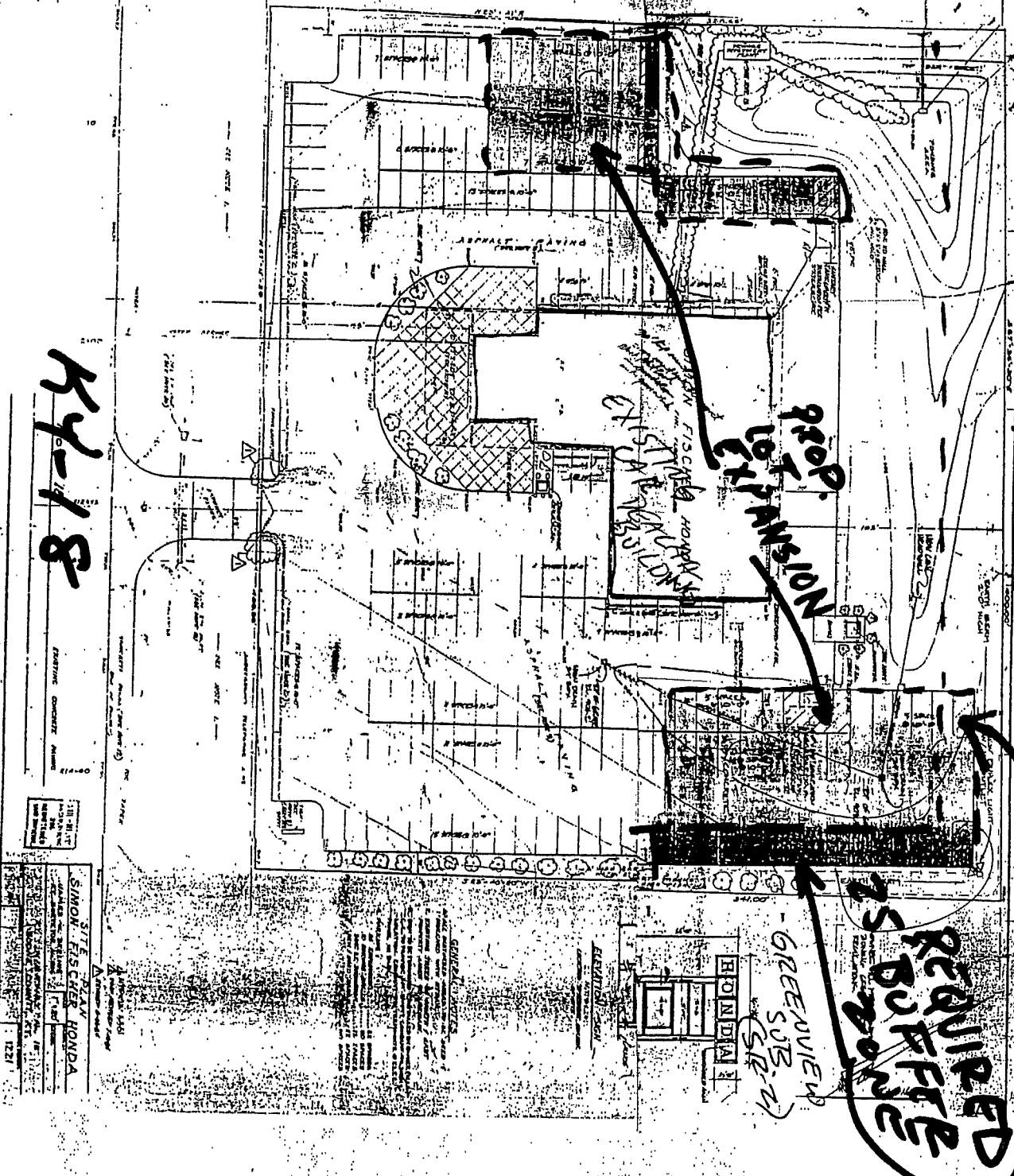
GREENVIEW  
SIZ 13-2

HONDA BUFFER  
VAR 13-18

KY-18

PROP. EXPANSION  
STAIRS  
ELEVATOR

REQUIRED  
BUFFER  
GREENVIEW  
SIZ 13-2



SITE PLAN	
SIMON FTS C/28 HONDA	
DATE	11/14/11
SCALE	AS SHOWN
PROJECT	FOUNDATION CONCRETE FOUNDATION
NO.	1221

APPLICANT'S FINDINGS

APPLICATION FOR ZONING ACTION  
RE: VARIANCE  
HONDA

DESCRIPTION OF REQUEST

The property owner, SFR Properties, a partnership, is requesting a variance from Boone County Planning and Zoning Regulations, Section 1782, as it pertains to minimum landscape area for property zoned C-3.

