

**FLORENCE BOARD OF ADJUSTMENT
FLORENCE GOVERNMENT CENTER
COUNCIL CHAMBERS
BUSINESS MEETING
JULY 21, 2021
7:00 P.M.**

Chairwoman Begley called the meeting to order at 7:00 P.M.

BOARD MEMBERS PRESENT:

Mrs. Dee Begley
Ms. Lois Evans
Mrs. Linda Schaffer
Mr. Kenneth Vaught

BOARD MEMBERS NOT PRESENT:

Mr. Duane Froelicher

STAFF MEMBERS PRESENT:

Mr. Todd K. Morgan, AICP, Senior Planner

LEGAL COUNSEL PRESENT:

Mr. Dale T. Wilson

APPROVAL OF MINUTES

Mrs. Begley stated the Board received copies of the minutes of the Florence Board of Adjustment meeting of April 15, 2021. She asked if there were any other comments or corrections. Mrs. Schaffer moved to approve the minutes and Ms. Evans seconded the motion. Mrs. Begley called for the vote and it carried unanimously.

ACTION ON REVIEWS

- 1. Request of Silverman & Company, Inc. for a Variance. The Variance is to allow the width and number of plantings in a parking lot landscaping island to be reduced. The approximate 3.17 and 3.46 acre sites are located at 500 and 600 Meijer Drive, Florence, Kentucky and zoned Office Two/Commercial Two/Planned Development/Houston-Donaldson Study Overlay (O-2/C-2/PD/HDO).**

Mrs. Schaffer said she was going to recuse herself because she may have a conflict of interest with this application. She left the room at this time.

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

Mr. Hal Silverman said he was the President of Silverman and Company. The presentation was thorough and he doesn't have a lot to add. He would be willing to go with the trees or shrubs that they selected or the Director of the Arboretum selected. He offered to answer any questions.

Mrs. Begley asked if the trees shown on the Site Plan were ever planted. Mr. Silverman responded the trees were installed and died. It is a tough site because a lot of planes fly over and they are in close proximity to the Interstate.

Mrs. Begley asked if the Staff photos were taken in April. Mr. Morgan said the majority of photos were taken back in late April. The application was not heard the last two months because there was not enough Board members to have a meeting.

Ms. Evans asked if the rock that was in the island would have to be removed. Mr. Morgan said it wouldn't have to be removed. Mr. Silverman said they would like to leave the rock and install the trees. The rocks are easy to maintain. He added that the Skinny Genes Oaks would be fine if that's what everybody wants installed. Mr. Vaught asked if that tree was hardy. Mr. Morgan responded the Director of the Arboretum recommended it for a narrow landscaping island.

Mrs. Begley asked what would happen if he puts in the Skinny Genes and they die. Mr. Morgan said they would have to be replanted because they would be required per a Board of Adjustment condition.

Mrs. Begley said the request is for the larger island. She asked if the Board was also looking at the smaller island to the south. Mr. Morgan is recommending that Mr. Silverman add another Skinny Gene in the smaller landscaping island across the driveway aisle. The 1999 Site Plan showed a tree would be located in this island. Mr. Silverman said he was okay with that.

Ms. Evans made a motion to approve the application based on the Variance criteria and with the following condition:

1. The larger landscaping island will contain four trees and the smaller landscape island immediately across the driveway aisle will contain one tree. The selected trees can be any of those that were recommended by Boone County Arboretum.

Mr. Vaught seconded the motion. Mrs. Begley called for the vote and it passed unanimously.

- 2. Request of Patty Jump for a Variance. The Variance is to allow a sunroom addition to encroach into the 25' rear yard building setback. The approximate 0.27 acre site is located at 9112 Brantley Way, Florence, Kentucky and zoned Residential Planned Development (RPD).**

Mrs. Schaffer came back into the room at this time.

