

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

OR:

- 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: Michael Ruwe Owner

Agent

Address: 482 Palmerston Cincinnati, Ohio 45238

Telephone: 451-4438

Location: 7801 Dream Street Florence, Ky. 41042

Name of Property Owner: Jim Gallenstein

Address of Property Owner: 38104ARA LANE ERLANGER KY

Zoning District: C-3-PD Area in Acres: 2 1/2

Deed Book: 216 Page Number: 282 Group Number: 1160 part lot
WIKRO Comm. Sub.

Description of Request: Permit to locate a lighted sign approximately 4' X 20' advertising "SKEFFINGTON'S-FORMAL WEAR" at the south side of building at the area of the roof gable

Applicant's Signature: Michael E. Ruwe

Property Owner's Signature: Jim Gallenstein

Application Fee: \$ FOR PLANNING COMMISSION USE ONLY Date Received: _____ By: K. Custello

Referred To: Tom Meeting Date: 11/11/87 Florence Bd of Adj.

Action Taken: _____ Date of Action: _____

STAFF REPORT

APPLICANT: Michael Ruwe
DEVELOPMENT: Skeffington's Formal Wear
LOCATION: 7801 Dream Street, Florence, Kentucky
ZONE: Commercial Services with a Planned Development Overlay (C-3/PD)
DATE: November 11, 1987; 7:30 p.m.

REMARKS:

The applicant is requesting a Variance in the number of building-mounted signs in order to allow a second sign on the south side of the building. The 2.5 acre site, located on the west side of Dream Street between McDonald's and Bob Evans, is zoned Commercial Services/Planned Development (C-3/PD) and is owned by James Gallenstein.

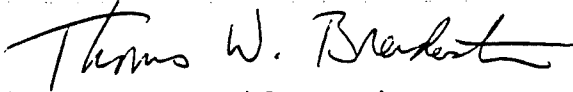
Skeffington's Formal Wear is located in the former tenant space of the Armed Services Recruiting Center, directly behind the Peking Palace and next to the Satellite Center. On October 15, 1987, a sign permit was issued for one building-mounted sign above Skeffington's door facing the interstate. The applicant is requesting a Variance to erect a similar sign on the south side of the building, facing the parking lot and the rear of Bob Evans Restaurant.

The following reviews the four findings of fact necessary before a Variance is granted:

1. Staff can find no special circumstances which do not apply to land in the general vicinity.
2. Strict application of the Zoning Regulations would allow only the one approved building sign. Staff does not feel that a reasonable use of the land would be denied or that a hardship would be created with just one sign.
3. The location of the store (and therefore its signage) was the choice of the applicant - an action taken subsequent to the adoption of the Zoning Regulations.
4. If granted, the Variance will not adversely effect the public health, safety, and welfare and will not cause a hazard or nuisance. Staff does not believe that the essential character of the general vicinity will be altered. However, the Board should consider the intent of the sign Article in the Zoning Regulations:

"The purpose of this Article is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs, and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, and enhance and protect the physical appearance of the community. It is further intended to reduce sign or advertising distracting and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public right-of-ways, and generally enhance community development." (p. 19-1)

Respectfully submitted,



Thomas W. Breidenstein,
Zoning Enforcement Officer

TWB:mcb

Attachment

$\frac{3}{8}'' = 1'$ SCALE

20'

SKEFFINGTON'S FORMALWEAR

Single Face Bldg. Sign

225 Gold-n Yellow

DC Bldg. Cr.

Black

Black Cabinet

$\frac{1}{2}'' = 1'$ SCALE

8 1/4''

FACE for RA. S. B. W. (REAR)

3 1/2''

CITY OF FLORENCE
BOARD OF ADJUSTMENT

November 11, 1987 - 7:30 P.M.

Chairman Holland called the meeting to order.

BOARD MEMBERS PRESENT:

Mr. Ashcraft
Chairman Holland
Mrs. Meihaus
Mrs. Ward
Mr. White

BOARD MEMBERS NOT PRESENT:

None.