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity.

The subject property, Simon Fisher Honda, located on Kentucky 18, Florence, Kentucky. The property is owned by SFR Properties, a partnership. It is presently zoned C-3.

The property surrounding Simon Fisher Honda is zoned C-3 on the West side (Greenview Baptist Church), SR-1 on the north edge (Shinkle, Gripshover, Johns, Schatz, Watkins, Sale and Bell), and SR-1 on the East edge (Kelly, SFR Properties and Brosmore). See Exhibit A.

Upon recommendation of the Boone County Planning and Zoning Commission, SFR Properties obtained an option to purchase the property subject to approval of American Honda Automobile Company, the owners' Franchisor. The Franchisor, after considering the total acreage available for building and parking spaces, determined that the land met the specifications of the Franchisor for the specific allocation of new cars per month.

SFR Properties purchased the property in 1984, obtained site approval from the Boone County Planning Commission and constructed an automobile dealership pursuant to permits granted by the Boone County officials and the approval of the Franchisor.

At the time the Boone County Planning Commission approved the original site plan, the green belt area on the east and north sides of the property was ten feet. Subsequent to the approval, the Boone County Planning and Zoning Commission amended its regulations requiring a 25 foot minimum landscape area when any residential zone adjoins a C-3 zone. There is no provision in Section 1782 of the regulations for minimal landscape area when a C-3 zone

adjoins a C-3 zone or when a C-3 adjoins a residential area. The applicant has been informed by the Boone County Planning Commission that a 25 foot minimum landscape area applies to a C-3 property which adjoins a residential area..

2. The strict application of the provisions of the regulations would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant.

The property owner has been notified by the Franchisor that in order for the property owner to maintain its franchise, it will be necessary to construct six additional bay areas which will decrease the present parking facilities. The property owners submitted a site plan to the Boone County Planning Commission for approval of the additional parking areas and was advised that the green belt area required a 25 foot set back; a fifteen foot increase since the original site plan was approved.

Should the property owner be required to comply with the 25 foot set back, it would be unable to comply with the mandate of the franchisor with regard to the construction of the bay areas and parking sufficient to receive an adequate number of new cars to maintain the franchise.

The new regulation also requires eight foot white pine trees to be planted on six foot centers. This regulation is also contrary to the regulation in effect at the time the original site plan was approved. The cost of the larger trees would be approximately \$15,000.00 and would create a financial hardship upon the applicant. There is no such requirement for the adjoining property owners.

3. The special circumstances upon which the applicant relies in support of its request for a variance are not the result of action of the applicant taken subsequent to the adoption of the zoning regulations.

The applicant constructed its building, parking area and green belt in full compliance with the regulations in existence at the time the site plan was approved in 1984. The special circumstances involved in this application for a variance arise from the action of the Boone County Planning Commission subsequent to the approval of the original site plan. The applicant was not aware of the regulation change until an application for approval of a site plan which included additional parking on the east and north edge of the property was submitted to the Boone

County Planning and Zoning Commission.

4. The Variance will not adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity, nor will it cause a hazard or a nuisance to the public.

There has been no change in the surrounding property since the original site plan was approved. At that time a 10 foot set back was required. The applicant is aware of no adverse affect to the public health, safety and welfare of surrounding property owners that would arise from maintaining the status quo with regard to the 10 foot green belt area.

The essential character of the general vicinity would remain the same if the variance is granted allowing the applicant to proceed under the regulations in effect at the time the original site plan was approved.

The applicant is not aware of any hazard or nuisance the granting of a variance would cause to the adjoining property owners or to the general public.

