

## Mindsight presses Indiana Borough for ruling on signs



Doug Varner, of Mindsight

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Doug Varner, the active business partner of Mindsight, came to Indiana Borough's council meeting Tuesday hoping to get answers about whether his two electronic message boards in downtown Indiana can stay where they are, and whether they will be able to display advertising messages for sponsors in places other than at the building at 700 Philadelphia St. where the message boards are hanging.

But after the meeting, Varner expressed frustration that a decision is taking so long and that council would not address sign-related issues he wanted to discuss.

Borough solicitor Wayne Kablack told Varner that it would be David Kirk's decision as to whether the message boards could stay or if they have to come down. Kirk, director of the borough's Code and Zoning Department, usually attends all council meetings. But he is ill and was absent from Tuesday's meeting. And borough manager Ken Gabler said Kirk is not expected to be back in his office today (Wednesday).

Meanwhile, Varner is facing a Friday deadline - set by the Code and Zoning Department under the threat of fines - to remove the 4-foot-by-8-foot message centers from the sides of the building.

The signs were installed in 2006, and two years later Commonwealth Court agreed with the Indiana County Court of Common Pleas that the message boards violated the borough's sign ordinance.

Varner said borough officials first told him that, despite losing his court appeal, he would not be forced to take them down while a possible new sign ordinance is being discussed by the borough's Planning Commission.

But Varner received a notice in January from Code and Zoning, instructing him to turn the message signs off immediately and remove them from the building by March 6. Part of the reasoning for the order is that the borough's sign ordinance has no provision for "off-premise advertising." Signs must advertise only the business where the sign is physically located. Varner complied and pulled the plug on the signs. He has since rented space in the building and moved Mindsight's office there. He then applied for a new permit to keep the signs where they are. That was about three weeks ago, and he is still waiting for a ruling on the permit application.

"You have a due process," Varner told council Tuesday. "I have followed the process. I'm here tonight ... to know ... is there any reason, based on borough code ... with the business present at 700 Philadelphia St. ... that the permit should not be granted?"

Varner wanted to know what particular issues about his permit application still needed to be discussed before a decision was reached.

Gabler, fielding some of the zoning questions in Kirk's absence, told Varner that the potential for animation in the message centers needs to be addressed, and Mindsight's business office needs to be verified.

"Is there still a pending change in the sign ordinance?" Varner asked.

Council vice president Ross Bricklemyer, who was chairing the meeting, confirmed that there is.

But when Varner asked what had changed since he was first told he would not be forced to take the signs down while a new sign ordinance is being debated, Bricklemyer suggested he was not using the time allotted in the public comment period as was intended.

``It's not a debate," Kablack added, telling Varner he should be grateful that the borough has granted him a nearly five-month reprieve on removing the signs since the defeat of the court appeal. Kablack also said Mindsight's legal challenge has been turned back by the borough's Zoning Hearing Board and by two courts. And yet, Kablack said, Varner is now trying again to win the same argument.

But, Varner said later, it's not the same argument. He's submitted an entirely new permit application based on Mindsight's new business address.

``Will I be penalized if I don't take them down by March 6?" Varner asked.

And again Kablack told him he would need to talk to Dave Kirk for that answer.

After the meeting, Varner questioned how council's approval of a request to hang Indiana University of Pennsylvania banners from the light poles along Philadelphia Street - during what was described as the university's prime recruiting period - does not also constitute a form of off-premise advertising in the borough.

Varner said council is using taxpayer money - by employing the solicitor to oppose his business venture - when the borough has ``no basis for it."And he said all the transcripts from the court and Zoning Hearing Board proceedings between the borough and Mindsight are posted at the news link of the company's Web site at [www.mindsight.tv](http://www.mindsight.tv).

Also at Tuesday's meeting, Paula Cummings and Sherry Horne, owners of the Rita's Italian Ice franchise at SouthTowne Plaza, told council they have applied for a temporary retail business license for a pushcart that would travel Indiana Borough sidewalks selling the flavored shaved ice.

``We're a seasonal company" and would operate the cart from spring through September, Cummings told council. ``We would not be competing with any other business in town."

A borough ordinance provides for the license requests to be considered by council on a case-by-case basis.

``Council (in the past) has gone on record as to these types of businesses," councilman Richard Thorell said, and asked to have the application reviewed by the Community Development Committee before council acts on [it](#).In other action, council:

Acted on a request from Steel City Samiches and approved extending the parking time until 4 a.m. at the meters along North Seventh Street between Philadelphia Street and Nixon Avenue.

Received from Police Chief William Sutton an overview report on the plan so far to transfer police dispatching from the borough police station to Indiana County's 911 dispatch center. The transition is to be completed before the end of June, and the move will be discussed more at the March 16 Community Development/Public Safety Committee meeting.

Acknowledged the resignation of Leonard Abrams from the planning commission after many years of service, creating a vacancy on the commission.

Heard about Indiana Mayor George Hood's plans to travel to Harrisburg this weekend to participate in discussions on a proposed 1 percent county option sales tax. If the tax is approved, counties opting to impose the additional 1 percent sales tax would share 50 percent of the new revenue with municipalities. The city of Philadelphia, Philadelphia County and Allegheny County have such a tax.

Hood also proclaimed March as American Red Cross Month in the borough and urged all citizens to support its humanitarian mission.