

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: BOONE COUNTY DEVELOPMENT AUTHORITY *Bob Clark*  Owner  
 Agent  
 Address: 1011 1/2 W. 1st St. Dayton, Ohio 45402  
 Telephone: 513-228-9143

Location: s/s Rt. 18-.05 Mi. e/o Burlington

Name of Property Owner: Hillenbrand Bros.

Address of Property Owner: 7605 E. Bend Rd. Burlington, KY 41005

Zoning District: C-3 Area in Acres: 5.503

Deed Book: 276 Page Number: 320 Group Number: 2030

Description of Request: Erect and maintain an off premise outdoor advertising sign.

Applicant's Signature: *Robert M. Clark R/E Bob Clark*

Property Owner's Signature: \_\_\_\_\_

FOR PLANNING COMMISSION USE ONLY

Application Fee: \$235 Date Received: 6-22-88 By: *[Signature]*

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

Action Taken: *denied* Date of Action: 7-13-88

BOONE COUNTY  
BOARD OF ADJUSTMENT

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

---

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 Greenvlew), 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 Cassidy, 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. Cassidy stated that their position is explained in his letter to the Board. (Mr. Cassidy'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. Cassidy 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.

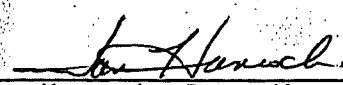
There being none, Mr. Nevel moved that the request be granted subject to the condition that should the zoning of the property be changed to any classification other than I-2, A-1, C-3, R, or PF, the sign will be removed. Mr. Houston seconded the motion and it carried unanimously.

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