

**FLORENCE BOARD OF ADJUSTMENT  
FLORENCE CITY BUILDING  
BUSINESS MEETING  
August 13, 2008  
7:00 P.M.**

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Mr. Pieper, Chairman, called the meeting to order at 7:01 PM.

**BOARD MEMBERS PRESENT:**

Mr. Pieper – Chairman  
Ms. Evans – Vice Chair  
Mrs. Schaffer

**BOARD MEMBERS NOT PRESENT:**

Mr. Schneider  
Mr. Sparks - Secretary/Treasurer

**LEGAL COUNSEL PRESENT:**

Mr. Dale Wilson

Mr. Pieper stated that the Board members received copies of the Minutes of the Florence Board of Adjustment Meeting of July 9, 2008. He asked if there were any comments or corrections. There being no changes to the minutes, Ms. Evans moved that they be approved as mailed. Mrs. Schaffer seconded the motion and it carried unanimously.

**Agenda Items:**

- 1. The request of Quality Signs for a Conditional Use Permit to allow electronic gasoline price panels on an existing free-standing sign. The site is located at 985 Burlington Pike, Florence, Kentucky and is currently zoned Commercial Two (C-2).**

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

The Chairman asked for the applicant's presentation.

Mr. Mark Stottman with Quality Signs stated that gasoline prices will be displayed in red and diesel prices will be displayed in green. He stated that the five-second intervals required between changes are not applicable as this sign is not a message center sign. This sign can only be programmed to post gasoline prices and no other messages. He stated that more stations are going to this type of sign because they are so much easier to change and employees do not have to go out in bad weather to change them.

Chairman Pieper stated that he saw a sign like this with a perimeter border that flashed. He asked if there would be a flashing border around this sign. Mr. Stottman responded "no" and stated that there are no accent lines or flashing – the sign will just post the fuel prices. He stated that the sign Chairman Pieper saw was probably a message center sign with a price on it. The proposed sign is not a message center sign and it will not have a flashing border.

Ms. Evans stated that she is concerned about there being two different colors – one for gasoline and one for diesel. Mr. Stottman responded that diesel prices are often shown in green on the old mechanically changeable signs. Ms. Evans asked if they would be opposed to using one color for all the prices. Mr. Stottman responded that the signs are manufactured for Shell and they order one hundred signs at a time -- the standard sign has red gas prices and green diesel prices. He does not know if they could change the color to only red. Ms. Evans stated that all of the other gasoline signs that the Board has approved have had only one color. Mr. Morgan stated that to date, the signs have only been for regular fuel prices -- the Board has not approved a sign with regular and diesel prices. He stated that the sign at the BP Station was just for regular gas. Mr. Stottman stated that a lot of BP stations do not sell diesel fuel. Mrs. Schaffer stated that the Speedway on U.S. 42 (near Ockerman) only has one color. Mr. Morgan stated that the Hebron Corner Mart at KY 237/KY 20 has multiple gas prices, but they are all red.

In response to a question from Mrs. Schaffer, Mr. Stottman reviewed a slide of the existing sign versus the proposed sign and stated that they are removing several of the panels. They are keeping the original structure and realigning the panels. Mrs. Schaffer noted the blank spaces between the panels and asked if the sign could be made smaller by removing the blank spaces. She questioned the size of the numbers. Mr. Stottman responded that the new numbers are 27.5" tall and the old numbers are 25" tall. The new diesel numbers will be smaller than the existing diesel numbers. He stated that they do not have any intention of putting copy on the blank panels. He stated that Shell Corporate dictates how the signs are laid out and where the blank panels are located on the sign structure. He stated that the overall square footage of the new sign is less than the existing sign. Mrs. Schaffer responded that the overall signage is only being reduced by six square feet, which is not a lot.

Chairman Pieper stated that the Board may be seeing a lot of these requests and asked if there is a reason to limit the size of the numbers. Mr. Morgan responded that it is subjective but, if the Board views a sign or component of a sign as being excessive, the Board can make a counter proposal to the applicant or deny the request.

Mrs. Schaffer questioned how they determined that the overall signage is being reduced. Mr. Stottman responded that they drew a rectangle around the entire sign. Mrs. Schaffer stated that the readerboard is reduced. Mr. Morgan agreed that the reader board is reduced, but stated that the other panels are larger. Mr. Stottman reviewed the size of each panel on the sign. He stated that the sign in question is the electronic panel price sign. He stated that they are decreasing the total square footage.

