

WESTFIELD TOWNSHIP BOARD OF ZONING APPEALS

September 12, 2007 @ 8:30 p.m.

Public Hearing – Agile Sign for Pilot Corp.

Application for Variance – 8924 Lake Road

Chairman Mike Schmidt called the meeting to order at 8:30 p.m. Roll call indicated five members of the Board of Zoning Appeals were present: Michael Schmidt, Kevin Daugherty, Larry Bensinger, Robert Gecking and Ron Oiler. Alternate Jack Poe was also present. Others in attendance included Trustee Tim Kratzer, Trustee Jeff Plumer, Zoning Inspector Gary Harris and Lou Belknap (Agile Sign for Pilot Corp.).

Chairman Schmidt stated when our Rules of Procedure are adopted at our organizational meeting, one of the things that we are supposed to have is a board representative to the zoning inspector to review applications for variances and conditional permits prior to acceptance of the application. We used to do this but for some reason we have been lax in doing this and he asked for a volunteer. After a couple of suggested nominees and some discussion, Ron Oiler agreed to serve as the board representative to the zoning inspector for the balance of the year.

PUBLIC HEARING

The applicant, Agile Sign for Pilot Corp. applied for a sign variance (Article IV, Section 407 for the location 8924 Lake Road. On behalf of the applicant, Lou Belknap was present and sworn in.

The applicant stated that what happened is that with the curb cut changes and different things from the state highway widening project, Pilot had signs that were here previously and had to be moved out of what was the old right-of-way. He made reference to the drawings he submitted with the application. There is not enough parking area or space there to put the signs out of the actual turn right-of-way and there are two signs involved, both entry/exit signs, one directing cars and one directing trucks. One would be on the far south driveway; the other closest to the north driveway by the street entrance - the goal post sign is directly behind that one on the curb line of Speedway Drive. The goal post sign has already been moved and that should be fine as we met the setback.

The board questioned the goal post sign – the price sign. The board members indicated that they knew this sign had been moved but that it hadn't been approved and the price sign was really the sign that was in question. The applicant indicated that he did not know there was an issue about such sign. He had been told that sign had to be 10' back from the right-of-way and it was set back 12' from what they had marked as the right-of-way so that was an issue he was not aware of. He stated the application was for two directional signs. The board and zoning inspector confirmed that directional signs that merely direct traffic do not need permits or a variance.

The applicant stated that with all the stuff being done there it was well within the zoning inspector's means to ask for some kind of application to tell you where the signs were going to be set.

Chairman Schmidt indicated that the sign in question (goal post sign) was too big to begin with. Originally the Board had approved a certain size sign and it was bigger but since it was already in, we let Pilot go ahead without changing it. There was discussion about whether the size of the sign would be grandfathered in size-wise.

Chairman Schmidt stated that we asked the Medina County Engineer to give us their outlook on this whole thing. This letter from Fred Boreman, who is on the Engineer's staff, was delivered to me about 6 p.m. this evening. The letter was read into the record and is attached to these minutes. A portion of the letter reads: even though the sign conforms to the township's zoning code in regard to the Lake Road right-of-way, it does lie on, and encroaches as much as 3.5 feet into the south right-of-way line of Speedway Drive... It is our opinion that the sign, if left in its current position, does not create any engineering concerns and we see no practical reason why it should be relocated." A copy of the letter with attachments was provided to the applicant.

The applicant indicated that MC Sign is actually contracted to do this for Pilot and we do all the work for MC Sign. They actually contacted the county engineer's office and had information sent back and forth and that's where we got the information as to where the placement of the sign is now. The engineer went out and talked to the contractor for Pilot and they went out and staked the areas with our crew and then we moved another 2' back just to be sure. He talked with Gary and was told we had to be 10' back from the right-of-way – we're talking the front street right-of-way. Nothing ever was said about the side street right-of-way.

The applicant apologized for any misunderstanding and requested that the application be changed so the board could address the goal post sign tonight. After determination that the legal advertisement in the newspaper only referred to Article IV, Section 407 and no other specifics, the board proceeded with the hearing.