The denial of a variance would create an unnecessary hardship upon the applicant-property owner in that a 25 foot set back would reduce the dimensions of the parking area required by the Franchisor. Unless the applicant complies with the mandates of the Franchisor with regard to the mandated bay areas and parking areas, the Franchisor will reduce the number of new cars allocated to the applicant. Should the variance be denied, the applicant would be forced to relocate in order to avoid placing its franchise in jeopardy.

Therefore, the applicant respectfully requests that this Honorable Board approve the requested variance.

McBee and Ruttle  
P.O. Box 17  
Huntington Bank-Boone County  
2252 Burlington Pike  
Burlington, Kentucky 41005

By   
Anne P. McBee

SURFACE

LIPPS

(SPAS)

BROEG

(CHIROPRACTOR)  
OFFICE

THOMAS

BEVINS  
(ATTORNEY  
AT LAW)

RT. 18

GREENVIEW

BAPTIST  
CHURCH

SFR  
PROPERTIES

KELLY

(ANTIQUES)

SFR

BROSMORE

SHINKLE

GARSHORER

JOHNS

SCHWARTZ

WATKINS

SALE

BELL

WEST VIRGINIA

GREENVIEW RD

FOR ILLUSTRATION  
ONLY

BOONE COUNTY  
BOARD OF ADJUSTMENT

July 13, 1988 - 6:30 P.M.

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BOARD MEMBERS PRESENT:

Mr. I. A. Archambault  
Mr. Fred Nevel  
Mr. Dan Houston

BOARD MEMBERS NOT PRESENT:

Mr. Walt Ryan  
Mr. George Whitton, Chairman

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Mr. I. A. Archambault called the meeting to order at 6:30 P.M. and noted that each member had received a copy of the Minutes of the Boone County Board of Adjustment Meeting of June 8, 1988 and asked if there were any comments or corrections.

There being no changes to the Minutes, Mr. Nevel moved that they be approved as mailed. Mr. Houston seconded the motion and it carried unanimously.

AGENDA ITEMS:

1. The request of El Grande Corporation for a Variance in the landscaped buffer requirement. The 3.0-acre site, located at 1020 Burlington Pike, Boone County, Kentucky, is zoned Commercial Services (C-3) and is owned by SFR Properties.

Staff Member, Jim Sturdevant, presented the Staff Report which included a slide presentation (see Staff Report). He noted that the applicant's response to the criteria for a Variance is attached to the Staff Report.

Ms. Anne McBee, representing the applicant, noted their position as indicated in the attachment to the Staff Report. She stated that under Section 17.82, there is no requirement for a C-3 Zone as it adjoins a residential area. They were informed by the Staff that the intent is for such regulations to apply,

but they are not in the regulations. She stated that the Concept Development Plan was originally approved in 1984 with a ten-foot buffer. The Comprehensive Plan was adopted in 1986 for a 25-foot buffer. Simon & Fischer complied with all of the original requirements in 1984, but since then the requirements have changed. She stated that being required to go to the 25-foot buffer zone would eliminate a large part of their parking and would be unsightly. They could also be subject to losing their franchise due to the parking requirements. They have been good citizens and allowed the sewer line to be on their property. The lighting plan was approved by the Commission and they have complied with the requirements. She added that Section 17.82 requires larger trees than they have and would create a financial hardship. Their primary reason for requesting the Variance is that they would not be able to keep their franchise and would have to move from the area. She displayed pictures of the design of the site in 1985 and additional current pictures. She stated that Mr. Simon and Mr. Fischer were present. Ms. McBee requested approval of the Variance.

Mr. Jim Simon, General Manager of Simon & Fischer, stated that the lights in question had been redirected.

Ms. Fay Shinkle, who lives behind the site, stated that the lights from the site are blinding. She noted her concerns about the storm water drainage due to the lack of trees across the back of the site.

Mr. Simon stated that the trees in question are existing trees at the rear property line. He stated that part of the water problem is the depth of the ponding area and noted that there was a lot of runoff when they put in the sewers.