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

Mr. Steve Lewis, Construction Project Manager for Road Ranger Shell, stated that the American Petroleum Institute (API) has not identified price sign colors – but they have identified colors for underground storage tanks. He stated that most of their competitors are using green for diesel fuel as a way to keep people from putting the wrong type of gas in their vehicle. He stated that Shell is going from three pricing units (regular/plus/diesel) down to two (regular/diesel). He stated that the Road Ranger sign is designed at a 2:1 ratio – it is 8 feet wide and four feet high – which is what Shell Corporate approved for their image. They added the second blank to the structure because it was dictated by Shell Corporate. He stated that they want to get their message across as simply and clearly as possible.

Mrs. Schaffer stated that the Board has been consistent in allowing one color. She stated that they could paint the word “diesel” green and have the prices in one color.

Mr. Lewis stated that the Speedway at U.S.42/I-75 has a sign and they have identified diesel using yellow, but car companies use yellow for ethanol. He stated that colors are a way to help the consumer identify what is available quickly. Diesel customers will go right to the green and regular gas customers will go right to the red.

Ms. Evans agreed with Mrs. Schaffer that the prices could be one color and they could show the word “diesel” in green. Mr. Stottman stated that Shell will not let them alter the lettering on the sign. He stated that they may be able to make all of the LED’s red. If that is the only way the Board will approve the request, they will take that and if Shell Corporate does not agree, they will have to come back. Mr. Morgan questioned tabling the request. Mr. Stottman responded that they do not want the request tabled.

There being no further discussion, Ms. Evans moved to approve the request based on the Staff Report and applicable regulations with the following conditions: (1) the electronic copy can only advertise fuel prices, (2) the electronic copy color for both regular fuel and diesel fuel is limited to one color and that color is red, (3) the overall square footage of the sign shall not exceed 204.63 square feet in area, (4) the sign shall not contain any manually changeable message boards, (5) the sign is to be as presented (the blank panels cannot contain any signage), and (6) the sign is not to flash, scroll or run. Chairman Pieper seconded the motion and it carried unanimously.

2. **The request of Quality Signs for a Conditional Use Permit and Variance. The Conditional Use Permit is to allow electronic gasoline price panels on an existing free-standing sign. The Variance is to allow the electronic price panels within 660 feet of another electronic sign. The site is located at 411 Mt. Zion Road, Florence, Kentucky and is currently zoned Commercial Services (C-3).**

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

Mr. Mark Stottman with Quality Signs stated that this request is the same as the last request except that this sign is closer than 660 feet to the neighboring message center sign. The proposed sign is not a message center sign and it will only display gas prices. They have no intention of displaying any other information.

Mrs. Schaffer stated that this is basically a mirror of the previous request except that they are also requesting a Variance. Mr. Stottman agreed.

There being no one else present who wished to speak in regard to this request and there being no further comments from the Board, Mrs. Schaffer moved to approve the request based on the Staff Report and applicable regulations with the following conditions: (1) the electronic copy can only advertise fuel prices, (2) the electronic copy color for both regular fuel and diesel fuel is limited to one color and that color is red, (3) the overall square footage of the sign shall not exceed 204.63 square feet in area, (4) the sign shall not contain any manually changeable message boards, (5) the sign is to be as presented (the blank panels cannot contain any signage), and (6) the sign is not to flash, scroll or run. Chairman Pieper seconded the motion and it carried unanimously.

3. **The request of Sign A Rama for a Conditional Use Permit and Variance. The Conditional Use Permit is to allow a monument sign to have an electronically changeable message board. The Variance is to allow the electronic message board to be within 660 feet of another electronic message**

**board. The site is located at 7033 Burlington Pike Road, Florence, Kentucky and is currently zoned Commercial Two (C-2).**

Staff Member Todd Morgan, AICP, presented the Staff Report which included a Power Point presentation (see Staff Report). He submitted an email which Staff received today from Elizabeth and Robert Bien, property owners at 18 Sweetbriar Avenue in Florence (see Exhibit 1). In response to a question from Counselor Wilson, Mr. Morgan stated that the applicant has seen the email.

The Chairman asked for the applicant's presentation.