There was considerable discussion between the board members, the applicant and the zoning inspector as to the right-of-way distance and lines on Speedway Drive and the various measurements on the drawing as well as on the Engineer's attachments and the amount of variance required. Evidently no one talked about the Speedway Drive right-of-way because all of the widening changes were being done on Lake Road. The Engineer's Department doesn't have a problem with where the goal post sign was relocated but they did ask that any approval be conditioned upon the owner agreeing to move the sign again if the need arises because of any future improvement or reconstruction within the Speedway Drive right-of-way or its intersection with Lake Road.

Upon questioning as to whether Speedway Drive might be widened in the future, Trustee Kratzer indicated there was only one more lot on it to be sold and he doubted if the township would ever consider widening it to more than what it is right now. There was

also discussion about the location of the fire hydrant and Trustee Kratzer indicated that the fire hydrant had to be set back also and it's already in its reset position.

Kevin Daugherty referred to Section 403 B. ODOT Permits, which states that all signs within 660' of the right-of-way of I-71 and I-76 and Routes 3 and 224 are also subject to regulation by ODOT and that ODOT has to issue a permit or provide notice that a state permit is not necessary. It was determined that the sign would be within that 660' right-of-way distance. The applicant indicated that obviously there was not a problem the last time the sign was put in and typically what ODOT is concerned with is the lights, glare, sign color or if it's too close to an intersection or the highway and could mislead somebody. Applicant agreed to contact ODOT for such information.

There was again a question about whether the sign size was grandfathered in. Trustee Plumer indicated that in his opinion since Pilot was forced to move the sign and it's not a voluntary move that would be one of the reasons to grant the variance. The applicant indicated that typically the law supports a forced move like this. If it's done by the state and ODOT is actually the one that is ruling where it is being done, they usually support the move.

After further discussion, Ron Oiler noted that Duncan Factors 2, 3, 4 and 7 apply to this and it appears to be within reason. Bob Gecking, Kevin Daugherty, and Larry Bensinger all indicated they had no more questions and were okay with it. Chairman Schmidt indicated that a change was inevitable and not brought on by Pilot's doing and that it really is not intrusive.

Trustee Plumer had a question about the applicant's request to reset the light poles. The applicant indicated that he put it on the drawing because they had to move everything back and he wanted to let everyone know that they moved the light pole back as well.

After further discussion, Kevin Daugherty made a motion to grant Agile Sign for Pilot Corp. a variance from Article IV, Section 407 B.2.a. allowing the Pilot goal post sign to be located inside the Speedway Drive right-of-way by 3 ½ feet, subject to the following conditions: (1) the owner agrees to again move the sign if the need arises because of any future improvement or reconstruction and (2) evidence be provided that a permit has been issued by ODOT or notice from ODOT that a State permit is not necessary. Variance is in accordance with attached Exhibits A and B. The directional signs are in accordance with existing code and require no variance or action. Larry Bensinger seconded the motion.

Roll Call Vote:	Larry Bensinger	- yes
	Kevin Daugherty	- yes
	Robert Gecking	- yes
	Ron Oiler	- yes
	Mike Schmidt	- yes

MOTION CARRIED.

The public hearing was closed.

Zoning Inspector Gary Harris asked if Pilot would need to pay for another sign permit. Trustee Plumer indicated that he didn't think so because they already paid for the sign once. Trustee Kratzer indicated that he didn't think so because Pilot was forced to move the sign and then get the variance. It was indicated that Gary can go ahead and issue the permit/certificate after he receives verification of conditions (1) and (2) of the granted variance. If there is no response within thirty days, a follow-up contact will be made of the applicant.

ADJOURNMENT

Upon motion Kevin Daugherty, seconded by Larry Bensinger, it was unanimous that the meeting be adjourned. The meeting was adjourned at 9:50 p.m.

Marlene L. Oiler, Certified PP, PLS
Westfield Township Board of Zoning Appeals Secretary

(Minutes approved 9/25/07.)