

**CITY OF TALLMADGE
BOARD OF ZONING APPEALS**

Minutes of Meeting Held April 12, 2011 7:00 p.m. Council Chambers
Date Time Place

Members Present: Richean Kuzior, Melanie Bushey, Richard Schunk, David Cooper and Kevin Heilmeier

Members Absent:

Chaired by: Megan Raber

Secretary: Velma Williams

Regular meeting

Special Meeting

PRESENT: Megan Raber, Assistant Law Director
Roger Lyons, City Engineer

Item #1 Case No. 896
Mark Samblenet (Speedway Representative) – Applicant
Speedway LLC – Property Owner
103 East Avenue
Variance requested from Subsection 1175.13 (d); Maximum wall sign
Area allowed of 18 square feet;
Request variance to 64 square feet.
For review and approval

The April 12, 2011 meeting of the Board of Zoning Appeals was called to order at 7:00 p.m. by Chairman, Kevin Heilmeier.

The meeting was opened with the Pledge of Allegiance.

Roll called. All members present.

Mr. Heilmeier: Next is the approval of the minutes for the November 9, 2010 meeting.

Mr. Schunk: So moved.

Mrs. Bushey: seconded the motion.

Roll called. All members voted in favor (5-0).

Mr. Heilmeier: I need a motion for the approval of the February 8 minutes.

Mr. Schunk: So moved.

Mr. Cooper: seconded the motion.

Roll called. All members voted in favor (5-0).

Mr. Heilmeier: Are there any additional items for the agenda tonight? Any correspondence? Okay, it is now 7:02 and I'll call Case No. 896.

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Mr. Rick Turner was sworn in.

Mr. Heilmeier: I need to have you state your name and address please:

Hello. My name is Rick Turner. I'm with Diamond Z Engineering. My address is 5670 State Road, Cleveland, Ohio, 44134.

Mr. Heilmeier: At this time I'll declare the Public Hearing open (7:03 p.m.). Why don't you state why you're asking for the variance.

Mr. Turner: I'm here representing Speedway and we're asking for the variance for a couple of reasons. The issue at hand is canopy signage. As you may recall, we had a canopy there that was replaced just recently. The canopy that we had had the same size signage on it. Now as a part of redoing the facility and putting in a new canopy, all that Speedway is asking for is to be able to put that same size signage up. We were going to put new boxes up but they'll be the same square footage. There's some concern because with meeting the new setbacks, we're about 20' further off the road than we were before. We want to make sure that our customers can see the facility and know that we're there. I guess one other item is when you think of highway oriented businesses like gas stations, it tends to be an impulse purchase so that makes it even more important that you've got signage that's visible to people who are traveling down the road.

Mr. Heilmeier: So basically you're just asking to replace what you had before.

Mr. Turner: Right.

Mr. Heilmeier: If you can get \$2.39 a gallon back,

Mr. Turner: I often times have pictures that show things like \$.98, \$1.99

Mrs. Kuzior: That's good too.

Mr. Heilmeier: Are there any questions for Mr. Turner?

Mr. Schunk: I drove by your station tonight and thought it looked pretty bland without some color up there. I don't see anything wrong with going to the same signage you had before. I also would commend Speedway for not having a big stack of mulch in the driveway.

Mr. Turner: Is the mulch coming any time soon?

Mr. Schunk: But my vote would be contingent on no mulch.

Mr. Turner: I will say the site was very clean today. They had cleaned it up nice and they didn't know we were coming here. I was impressed with that.

Mrs. Bushey: I commend you for working with the Heritage Commission. When you were working with them on this canopy, did you address the sign, the lettering with them because I don't remember reading it.

Mr. Turner: I don't recall reading it in any of the verbiage. Another gentleman from our firm presented that case so I went back and read the whole proceedings and I didn't see that in there. However, the idea of replacing like for like, did come up at some point.

Mrs. Raber: Mr. Chair, if I can just address that question?

Mr. Heilmeier: Yes.

Mrs. Raber: The Heritage Commission does not have any jurisdiction over a variance which would be the size of the signage. They only have the jurisdiction over the color and design and the look of it. This would be something that would be something that's strictly under your jurisdiction to do a variance. If I can just also ask, I know you're making some statements on the record but if you could also just kind of look through what the Code requires with regard to a variance and make sure that we're addressing on the record any unnecessary hardships, that are inconsistent with the purpose of the Zoning Code or whether there are exceptional or extraordinary conditions that apply to this property. Thank you.