Mr. Arthur Brosmore, who lives on Lot 1-E (the third house on Greenville), stated that the lighting system has changed somewhat, but the lights do not shine down to the ground. He stated that if the ten-foot buffer is allowed, they will be in his back yard. He is disturbed by the noise from the site with the motors starting. Mr. Brosmore stated that he is thoroughly against them being within ten feet of his property line. He noted that their back yard has not been mowed this year and there is trash blowing into his yard.

Mr. Breidenstein advised that current slides of the site are available.

Mr. Bob Fischer, Executive Vice President of Simon & Fischer, and an owner of the property, commented on the weeds. He stated that they had stopped pulling weeds as they thought they had a project going and it was delayed. He stated that he does not think the requested Variance would affect some of the objections and that 15 feet would not make a great deal of difference. He noted that this is a commercial establishment. Mr. Fischer stated that they would have to address the question of litter if it is blowing around.

Mr. Simon stated that the original Site Plan shows 110 parking spaces, which was adequate in 1984. They are adding parking spaces to meet their current needs. He noted that heavy trucks come onto the site to unload cars.

Mr. Robert Bell asked how the applicant would address the cost of tearing up the pavement if the sewer needed repair. Mr. Fischer advised that they would not be paving over the sewer line.

Mr. Bell stated that there would be paving over the sewer line, noting that everyone had given a 25-foot easement for maintenance.

Ms. McBee indicated on a drawing the location of the sewer line on the property.

Mr. Sturdevant presented the plan provided by the Boone County Water District which indicated the areas that could be paved and those that could not be paved.

Mr. Archambault asked if there were any further questions or comments. There being none, he asked if there were any comments from the Board.

Mr. Nevel questioned the location of the parking spaces, which Ms. McBee indicated on a drawing for him.

Per the Board's request, Ms. McBee provided the Board with the plan which was reviewed and discussed in regard to the location of the ponding area, the parking spaces, the sewer easement, the buffer area, the landscaping, and the lighting. Mr. Simon indicated that two lights had been added, one on each corner of the rear of the lot. He stated that there will be further adjustment of those lights.

Mr. Archambault asked if there was any further discussion.

Mr. Brosmore questioned the laws protecting the rights of the residents, noting the disturbance created by the noise and the lights.

Counselor Wilson commented on the laws in regard to public and private nuisances.

There being no further discussion, Mr. Houston moved that the Variance be granted. Mr. Nevel seconded the motion.

In response to a comment from Mr. Sturdevant regarding the landscaping, Mr. Houston amended his motion to indicate that the applicant will have to submit a landscaping plan satisfactory to the Staff. Mr. Nevel agreed to the amendment.

Mr. Archambault asked for a vote on the motion made by Mr. Houston and it carried unanimously.

2. The request of Sign Systems and Services (agent for Huntington Banks) for Variances in the height and number of free-standing signs. The 2.25-acre site, located at 287 Richwood Road, Boone County, Kentucky, is zoned Commercial Services (C-3) and is owned by Waco Oil Company.

Staff Member, Tom Breidenstein, presented the Staff Report which included a slide presentation (see Staff Report). He noted that the previous Staff Report is also included. Mr. Breidenstein distributed to the Board copies of a letter from Mr. Don Davis in opposition to Agenda Items #2 and #3. Mr. Breidenstein read the letter which is on file in the Staff Office.

Mr. Archambault asked for comments from a representative of the applicant.

Mr. Mike Cassedy, representing Sign Systems and Services, stated that there is about two or three feet difference in elevation between the original place of the sign and its current location. He did not know why the sign was moved. If the bank had been aware of the new Zoning Code, they would not have moved the sign. The proposed sign has less square footage than the previous sign. They are reducing the number of lumens that will project off the face of the sign. He stated that the sign is substantially lower than any of the others in the area. The previous sign that was there for Waco had limited visibility from the expressway. The bank would like to have the interstate exposure. Mr. Cassedy stated that their position is explained in his letter to the Board. (Mr. Cassedy's letter, dated July 13, 1988 is attached to the Staff Report and on file in the Staff office.) He stated that Huntington Banks is an eight-state banking institution.