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

Ms. Patty Jump said she needs the Variance because a 2' landing is required where the sliding door comes out. The contractor told her it would cost \$4,500 dollars to add the 2' to the front of the deck. When she learned of the building setback issue, the contractor told her she would receive a credit of \$1,500. She will be losing a lot of money and a lot of space if the variance isn't approved. She likes natural light and painting. Her back yard is well landscaped but she has intentionally kept a few gaps so she isn't too isolated.

Mrs. Schaffer asked for the existing deck dimensions. Ms. Jump said it is 12' x 18.5'. The 12' dimension comes out from the house and into the rear yard. The proposal would make that dimension 14'. She will be utilizing the existing steps.

Mrs. Schaffer asked for the dimensions of the next smallest sunroom. Ms. Jump said the next smallest sunroom would cause her to lose a lot of money and space because of the required landing.

Mrs. Begley asked about the roof. Ms. Jump said it will be gabled and the shingles will match the house. The sunroom is mostly glass with vinyl trim. She referred to the PowerPoint slide.

Mrs. Schaffer asked if any neighbors had concerns. Mr. Morgan responded that he had a few calls but there were no concerns after he explained the proposal.

Mrs. Begley asked if anybody else would like to speak regarding the request.

Ms. Evans made a motion to approve the application as presented based on the fact that it complies with the variance criteria

Mr. Vaught seconded the motion. Mrs. Begley called for the vote and it passed unanimously.

3. Request of Quality Signs and Service for a Variance. The Variance is to increase the height of Honda's freestanding sign from 20' to 30'. The approximate 17 acre site is located at 949 Burlington Pike, Florence, Kentucky and zoned Commercial Services (C-3).

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

Mrs. Begley asked if any parking spaces were being eliminated. Mr. Morgan replied no spaces were being lost because the sign is going in a grass island. He added that the parking lot will remain as is with the exception of the new Duke Energy poles being added.

Mrs. Begley asked if they could keep the existing sign where it is. Mr. Morgan said his understanding is that the existing sign can remain but as soon as it is updated in any way it must be relocated outside the easement. Mr. Geoff Michael, with Quality Signs and Service, agreed.

Ms. Evans asked if the topography could be reviewed again. Mr. Morgan said Boone County G.I.S. shows that the centerline of KY 18 is 918' above sea level near the subject sign. The existing sign is 916' to 914' above sea level, and the proposed sign location is about 912' above sea level. There is an approximate 4' elevation change between the existing and proposed sign location and the sign is located about 33' further back in the parking lot.

Ms. Evans asked if the sign will be obstructed by any trees since it being moved further back into the site. Mr. Morgan said some trees could impact the sign. That is one of the reasons they are asking for the increased sign height. He added that Honda will also need to replant their KY 18 street frontage buffer. The trees in that buffer will need to be small trees because of the proximity to the utility poles. Duke Energy will allow certain small tree species in their easement.

Mrs. Schaffer asked if the sign will look the same. Mr. Morgan said the sign will still have a white bottom and blue top and look very similar to the existing sign. He doesn't know the exact differences with the new prototype. The sign will definitely be taller if the application is approved.

Mr. Michael said he was representing Honda. Honda America is requesting the new sign be installed and not Jeff Wyler Honda. The existing sign is a generation 2 sign and Honda America is making them upgrade to a generation 3 sign. The sign is only made in 20' and 30' heights so there is no option to purchase a 25' tall sign. The sign appearance will be very similar to the existing sign. There are a few minor differences in shape.

The proposed sign location is about 4' lower in elevation than the existing location. There are trees on the Speedway site that will obstruct the sign site line as you are driving east on KY 18. He believes the top of the sign will barely be visible at 30'. The trees are not as tall when you are driving west on KY 18 so the top of the sign should be visible.

He agrees that most Boone County residents are familiar with Jeff Wyler Honda. However, this is the only Honda dealership in Northern Kentucky and they get customers from all over the region. The other point he would like to discuss that was raised in the Staff Report is that Toyota has three nonconforming freestanding signs. They are a direct competitor to Honda. Honda would like to have sign exposure on KY 18 just like Toyota.