Mr. Turner: May I add something to that? To that end, in looking around I do see, there's a couple service stations that are right in town that don't have signage on their canopies however they are Mike's and I think the other one was Circle K, both on the circle. Both of those work on cars, they're not in the gasoline business as their primary focus. I think people see that as a destination more than an impulse purchase. Secondly, in looking at a couple of other buildings around that part of town, I saw Rite Aid has got signs on the side of its building. BP has signage on its canopy. I don't know if that's in your jurisdiction as you head out Southeast.

Mr. Schunk: Yes.

Mr. Turner: There's a couple of other buildings that are around that have an MID out at the street and also have signage on their buildings.

Mr. Lyons: Mr. Heilmeier?

Mr. Heilmeier: Yes, Mr. Lyons?

Mr. Lyons: Just a couple points of clarification. The two Speedway signs on the canopy which are 24 square feet; is that correct?

Mr. Turner: Yes, sir.

Mr. Lyons: Those would be new. There is an existing menu board on the main building that's 5 x 8 which is 40 square feet.

Mr. Turner: Maybe.

Mr. Lyons: Yes, 5 x 8; 40 square feet. That's what's shown on the drawing which would really not be very visible from the street but that did have to count on to the amount of wall signage on the east wall of the building canopy. That's why the 40 plus the 24 made it 64 square feet for the east wall of the building/canopy. The west wall of the canopy would be just the 24 square feet. So in your motion if you can clarify that I would appreciate that. The only other thing is that this being in the Design Control District is why the wall signage is limited to 18 square feet versus if it was outside of the Design Control District it would be 36 square feet. I can say that the city is considering shrinking the Design Control District in size. If they do that, this property may very well not be in the Design Control District any more.

Mr. Heilmeier: Did we give them a variance for the reader board since that was 40" before?

Mr. Lyons: That reader board and what they also said before about the signage on the canopy that was all before the Design Control District regulations went into effect.

Mr. Heilmeier: Okay, but with that being 40' because its 36' outside the Design Control District, right?

MR. Lyons: It is. I don't know if they got a variance for that. I don't know. It was before me. It's been there a long time.

Mrs. Kuzior: Can you clarify for me then, they're allowed to have the 24' on each side? Isn't it a total?

Mr. Lyons: The regulations or the code says 18 square feet of wall signage on any two walls. In this case, this is kind of an unusual case because there's a building and their

canopy but to be consistent with the way we've interpreted before, we're using the east wall of the building and the east wall of the canopy as one wall.

Mrs. Kuzior: Okay.

Mr. Lyons: The west wall of the canopy would be the second wall.

Mrs. Kuzior: I knew it was 18 but I mean just the 24 is over on the one side so we really need to state two variances one for one wall over the 18 feet by 24 and then the other is over 18 by 64. Okay. Sir, is there any possibility that you could remove that menu board to make it more in line with what the code is?

Mr. Turner: We could certainly go back to the operations people and talk to them about that.

Mrs. Kuzior: I think that Speedway has the logo that we all recognize, at least in my family. We know that to be Speedway when you see that logo. I just personally think that would make it more in line with the Zoning Code and also make the building look more attractive. That's not our call. Our call is to see the hardship and I don't know if that's a hardship.

Mr. Heilmeier: I guess my question to the city, if he hadn't done anything he wouldn't be in front of us, correct. The old canopy, all the signs would have been there. Based on what he's telling me, we improved the facility, the canopy and stuff and they're basically asking to take it back to where it was before on signage. Why wouldn't we have voted on this when you did all the renovations?

Mr. Turner: I kind of wondered about that.

Mr. Lyons: It was mentioned to Speedway at the time when they presented the drawings for the canopy to the Building Department that they would need a variance because the signs are replaced. They chose to not apply for some time. Since they submitted the drawings for the Building Permit for the canopy, they've known about that which has been a long time.

Mrs. Kuzior: But we've had that situation with anybody that has renovated their building and the signs are not in compliance any more.

Mr. Lyons: Yes. Yes, some have a ground sign they might want to replace it but they can't if the setback isn't proper; they have to either move it back or obtain a variance. We've done that a lot of places around the circle where the signs have been very close in the past.

Mrs. Bushey: Does Speedway have different sizes of signs for different facilities?

Mr. Turner: Regarding canopy signage?

Mrs. Bushey: Yes.

Mr. Turner: Yes. There's a couple different sizes. What we do is we size the sign by the height of the canopy fascia so that the proportions look correct.