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Chairman Holland stated that each member had received a copy of the Minutes of the Board of Adjustment Meeting of October 14, 1987 and asked if there were any comments or questions. There being no comments or questions, Chairman Holland moved, seconded by Mrs. Ward, that the Minutes be approved. The motion carried unanimously.

AGENDA ITEMS:

1. A request of Michael Ruwe for a Variance in the number of building-mounted signs in order to allow a second sign on the south side of the building. The 2.5-acre site, located on the west side of Dream Street between McDonald's and Bob Evans, is zoned Commercial Services/Planned Development (C-3/PD) and is owned by James Gallenstein.

Staff Member, Tom Breidenstein, presented the Staff Report (see Staff Report). Since a slide presentation was not available, Mr. Breidenstein indicated the location of the site and the adjacent land uses in order to acquaint the Board members with the location. Mr. Breidenstein noted that Staff would not suggest any conditions should the Variance be granted.

Mr. Norb Gettys, attorney for Mr. Ruwe, presented a film of the area noting other businesses and signage in the vicinity of the site. He stated that the Skeffington's sign could only be seen from the I-75 ramp. They are requesting the additional sign for the end of the building to be visible from Dream Street. He stated that the requested Variance would not affect the public health, safety, or welfare. He stated that there is a great deal of signage currently in the area and that the requested sign would allow the applicant to be competitive with the existing signage.

Mr. Ashcraft asked why the applicant was requesting such a large sign.

Mr. Ruwe stated that the dimensions originally submitted were for a sign on the roof. He stated that they are requesting a 4' X 16' sign, but that any sign would be better than none. He noted that when someone is in the immediate vicinity of Skeffington's, it is difficult to locate. The sign would be for direction, as well as advertisement.

Chairman Holland asked where the sign would be located.

Mr. Gettys stated that there is a slanted roof on the building and that the sign would be under the eaves. He presented a picture of the proposed sign, noting that it will be white with black letters. In response to a question from Mrs. Meihaus, Mr. Gettys added that the sign would need to be of sufficient size to be connected to the gable of the roof and that the sign would be designed to fit inside the gable.

Chairman Holland asked why the sign could not be 7' or 8' as opposed to 20' as indicated in the request. Mr. Gettys replied that the sign needs to be competitive with the existing signs and consistent with the other two signs on the building. Mrs. Meihaus noted that the reason for sign limitations is to reduce sign clutter.

Chairman Holland asked if there was anyone else who wished to speak in regard to this request.

There being no further discussion, Mr. Ashcraft moved that the Variance be granted provided that the sign be no larger than 4' X 16'. Mrs. Meihaus seconded the motion.

Chairman Holland asked if there was any further discussion. There being none, he asked for a roll call vote on the motion which found Mr. Ashcraft, Mrs. Meihaus, Mrs. Ward, and Chairman Holland in favor. Mr. White was opposed. The motion carried by a vote of 4 to 1.

2. A request of Joseph Roberts, applicant for Marathon Petroleum Company, for a Variance in the number of building-mounted signs in order to allow 12 signs. The 1.48-acre site, which is located at the northeast corner of Commerce Drive and Burlington Pike, is zoned Commercial Services/Planned Development (C-3/PD) and is owned by the Marathon Petroleum Company.

Staff Member, Tom Breidenstein, presented the Staff Report which included a slide presentation (see Staff Report).

Chairman Holland asked if two free-standing signs are currently permitted.

Mr. Breidenstein stated that those signs were discussed during the Public Hearing and were approved, noting that such uses are permitted in Planned Development.