Mrs. Thelma Castellini, a resident of Dixie Highway just south of the site, stated that the residents of Richwood are pleased with this attractive and desirable business. She stated that if permission for this sign is given to the bank, then Pilot Oil Company and everybody else will make a request. She stated that there are now ten to thirteen signs in a very limited area. She advised that the original sign pole was moved to excavate the hillside behind it. Mrs. Castellini asked who the owner of the property was and Mr. Archambault advised that he believes the owner is Waco Oil.

Mrs. Castellini added that only the residents can see the signs on the expressway due to the proliferation of signs. The residents see the signs by looking out their windows. She stated that she does not think the success of the bank depends on transient business.

Mr. Dennis Davis, 357 Richwood Road, agreed with Mrs. Castellini that they are pleased to have the bank at this location. He agreed with the comments made in Mr. Don Davis' letter. He questioned why a branch office of a bank needs a sign of this height and this magnitude. He stated that the smaller sign in the front is adequate. He asked that the issue of signs in Richwood in the past be considered in relation to this request and future requests. Mr. Davis asked that the applicant abide by the regulations.

Mr. Cassedy stated that the bank is willing to invest \$40,000 to put the sign back up as they want the interstate exposure. They are willing to make concessions on the colors.

Mr. Dennis Davis stated that the sign had been removed and is not pre-existing. He noted that the sign may have been erected prior to the current regulations and may not have been in compliance with the current regulations. He noted that the sign request made by Pilot Oil Company had been denied.

Mrs. Castellini stated that if this Variance is granted, then everybody who wants a sign will come to the Board and there will be no grounds to deny the requests.

Mr. Archambault advised Mrs. Castellini that requests are reviewed on a case-by-case basis.

Mr. Hollis Gritten of Huntington Banks stated that they expect to serve Boone County, Grant County, and possibly Gallatin County and their building is obscured by the surroundings. He stated that the sign is necessary for visibility and requested approval of the Variance.

Mr. Archambault asked if there were any further comments or questions.

Mr. Nevel questioned whether a 40-foot sign would be adequate and just as visible.

Mr. Cassidy stated that they flew mock ups to determine their minimum requirements. He stated that the sign is visible at the exit ramp on the northbound side, and there is better visibility southbound on the expressway. He stated that a 40-foot sign would not be adequate as it would not be seen until you were off the ramp. They did a survey of the businesses in the area in regard to signs. The sign is 20% to 30% smaller than the other signs in the area and about 30 feet lower due to the topography.

Mr. Gritten presented photographs of the sign from the expressway to the Board.

Mr. Archambault stated that the pre-existing condition is null and void in regard to this request.

There being no further discussion, Mr. Nevel moved that the Variance be denied based on the regulations, and that the second sign also be denied. Mr. Houston seconded the motion and it carried unanimously.

3. The request of Tenneco Oil Company for a Variance in the number of free-standing signs. The 3.79-acre site, located at 11229 Frontage Road, Boone County, Kentucky, is zoned Commercial Services (C-3) and is owned by the Tenneco Oil Company.

Staff Member, Tom Breidenstein, presented the Staff Report which included a slide presentation (see Staff Report). He noted that the letter from Mr. Don Davis read during the previous request also pertains to this request.

Mr. Estel Herston of Tenneco Oil Company stated that they want to put up the sign so that they can post their premium and unleaded prices. The opposite side of the sign shows diesel prices and they want people to be able to see the prices without turning around. He stated that their read-a-board does not face the expressway and has their monthly specials on it. They also sell ice cream.

Mr. Dennis Davis stated that there is currently a Variance for the height of the sign. He stated that they want to advertise their prices to the interstate using a third sign, and then they will want a fourth sign. He stated that the billboard sign is fully visible from the expressway.

Mr. Bill Schwartz from the Chevron Station stated that they only have one price sign. He stated that they are opposed to the additional sign as it would add to the clutter and sign pollution.

There being no further discussion, Mr. Houston moved that the request be denied as they already have two free-standing signs. Mr. Nevel seconded the motion and it carried unanimously.

4. The request of Lamar Outdoor Advertising for a Conditional Use Permit to allow the erection of an off-premises sign. The 8.8-acre site, located at 8494 Pleasant Valley Road, Boone County, Kentucky, is zoned Industrial One (I-1) and is owned by Riegler Properties.