Mr. Turner: Mark Samblenet, who is with Speedway, tells me this is the smallest size that they make.

Mr. Heilmeier: Normally I probably would not be in favor of that big of a variance but again its one of those things where we're basically replacing what was already there.

Mr. Turner: Yes and we did replace the canopy and all new concrete. I think the site does look nice.

Mr. Heilmeier: I think the site looks real nice but also have to tell you if you had no signage there, everybody knows its Speedway. I understand business has to have signage, don't get me wrong. Any other questions? Would you like to speak sir? Do you want to add anything? Come up and I'll swear you in. State your name.

Mr. Samblenet: Mark Samblenet,

Mr. Mark Samblenet was sworn in.

Mr. Heilmeier: Please state your address too.

Mr. Samblenet: It is 843 N. Cleveland-Massillon Road, Akron, Ohio, 44333. I was not the construction specialist for this project. I was working in the environmental department. I just got transferred in. From the paperwork that I did read the reason why they didn't go forward with the appeal was purely with the permitting and trying to meet the schedule. So they went ahead and lined up for the UST's to be removed and the new canopy to go in. When I spoke to the previous construction specialist, he implied that when the canopy came down they evaluated the channel letters that were on the canopy and they were just in poor condition so that's why they didn't re-use and then at that point they asked if the could go ahead and use like for like. That's kind of what started the ball rolling. At that point they just wanted to go ahead and finish out the project per se and come back and ask for the signage. Hopefully that gives you somewhat of a timeline of what occurred. All of us are new to the project and we're all just kind of going through the files, trying to figure out what occurred.

Mrs. Kuzior: Our dilemma is we are supposed to show a hardship when we approve something that's outside the Building Code. I personally I think that with the ground sign, with the prices of the gas there, the two canopy signs, I think to me that seems like enough. I don't see the hardship of putting everything that might be on sale that week on a sign.

Mr. Turner: On the reader board.

Mrs. Kuzior: Yes. I just think its

Mr. Turner: So you'd like to see the reader board go away.

Mrs. Kuzior: I would personally. I don't know how everyone else feels. That would make it easier for me to approve what is outside the Code; which its still bigger than the Code on both sides. That's just my opinion.

Mr. Lyons: Mr. Heilmeier?

Mr. Heilmeier: Yes?

Mr. Lyons: Have you taken, have you gotten approval of these canopy signs from the Heritage Commission?

Mr. Turner: Only from the standpoint they approved the color and the artistic view, not the square footage.

Mr. Lyons: No, But they gave you a Certificate of Appropriateness for these canopy signs.

Mr. Turner: Well the one thing I can tell you I do recall and it was they stated what the color of the signs was to be.

Mr. Lyons: All right, thank you.

Mr. Heilmeier: I don't know. Somebody want to make a motion?

Mr. Schunk: I'll go ahead and make the motion that the variance requested from Subsection 1175.13 (d) maximum wall signage, sign area allotted 18 be amended to allow a total of 64 square feet.

Mrs. Kuzior: Just on one side.

Mr. Cooper: On the east.

Mr. Schunk: On the east side.

Mr. Lyons: Is the 24' on the west wall in the motion?

Mr. Heilmeier: You want two motions or you want one motion?

Mrs. Kuzior: We thought it would be two motions.

Mr. Heilmeier: Let's make a motion for the east wall.

Mrs. Kuzior: We have to vote on this one first.

Mr. Heilmeier: Right. Is that the one that we're talking about now, the east side?
Okay.

Mr. Cooper: seconded the motion.

Roll called. All members present voted in favor with the exception of Mrs. Kuziuro and Mr. Heilmeier who voted against. Motion carried 3-2.

Mrs. Kuzior: I'll make a motion that we approve the variance for the property located at 103 East Avenue, Tallmadge; variance requested from subsection 1175.13 (d); maximum wall sign area allowed 18' requesting a variance to 24' on the west side.

Mrs. Bushey: seconded the motion.

Roll called. All members present voted in favor (5-0).

Mr. Heilmeier: You're motions both have passed so you are good to go.

Mr. Turner: Okay. Thank you very much.

Mr. Heilmeier: I need a motion for adjournment, please.

Mr. Cooper: so moved.

Mrs. Kuzior: seconded the motion.

All members present voted in favor.

Meeting adjourned at 7:25 p.m.

Respectfully submitted,

Velma J. Williams, Secretary

Kevin Heilmeier, Chairperson