Mrs. Schaffer asked if Quality Sign manufactured the sign or just installed it. Mr. Michaels responded they just installed it. Mrs. Schaffer said the sign has support columns and braces and they look like they are in 4' sections. She asked why a section couldn't be taken off. She believes the blue sign at the top would still be visible if they removed a 4' section. The Toyota signs are only 24' tall.

Mrs. Schaffer asked if the easement was new and recently granted to Duke Energy. Mr. Michaels responded the easement was recently granted for the purpose of installing the new poles. Mr. Paul Rini, with Jeff Wyler, said the easement was granted last year and the sign never came into play. After the easement was granted, American Honda said they wanted to replace the subject sign with a generation 3 sign. They applied for Permits and were told they first needed Duke Energy's approval. Duke Energy informed them they couldn't touch the sign and if they did the new sign height would be limited 12' because of the easement. Mr. Rini said that language was in the easement agreement but they didn't think about the sign being upgraded. They typically update their signs once every 20 years. American Honda wants them to use the newest brand sign because it is nationally recognized. It is made in Tennessee and is made in 20' and 30' heights. They are hoping to move the sign back and go up to 30' in height because Duke Energy will not allow a new 20' tall sign in the easement.

Mrs. Begley asked for the difference in the ground elevation again. Mr. Rini said there is about a 4 to 5' elevation change. Mrs. Begley said in some ways the new sign will only be 5' taller because of the elevation change. Mr. Rini agreed. Mrs. Schaffer said she believes customers will still be able to see the blue portion of the sign if it's 20' tall. Mrs. Begley said Honda wants the sign to be prominent. Mr. Rini said they are dealing with a 5' elevation drop, moving the sign back 33', and new Duke Energy poles. The Speedway and Toyota signs are in prominent locations. Mr. Morgan clarified that Speedway has submitted a Sign Permit to move their freestanding sign back into their lot. Toyota's signs do not have to be moved because they are not located in the easement.

Mrs. Begley asked if Honda was the hardest dealership to see on KY 18. Mr. Rini said he believes they are because the topography dips down and you don't see the building. Mrs. Schaffer said the current sign meets the regulations.

Mrs. Begley asked for a motion. Ms. Evans made a motion to approve the application based on the Variance criteria. Mr. Vaught seconded the motion. Mrs. Begley called for a roll call vote. Mrs. Begley – "yes", Ms. Evans – "yes", Mrs. Schaffer – "no", and Mr. Vaught – "yes". The motion carried by a vote of 3-1.

- 4. Request of Amanda Ward, CTBW, LLC for a Variance. The Variance is to reduce the perimeter landscape buffer yard requirements for a Biggby Coffee outlot. The future 0.375 acre lot fronts on the southwest side of Turfway Road and is located immediately to the southeast of 6805 Burlington Pike (Lee's Famous Recipe Chicken) Florence, Kentucky. The property is zoned Commercial Two (C-2).**

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

Mrs. Begley asked if the loss of the 53 parking stalls would impact the shopping center. Mr. Morgan replied the center has a lot of empty parking stalls. He had them run parking calculations based on the 53 stalls being eliminated and they meet code.

Mr. Brock MacKay, with Viox & Viox, said he was the site designer and was representing the applicant. He introduced Amanda Ward. She stated she is the owner and operator of Biggby Coffee and currently has a store in Hebron, KY. She reviewed a slide of the proposed building (see Exhibit 1). It's a modular unit that comes in three pieces and is ready to be plugged into utilities. It's a drive through concept with a walkup window. The building will have the same color concept as shown in the photo but will be upgraded to brick. This is a new concept and has been constructed in Independence, KY. She believes the building will be a great addition to the intersection. Biggby Coffee operates \$5 at a time. The property owner/landlord is refusing all the required landscaping and the project will die if it's all required.