Staff Member, Paul Miller, presented the Staff Report which included a slide presentation (see Staff Report).

Mr. Archambault asked for comments from a representative of the applicant.

Mr. Robert Clark of Lamar Advertising stated that they have been in business since the early 1900's. They are a nationwide company with local plants. He stated that this sign will not affect the area much as it is an industrial area with commercial uses that is hidden from the houses by the trees. People will pass the sign before they get to the intersection. He stated that this is a replacement structure. He stated that they advertise to local people for local people.

Mr. Archambault asked if there were any other questions or comments.

Counselor Wilson noted that the sign in the picture had four sides.

Mr. Clark stated that the sign was built about ten years ago and they no longer have this type of sign as four boards is overwhelming. They are proposing a single pole with two boards. The hill behind the sign blocks it from the rear. He stated that Riegler has plans to build an office and a plant on this lot.

Mr. Nevel asked why the sign is 50 feet high since it is behind the trees. Mr. Clark stated that a 40-foot sign would be satisfactory. They want the sign to be above trucks if they are parked in the area. Mr. Breidenstein advised that maximum height for local informational signs is 50 feet.

There being no further discussion, Mr. Nevel moved that the request be approved subject to the condition that the sign be removed if the property is sold and redeveloped. Mr. Houston seconded the motion and it carried unanimously.

5. The request of Lamar Outdoor Advertising for a Conditional Use Permit to allow the erection of an off-premises sign. The subject property, located on the south side of KY 18 east of the Quick Check Market, is zoned Commercial Services (C-3) and is owned by William and Albert Hillenbrand.

Staff Member, Jim Sturdevant, presented the Staff Report which included a slide presentation (see Staff Report).

Mr. Archambault asked for comments from the applicant.

Mr. Robert Clark of Lamar Advertising stated that he did not see the off-premise sign when he submitted this request and probably would not have done so. The property belongs to Mrs. Roberts and it is sold to a developer pending closing. The sign will most likely be removed when the property is developed. He showed the Board pictures of the sign and stated that it is ready to fall down. It is a non-conforming sign and cannot be put back up if it is removed or falls down. He stated that outdoor advertising structures are needed along KY 18. This is a light commercial use. They will not advertise liquor or cigarettes. He stated that it is almost 200 feet from the road to the sign and it is blocked by trees. Ninety percent of the sign will advertise local businesses and charitable organizations.

Mr. Sturdevant stated this is not a regional area drawing a regional market. The Comprehensive Plan states that Burlington is a growing residential community and historic center of the county. Staff believes that a sign or billboard intended to be in a growing regional market area would not be appropriate in this location. The sign could also block the view of Burlington.

Mr. Clark stated that the sign will not block the view of Burlington and will blend in with the area. He noted that the sign will need to be removed if the property is developed.

Mr. Archambault asked if there were any further comments.

Counselor Wilson stated that the Board must determine if this site is appropriate for this type of Conditional Use in this zone.

Mr. Nevel stated that he does not want to see the character of KY 18 changed. Mr. Nevel moved that the request be denied as it is not compatible with the area. Mr. Houston seconded the motion and it carried unanimously.

6. The request of Lamar Outdoor Advertising for a Conditional Use Permit to allow the erection of an off-premise sign. The 2.9-acre site, located at 10360 Dixie Highway, is zoned Industrial One (I-1) and is owned by Gary Gemmer.

Staff Member, Tom Breidenstein, presented the Staff Report (see Staff Report).

Mr. Robert Clark of Lamar Advertising stated that this is the type of area with a lot of regional uses. It is an industrial area. He requested approval.

Mr. Archambault asked if there were any comments or questions.

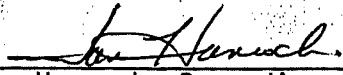
There being none, Mr. Nevel moved that the request be granted subject to the condition that should the zoning of the property be changed to any classification other than I-2, A-1, C-3, R, or PF, the sign will be removed. Mr. Houston seconded the motion and it carried unanimously.

There being no further business to come before the Board, the meeting was adjourned by unanimous consent at 8:35 P.M..

APPROVED:

  
I. A. Archambault

ATTEST:

  
Jan Hancock, Recording Secretary