Mr. Joe Roberts, an engineer with Marathon Petroleum Company, stated that they are requesting 12 signs as this is their standard graphics package. He noted that there is a purpose for each sign. He stated that they would appreciate any number of signs being approved. Mr. Roberts stated that the high rise sign is for the interstate traffic, and the 250 sq. ft. sign is to advertise prices. The canopy, logo, and moving "S" signs are for traffic on KY 18. He indicated that the signs advertising items for sale in the convenience store, such as soft drinks, eggs, and chicken, are intended to draw customers purchasing gasoline into the store. He added that if the building is turned to face KY 18, they could eliminate the three signs on the back. He noted that there are two frontages on the building and that the canopy is an integral part of the building. He stated that their special circumstance is that they are unlike any other service station in the Florence area. Mr. Roberts noted that the signs and the site are well designed and that their sign package has built up a familiarity with their customers. He stated that strict application of the regulations would represent a hardship. He noted that the zoning regulations were adopted after their standard sign package was designed. He added that the signs will not affect the public health, safety, and welfare. Mr. Roberts presented an artist's rendering of the site and noted that their main colors are red, white, and blue.

In response to a question from Mr. White, Mr. Roberts stated that the moving "S" sign appears to be moving by the use of blinking lights.

Chairman Holland asked if the drawing attached to the Staff Report was correct. Mr. Roberts stated that it was correct and that the building had been oriented in consideration of the curb cuts. Mr. Roberts distributed copies of the drawing of the proposed facility to the Board members.

Chairman Holland asked if there was anyone present who wished to speak for or against this request. There was no response.

Chairman Holland stated that he would like to discuss the signs in groups.

Mr. White stated that he finds the signs on the canopy to be attractive. Mr. Ashcraft added that he primarily objects to the sign advertising the hot dogs and that the moving "S" sign adds to the appearance of the facility.

Mrs. Meihaus suggested that the Speedway signs on the canopy be eliminated, as well as the logo signs on the front and back of the building.

Mr. White stated that it would not be appropriate for a canopy that size to be blank. Mrs. Ward agreed.

Chairman Holland asked the Board for their comments regarding the hot dog sign. Mr. Ashcraft stated that he is only opposed to the sign on the west side facing Commerce Drive. Mr. White and Mrs. Ward agreed.

Chairman Holland asked if the Board agreed to the Speedway Store decal. Mr. Ashcraft, Mr. White, and Mrs. Ward indicated that they would be in agreement to allow the decal.

Chairman Holland moved that the Board grant a Variance allowing two (2) Speedway signs on the canopy, four (4) moving "S" signs on the canopy, two (2) Speedway Store signs or decals on the store, and one (1) literboard sign facing the east side of the building for a total of nine (9) signs. Mr. White seconded the motion.

Mr. Ashcraft noted that the logo sign on the building would be eliminated.

Counselor Wilson noted that the motion had been made by the Chairman due to the complexity of this issue.

Mr. White stated that he would adopt the motion made by Chairman Holland and Mr. Ashcraft stated that he would second the motion.

There being no further discussion, Chairman Holland asked for a roll call vote on the motion which found Mr. Ashcraft, Mrs. Ward, and Mr. White in favor. Chairman Holland and Mrs. Meihaus were opposed. The motion carried by a vote of 3 to 2.

3. A request of McDonald's Corporation for a Conditional Use Permit to allow for the construction of a 3,900 sq. ft. (approx.) drive-thru restaurant located on the northeast corner of Dixie Highway and Turfway Road (adjacent to Taco Bell). The applicant is also seeking approval of the submitted Site Plan. The site is zoned Commercial Two (C-2).

Staff Member, Tom Breidenstein, distributed copies of an Addendum to the Staff Report to the Board members. Mr. Breidenstein presented the Staff Report, which included a slide presentation, and reviewed the Addendum (see Staff Report and Addendum). Mr. Breidenstein noted that should the Conditional Use Permit be granted, a condition of approval should be the review of the Site Plan by the Boone County Planning Commission.

Chairman Holland asked if there was anyone present representing the applicant.

Mr. Jerry Dusing, attorney for the applicant, stated that Mr. Greg Alexander, Mr. Gust Mercera, and Mr. Ray Markel were also present in behalf of McDonald's. Mr. Dusing stated that he had not seen the Addendum to the Staff Report. He noted that they had applied for a Conditional Use Permit and Site Plan Review at the same time at the suggestion of the Staff. They have not been able to properly complete the Site Plan at this time.

Mr. White noted that the Addendum indicated that the Staff cannot recommend approval.