Mrs. Schaffer asked for clarification that she would be leasing the property. Mrs. Ward responded that was correct. She added that she will only own the building and will invest in the landscaping and parking improvements. She would take the building if the lease is ever terminated. Mr. Vaught asked if the property owner would be okay with curbing the subject area so traffic can be directed. Mrs. Ward said additional curbing wasn't discussed with the owner. The owner's concerns were the amount of landscaping and making sure traffic from the Fifth Third ATM wasn't impeded.

Mrs. Ward said they prepared a landscaping plan that complied with code and the quotes were \$80,000. The large landscaping island that has been cut by approximately 50% was quoted as being \$59,000 because of the landscaping, curbing, and demolition of asphalt.

Mrs. Schaffer asked if the lot was being created. Mr. Morgan said the lot is proposed and would need to be recorded. Mrs. Schaffer said the buffer yard requirements from code are coming into play because the lot would be created. Mr. Morgan replied that was correct and added that is why they are seeking a variance. Mrs. Schaffer said she agrees that the lack of curbing creates a safety issue.

Mr. Josh Hunt, Director of Development for the City of Florence, said he is speaking in favor of the request because this is a recruitment project. They have worked for over 12 months to bring this Biggby Coffee to this location because of the economic impact it will have. Biggby has been an excellent community partner as they donate coffee to all their events. The Zoning Regulations are being applied correctly but they are very restrictive. They do not take into account the subject building is only 350 square feet. He will be asking City Council to look at this issue and amend the zoning regulations when they are updated. If the owner of the strip center were building the coffee shop the lease parcel and the landscaping would not be required. The City of Florence is 100% supportive of the plan as submitted. There are a lot of drive throughs in the City to do not have curbing that wraps around them and he does not agree that there is a safety concern. He would be in agreement that curbing and landscaping was required if this was a full service Biggby. This is a small pop use. The project will die if the variance application is not approved.

Mrs. Schaffer said she appreciates that but has concerns about the site access by Lee's Chicken. Mr. Erik Ball said he was a Professional Engineer with Viox & Viox. The striping will not project out into any of the driveway aisles. He reviewed the plans on screen. Mrs. Schaffer asked about the proposed traffic flow. Mr. Ball referred to the plan on screen which showed pavement markings. Mrs. Begley asked if there would be signs installed to stop people from traveling the wrong way. Mr. Ball showed the proposed location of two "do not enter signs". Mrs. Schaffer asked if some big landscaping planters could be installed in the striped island. Mrs. Begley said she can probably get passed the landscaping but some type of barrier needs to be put in for traffic safety. She does not want to kill the project because she thinks the use will be a good addition to Florence. They have to consider safety. There are a lot of people that walk in this area with the bus stop being located near Office Depot. The use contains both a drive through and a walk up window. Mr. Vaught said he agrees. There needs to be some form of barrier for safety.

Mr. MacKay said there are challenges with guiding traffic on site. There are storm water and snow plowing issues that need to be considered. The property owner also does not want too many permanent improvements being installed. The parking lot is pre-existing nonconforming and he does not believe it could accommodate a bigger outlot, like a Chick-Fil-A. He believes the proposed striping plan will be a safe and effective way to guide traffic. It's possible that people could cut through the striping from time to time.

Mrs. Begley said there are two other projects that are comparable. Jet Coffee on US 42 has minimal traffic. She believes Biggby's will have way more traffic and could wrap around the building at times. The former Krispy Kreme was also comparable because it was a tiny business that had its own access point and landscaping around it. Krispy Kreme was in front of Remke and they had a buffer between them and Frisch's. The Board does not want to kill the project but wants to make sure there is a proper buffer between Biggby and Lee's Chicken.

Mr. Morgan said he had a new thought. What does the applicant and Board think about flipping the trees and shrubs in the rear buffer from one side of the site to the other? Mrs. Schaffer said the landscaped area to the rear of the site appears to have a lot of trees and shrubs in it. She asked if all of it was needed. Mr. Morgan responded the buffer meets code. The Board could impose a condition that only the trees or shrubs are required in this buffer if that is what they want to do. Mrs. Schaffer said she still likes the thought of doing planter boxes.