Mr. Tim Story, owner of Sign A Rama, stated that he has been working exclusively in the electronic message area for the last five years and has done more than 250 of these signs. He stated that Mortenson Family Dental has about twenty locations in the Louisville market and all of them have electronic message centers. They average 100 new patients monthly at each location and 20 – 30 of them come directly from the sign. Each patient results in approximately \$2,000 in annual sales. They expect the proposed message center to generate \$600,000 in annual sales. This office has been in existence since 1985 and they hope to add six dentists at this location if justified by the revenues. An electronic message center also contributes to a branding of the name. He stated that he has been active in the International Sign Association and the United States Sign Council. He stated that LED has become the most popular replacement for neon. He stated that white is the least favorable color and the brightest light available. An electronic message center comes in red, amber and full color – to get white you have to have a full color message center because white is a blend of all colors. His recommendation would be red with an automatic dimmer. He stated that they will move the address line down to the bottom of the sign but questioned if that is the right place for it since cars could be parked on the side of the sign and an emergency vehicle would better be able to see the address if it were at the top of the sign. He stated that they will tear down a 25-year old sign and replace it with a new sign that will look much better. He stated that there will never be another banner at this location. He stated that Dixie Highway is notorious for signage and he has worked with City Council to implement more message centers in the area because the road is polluted with banners and signs. He stated that in Louisville they are asking everyone with an electronic message center to be part of the Amber Alert program.

Chairman Pieper questioned the message that would be displayed on the proposed sign. Mr. Story responded that an example would be "Free Initial Exam". He stated that they use the least words possible to get the point across. He stated that there will be no flashing -- flashing and scrolling are the least effective forms of advertising on a message center. They will use an 8 – 10 second hold time so that people can drive by and read the message. The message would hold for 8 – 10 seconds and then change to a new message.

Ms. Evans questioned how many of the dental offices in Louisville that have this sign are located across from a school. Mr. Story responded that he did not have that information.

Mrs. Schaffer stated that the Board usually likes to see the message board on the bottom of the sign to be consistent. Mr. Morgan responded that he did not recommend that because of the landscaping there. Mr. Story stated that there are also cars parked there. He stated that they put the message center on top for visibility which improves safety since drivers will be able to see it more quickly.

Mrs. Schaffer stated that she is concerned about the closeness of the proposed sign to the school. She stated that the Board has no control over the sign at the school. She is very concerned that there will be a safety hazard with the two signs so close together and she is not sure that the sign would be harmonious with the neighborhood, which is mostly residential.

Mr. Morgan asked if there would be only one line of text on the message board. Mr. Story responded that they recommend one line of text because it is cleaner. They could have two lines of text, but the text would be smaller. He stated that a rule of thumb is 50 feet of readership for every line of character height.

Chairman Pieper questioned why Staff recommended that the address numbers be moved to the bottom of the sign. Mr. Morgan responded that he was trying to increase the amount of brick and reduce the amount of sheet metal. He stated that the current sign is all brick and attractive. Mr. Story stated that they considered aesthetics. He stated that the sign is aluminum, but it is very attractive – it is much more attractive than what is there now. He stated that the sign will be externally illuminated and there will be a dimmer at night. The sign will not illuminate the area. He stated that he can speak to the school about dimming their sign. Chairman Pieper questioned the depth of the sign. Mr. Story responded that it is about 18” – it is the same depth as the brick.

In response to a question from Mrs. Schaffer regarding the size of the letters, Mr. Story stated that they will use a sign they took down from Louisville and the characters are about 1 1/2 inches tall. Mrs. Schaffer stated that she is concerned that there will be distractions on both sides of the road with the two signs being so close. Mr. Story stated that they will increase the hold time if necessary. They would like to have the hold time at 10 seconds, but they would agree to 20 seconds.

Chairman Pieper questioned the percentage that the sign would dim. Mr. Story responded “about 90%”. He stated that the sign is at about 7% in pitch darkness. If there are lights in the area (such as security lights), the sign may dim to about 15%.

Chairman Pieper asked if there was anyone else present who wished to speak in regard to this request. There was no response.

Chairman Pieper stated that the email from Elizabeth and Robert Bien (see Exhibit 1) mentions a barrier of bushes or shrubbery. Mr. Morgan reviewed a Power Point slide of the aerial photograph. He indicated the residential area and a swimming pool on the closest residential property. He stated that there is not a lot of tree cover in that area. Mr. Story stated that message centers are designed to face the light forward and when you go off center, you lose 5% of brightness for every five feet. He stated that by the time the light gets to the residential parcel, there will not be much light. He stated that LED light is channelized forward.