Counselor Wilson clarified that the Site Plan is deficient and that Mr. Costello is indicating in the Addendum that Staff cannot recommend approval of the Site Plan. Mr. Dusing noted that the wording is ambiguous and that once the Conditional Use is approved indicating that this is an allowable use of the site, they will submit a Site Plan.

Mr. Dusing continued with his presentation and stated that the Board should allow the Conditional Use permit as they have met the criteria and are consistent with the Comprehensive Plan. He discussed the seven criteria used to determine whether a Conditional Use is appropriate within a zone and noted Staff's response to the criteria on Page 3 of the Staff Report. Mr. Dusing stated that they have submitted to the Staff information compiled by McDonald's in regard to traffic. Mr. Dusing reviewed this study entitled, "Site Traffic Generation", which is on file in the Staff Office. He noted that the peak hours for a drive-thru McDonald's are noon to 1 or 1:30 P.M. and after 6 P.M.. He stated that the hours of least use are 4:30 P.M. to 6 P.M. and noted that McDonald's does not generate traffic during rush hours. He discussed the percentage of increased traffic into the site, noting a high of 3%. They are not asking for additional access.

Mr. Gust Mercera reviewed the Site Plan noting traffic circulation patterns. He noted the deficiencies in the Site Plan and stated that they will comply with the requirements but need time to prepare the material. Mr. Mercera reviewed the proposed landscaping plan.

Mr. Dusing commented that the ordinance calls for 26 parking spaces and they have 38, as well as access to parking in the shopping center.

Following discussion, Chairman Holland noted his concerns regarding McDonald's putting a sign on the expressway advertising a McDonald's at this exit. Mr. White noted that he has seen McDonald's signs advertising restaurants that are 4 miles off the expressway.

Mr. Mercera stated that there are no current plans to place such a sign on the expressway. He noted that he cannot guarantee that this will never happen. Mr. Alexander commented that this development is strictly a neighborhood facility.

Chairman Holland asked if there was anyone present who wished to comment regarding this request.

Mayor Rolfes stated that McDonald's is a fine corporation and does a good job in maintaining the exteriors of their facilities. He stated that there is concern about the amount of traffic that will be generated. He noted the amount and type of traffic that is drawn to the McDonald's facility on Dream Street. He stated that McDonald's has done everything they can to control this problem, but the problem remains. Mayor Rolfes noted the proximity of the site to Boone County High School and stated that there is concern in the community regarding the impact of the facility. He noted a traffic count in the area of 32,000 cars per day and stated that 3% is a sizeable increase in the number of cars. Mayor Rolfes asked that the total impact on the community be considered.

Mr. Bob Pope, owner of a business across the street from the proposed McDonald's, agreed with Mayor Rolfes' concerns. He commented on the McDonald's facilities on Dream Street and in Erlanger and asked that there be some assurance that there will be policing of the area if it becomes necessary. Mr. Pope stated that this is a neighborhood location.

Chairman Holland asked if there was anyone else who wished to speak.

Mr. Dusing stated that when a 24-hour traffic count is taken, in order to determine how an increase affects the area, you have to consider how the increase is spread over the 24-hour period. He noted that the facility would impact the traffic 0% during the peak traffic hours of 4 P.M. to 6:30 P.M.. Mr. Dusing stated that they are asking whether they meet the criteria for a Conditional Use under C-2 and noted that a drive-thru window must be part of the motion. He stated that other concerns would have to be satisfied before they could proceed via Site Plan Review.

Mrs. Meihaus asked how different McDonald's locations could be considered in the traffic study.

Mr. Dusing stated that the study was done by McDonald's and added that a drive-thru window increases business 14% and increases traffic 0%.

Mayor Rolfes stated that McDonald's draws the cruising and congregating type of traffic and asked if McDonald's has come up with a way to control this traffic.

Mr. Dusing agreed that this type of traffic has a negative impact and stated that the solution is usually an outside security guard.

Mayor Rolfes added that McDonald's has done everything that they have been asked to do in an effort to control this traffic. He noted the problems which exist on Dream Street.