Mr. Vaught said the landscaped area that is being shown to the rear of the site is curbed. Mr. MacKay said the curbing is a big part of the site design cost because they will need to saw cut out and demo the parking lot anywhere curbing it is shown. They will then need to haul in soil and add the landscaping. Mrs. Begley asked if they consider flipping the rear buffer from one side to the other and eliminating the shrubs. Mrs. Ward said one concern to her is that landscaping was being put in to soften and protect customers on the walk up side of the building. Mrs. Begley said cars are exiting there so there isn't that much protection.

Ms. Evans asked if an above ground planter box could be considered. Mr. Morgan said

the Planning Commission doesn't normally allow planter boxes on a year round basis in a perimeter landscaping buffer. Mr. Hunt said he believes that planters would be an accident waiting to happen and would be demolished. He doesn't believe the landscaping that is being required today will be required in a year.

Mr. Morgan and Mr. Vaught asked if the applicant would like to study flipping the landscaping in the rear of the site from one side to the other. Mr. Hunt said he does not want to require the landscaping on the other side. He wants to make sure that cars turn the right way when they leave the drive through window. He spent a lot of time looking at the plan. Mrs. Schaffer asked if they could also look at the option at just landscaping the end cap areas. Mrs. Ward said she would like to look at all the options but is in a time crunch. She needs to get the store up and running before the end of 2022. November and December are the best months and she has been heavily funding the project. She would really like to find a solution today if possible.

Mrs. Schaffer asked if the width of the landscaping buffer could be reduced. The whole 10' does not need to be landscaped. The Board is just looking for some sort vertical barrier that will keep drivers from crossing over.

Mr. MacKay said the applicant's team has discussed things and some vertical bollards or traffic guards could be installed in the striped island to create a vertical preference. The bollards would not cause the parking lot to be torn up and would not create storm water issues. Mr. Mackay said he believes they would be rubber or plastic to stop anyone from being hurt if they run into them. Mrs. Begley said they are also reflective. Mr. MacKay said the reflective bollards would be added in the northwestern portion of the striped island and the other side would remain with landscaping. Mrs. Begley said the landscaping will protect the walkup customers.

Mrs. Schaffer asked how far apart the bollards will be spaced. Mr. Morgan responded they should be spaced every 4-5'. Mrs. Begley said the bollards probably would not stay forever. Mr. Morgan replied the bollards will have to stay as long as the Variance is being utilized.

Mrs. Schaffer asked for Staff's thought. Mr. Morgan said the landscaping would certainly be a better aesthetic than the bollards. However, the bollards will solve the safety concern because they will create a barrier near the shared access point.

Mrs. Begley asked if anybody else would like to speak regarding the request. There was no response. She asked for a motion.

Ms. Evans asked for a summary of what would be constructed. Mr. Morgan said the plan would be constructed as submitted except that bollards would be added in the northwestern portion of the striped island. Mr. MacKay agreed. Mr. Hunt said he thinks the bollard solution falls in line with what they see at other restaurants.

Mrs. Schafer made a motion to approve the application with the condition that bollards or traffic guards shall be added in the northwestern portion of the striped island (approximate 64' area). The bollards or traffic guards shall be located in the center of the island, spaced 4' on

center, and be maintained.

Mr. Vaught seconded the motion. Mrs. Begley called for a roll call vote. Mrs. Begley – “yes”, Mrs. Schaffer – “yes”, Ms. Evans – “no”, and Mr. Vaught – “yes”. The motion passed by a vote of 3-1.

OTHER

Mrs. Begley asked if there was anything other to discuss. There was no response.

ADJOURNMENT

Ms. Evans made a motion to adjourn the meeting and Mr. Vaught seconded the motion. Mrs. Begley called for the vote and the meeting was adjourned by unanimous consent at 9:02 P.M.

APPROVED

Mrs. Dee Begley

ATTEST:

Todd K. Morgan, AICP
Senior Planner

Exhibit 1 – Photo of Similar Biggby Coffee Building