Mrs. Schaffer stated that she appreciates all of the information Mr. Story has given to the Board. She stated that this is a nice sign, but this is the wrong location. The sign would be too close to the school and there will be a negative visual impact. She stated that the sign is not harmonious with the residential area along Old KY 18. Mr. Story responded that this is a Commercial zone and the sign offers a dramatic improvement to the dental office. He stated that that they offer a 100% money back guarantee and they have never had a sign returned. He stated that the sign will dramatically change this business.

Ms. Evans stated that if the school did not have their sign, she would not be as opposed. She noted that the homeowners have some concern about the lighting. She stated that she is concerned about the sign being in a school area where it would distract young, inexperienced drivers and that is why she asked if the applicant had statistics on similar signs in Louisville across from schools where there would be another sign. She stated that there is traffic congestion in this area and young drivers who have enough distractions. Mr. Story responded that it is predicted that in five years, 50% of all schools will have electronic message centers. He stated that people are able to make the choice of what distracts them. He stated that cell phones and text messaging are more dangerous than these signs. He stated that these signs are the simplest of text messaging. He stated that they could have a manually changeable message board that they could change three or four times an hour and this sign is not much different than that.

Ms. Evans noted that Mr. Story said that the sign could have two lines of text. Mr. Story responded that it could, but he does not see them doing that because it would make the text smaller. Ms. Evans asked if they would be agreeable to limiting the text to one line. Mr. Story responded that if the Board approves the sign, they will do whatever the Board asks.

In response to a question from Mr. Morgan, Mr. Story stated that there is a photocell built into electronic message boards and, over the next couple of years, the federal government will mandate the brightness rating of the electronic message signs. There is currently no limitation. He stated that this sign has about 5,000 NITS (he was not able to define NITS) and their other signs have upwards

of 15,000 NITS. He stated that as it gets darker, the photo eye (cell) senses the darkness and reduces the power to the LED bulbs. He stated that the brightest color is white and the second brightest is green, then amber, and then red. He stated that amber is more of a safety color and red is more of a marketing color. He stated that amber will cut through fog better than red.

Mrs. Schaffer stated that before a Variance can be granted, the Board has to find that it will not adversely affect the public health, safety or welfare or alter the essential character of the general vicinity or cause a hazard or nuisance to the public. She stated that the sign is too close to the school and it will adversely affect the public health and safety and cause a hazard.

Mr. Story offered to install the sign and, if it becomes a safety issue, they will slow it down or turn it off. He stated that the federal government just issued a study that said that electronic message centers promote safety. He stated that he will go to the school and talk to the people operating the school sign, which is very ineffective, and help them cut the distractions in the area. He stated that they can work together for a safe environment.

Mrs. Schaffer stated that she believes there have been accidents because of the school sign. She stated that this Board has no control over that sign.

Mr. Story stated that they contacted fourteen of the largest insurance agencies and in the last seven years there has never been an accident reported due to an electronic message center. He stated that if there was an issue, the federal government would prevent schools from having the signs. He suggested a 12-month conditional permit for the proposed sign and in 12 months it could be reviewed for accidents and residential complaints. He stated that the residents will appreciate them being involved in the Amber Alert program and the school will appreciate that they have assisted them in developing a safer environment. He stated that at the end of twelve months, the Board will find that everything is better than it was before and there will be a very successful dental office. Mrs. Schaffer thanked Mr. Story for his offer, but stated that the Board would not know about any complaints.

**There being no further discussion, Mrs. Schaffer moved to deny the request for a Conditional Use Permit and a Variance based on the Staff Report and the applicable regulations. She stated that she finds no basis on which to grant a Variance. She stated that she believes the sign will negatively affect safety and the neighborhood. Chairman Pieper seconded the motion and it carried unanimously.**

Mr. Story questioned how they could appeal the Board's decision. Counselor Wilson advised that decisions of this Board are appealable to Circuit Court.

There being no further business to come before the Board, Mrs. Schaffer moved to adjourn. Ms. Evans seconded the motion. The meeting was adjourned by unanimous consent at 8:35 PM.

**APPROVED:**

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**Timothy Pieper, Chairman**

**Attest:**

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**Jan Hancock, Recording Secretary**

**Exhibit –**

- 1. Agenda Item #3 – email from Elizabeth and Robert Bien submitted by Staff**