Mr. Ashcraft stated that he had never considered a McDonald's for this location. He stated that he is concerned about the traffic and the cruising. He noted that the large parking lot would draw teenagers. He stated that he would be more comfortable if McDonald's were at the other end of the lot.

Mrs. Ward stated that she drives home from work via Turfway Road at varying hours and that the intersection is always congested. She stated that she believed there would be an increase in traffic with McDonald's at this location.

Mr. White stated that his concerns are the same as Mr. Ashcraft's. He stated that the large parking lot will create a problem. He stated that a hired policeman would only be able to control the McDonald's lot, not the large parking lot.

Mr. White moved that the Conditional Use permit be denied. Mr. Ashcraft seconded the motion.

Chairman Holland asked for a roll call vote on the motion and it carried unanimously.

Mr. Dusing requested a copy of the tape of this hearing and was advised to make his request to Mr. Newton, Director.

4. A request of Lackner Sign Company, applicant for McDonald's Restaurant, for a Variance in the height of a free-standing sign. The site is approximately one-acre in size. An existing free-standing sign, 35 feet in height and 254 sq. ft. in size, is located adjacent to I-75 near the northwest corner of the site. The applicant is proposing to raise this sign to 65 feet in overall height.

Mr. Dusing stated that the applicant is requesting deferral of this request until the next meeting.

Mr. Holland stated that it is too late to put the request on the agenda for the Special Meeting on November 19, 1987 and suggested that the request be scheduled for the Regular Meeting on December 9, 1987.

Mrs. Meihaus moved that this request be deferred until the December 9, 1987 Meeting. Mr. Ashcraft seconded the motion and it carried unanimously.

5. A request of Lackner Sign Company, applicant for Kentucky National Bank, for a Variance in order to allow a total of three building-mounted signs. The 0.35-acre site, which is located near the intersection of Burlington Pike and Turfway Road next to the Famous Recipe Restaurant, is zoned Commercial Two (C-2) and is owned by Famous Recipe of Northern Kentucky.

Staff Member, Tom Breidenstein, presented the Staff Report which included a slide presentation (see Staff Report).

Mr. Willis Mathis, attorney for Kentucky National Bank, stated that when the architect for this project presented the Site Plan over a year ago, there was a problem with getting easements which delayed the project and in the meantime the regulations changed. The free-standing sign was allowed based on the regulations which were in effect when the Site Plan was reviewed. He stated that the back of the bank faces Thriftway and the free-standing sign cannot be seen. He stated that there are 26,000 cars per week which enter the Thriftway parking lot and many of them do not use the common entrance. He stated that the lack of signage hurts their business. They are requesting a 15" high sign that will not be lighted. He noted that Mr. Bill Shumer with Kentucky National Bank was also present.

Mr. Ashcraft asked if they would consider eliminating the free-standing sign. Mr. Mathis stated that they would not.

Mr. White asked if they would consider reducing the free-standing sign. Mr. Mathis stated that this would cost approximately \$15,000. He added that if they had not been permitted the free-standing sign, they would have redesigned the building and would have been allowed three building-mounted signs. Mr. Breidenstein corrected this figure to two.

Mayor Rolfes asked if there was a possibility of asking that they agree to a monument sign when the time comes that everyone in the area has monument signs. He noted that signs need to be replaced at times and that a monument sign might be desirable at that time.

Mr. Mathis stated that he did not believe the free-standing sign was an issue in this request.

Mrs. Meihaus stated that although she does not like the free-standing sign, it has been approved. She suggested that the logo be eliminated.

Mrs. Meihaus moved that the building-mounted sign for the back of the building be granted and that the logo be eliminated. Mr. Ashcraft seconded the request.


Chairman Holland asked for a roll call vote on the motion and it carried unanimously.

There being no further business to come before the Board, Chairman Holland moved, seconded by Mrs. Ward that the meeting be adjourned. The meeting was adjourned by unanimous consent at 9:45 P.M..

ATTEST:


Jan Hancock, Recording Secretary

APPROVED:


Charles Holland, Chairman