

Town of Lexington
**Board of Zoning Appeals
Minutes**

February 7, 2019

The Board of Zoning Appeals held their regular scheduled meeting on February 7, 2019 at 5:30 p.m. in the Council Chambers located in Town Hall, 111 Maiden Lane, Lexington, S.C. Those present for the meeting were Chair Mary Watts, Vice-Chair Troy Fite and Board Member Justin Brown, Lindsay Sellers, and Reve' Richardson.

Council Liaison Todd Lyle was present. Staff members present were: Director of Planning, Building and Technology John Hanson, Municipal Attorney Brad Cunningham, Assistant Zoning Administrator Jessica Lybrand, Digital Media Coordinator Darrell Pritchard, and Municipal Clerk Becky Hildebrand.

Six (6) citizens were present and no one from the news media was present.

Chair Watts called the meeting to order at 5:30 p.m. and read an opening statement to explain the rules of procedures for a Board of Zoning Appeals meeting as follows:

All four points must be met and should be read as part of the official record. The Board of Zoning Appeals is a legal board operating under the Comprehensive Planning Act of the State of South Carolina; they make decisions within the parameters of State law and may hear and decide appeals for a variance from the requirements of the ordinance when strict application of the provision of the ordinance would result in unnecessary hardship and a variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing all their findings: (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography. (2) These conditions do not generally apply to other property in the vicinity. (3) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property. (4) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance. State law further prohibits the board from granting a variance simply because the property could be used more profitably if the variance were granted. The board is not concerned with the use of the property because that is determined by others. If the applicant believes the board made an incorrect decision, they may appeal the decision through Circuit Court within certain time limits provided by State law. Those testifying at the meeting are asked to sign-in.

ACTION ITEMS

1. **Variance 2018-11(V): Variance from the Sign Ordinance at 911 S. Lake Drive - Shell station** - (Deferred from the January 3, 2019 meeting.): Mr. Terrill Tuten, Anderson Oil Co., requested a variance from the Sign Ordinance to retain a fifty (50) foot tall high rise sign at 911 S. Lake Drive. The sign was permitted in 1987. Since then the Sign Ordinance was amended limiting sign height to ten (10) feet unless it is located on an interstate. Interstate signs also require approval from the South Carolina Department of Transportation. The applicants requested a variance because they are interested in changing the signage at the Shell station and would like to retain the high rise sign. The sign is located approximately 750 feet from the closest I-20 exit ramp and there are two intervening properties between this sign and the exit ramp.

Chair Watts called for comments from the applicant and/or those *in favor* of the variance.

Mr. Terrill Tuten, Anderson Oil Co., owner, stated that they built the store at this location in 1987 when there was nothing else in the area. He added that a 50 foot sign was something they thought they had to have to pull business off I-20. He stated that he understood that the ordinance has changed, but things like this are usually grandfathered in. Mr. Tuten stated that he did not want to install a new sign, he only wants to keep the old sign which cost him a lot of money to install to keep the business going. He understood that the sign is supposed to be so many feet from the interstate ramp, but if he was not allowed to be part of the interstate traffic then why does SCDOT allow him to be on the I-20 signs and the ramp signs. Mr. Tuten stated that he is a small company and they build things for life. He added that if the sign was not in good repair, he would be the first one to take it down, but there is nothing wrong with the sign and it is not in conflict with any other businesses and it is a strong pulling sign in order to get people to their location. Mr. Tuten asked the Board to think about small companies and grant them the right to keep the sign.

Chair Watts called for any questions from the Board. Vice Chair Fite asked Mr. Tuten if he paid SCDOT for the interstate and ramp sign that he mentioned. Mr. Tuten stated that they pay annually for the signs. He added that he also pays a lot of taxes and business license fees, approximately \$150,000, to the county and to the city for protection and for the same things this Board rules on. Chair Watts stated that they were not here to discuss taxes or business license fees. She asked Mr. Tuten to concentrate on the sign. Mr. Tuten asked Chair Watts what they did with his money. Chair Watts responded that she did not do anything with his money and she is a volunteer and does not get paid. Vice-Chair Fite stated that he has been a volunteer for the Town for 25 years and any ordinances regarding taxes has to do with Town Council, County Council and the State.

Chair Watts called for comments from those *opposed* to the variance request. There were none.

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Chair Watts called for the Board discussion. Mr. Hanson stated that this issue was brought forward when the applicant applied for a permit. He added that at that time they discussed what would be allowed. Mr. Hanson stated that if they did not change the sign, it still needed to come down which has been discussed many times with Mr. Tuten. Vice-Chair Fite confirmed that the Town's Sign Ordinance was adopted in 1997-98 which required all signs in Town to be lowered to monument height within two years, which was later amended to ten years. Chair Watts confirmed that SCDOT requires a sign to be 660 feet from the interstate and there are two properties between this property and the interstate.

Board Member Sellers asked Mr. Tuten if the sign could be lowered and salvaged using the same poles. Mr. Tuten stated that the whole purpose of the sign was to be able to see it from the interstate because when people get off at a ramp, they look to see which way to go for gas or food, etc. He added that in Hilton Head you can't find anything. He stated that he was not for flashing lights, he just wants to upgrade the Shell sign to meet the new Shell specifications. Mr. Tuten stated that is when they found out that the high rise sign had long been condemned and he didn't even know it. He added that when they first talked to Mr. Hanson a couple years ago about conforming to Shell's specifications, he told them that he didn't know how they had slipped through for so many years. Mr. Tuten stated that the sign cost them over \$50,000 and it would cost \$15,000 to cut it down, therefore it would be of no value to lower that size sign because it would become very ugly. He added that the sign is 13 feet by 13 feet so it would be dangerous to be that close to the drive and it probably would not be approved.

Chair Watts stated that the location of the sign would not make a difference coming off the interstate because the SCDOT interstate and ramp sign would direct someone to the Shell station. Board Member Richardson agreed that the SCDOT sign would direct you to turn left at the end of the ramp. Vice-Chair Fite stated that if you were headed west on I-20 and exited onto Highway 6 you can only turn right and that is the first business you see. Board Member Sellers stated that based on the photographs, you would be on the ramp before you would even see the sign.

Chair Watts called for a motion if there were no further questions from the Board.

A motion was made by Board Member Richardson and seconded by Board Member Brown to deny variance request #2018-11(V). Chair Watts called for a roll call vote. Roll call vote results: Brown – Yes to the motion to deny. Fite – Yes to the motion to deny. Watts – Yes to the motion to deny. Richardson – Yes to the motion to deny. Sellers – Yes to the motion to deny. The motion to deny variance request #2018-11(V) was unanimously carried.

- 2. Variance 2019-1(V): Variance from the Sign Ordinance at 5225 Sunset Boulevard - Dunkin Donuts:** Ms. Kendra Garrett with Hilton Displays requested a variance from the Sign Ordinance to install an additional wall sign on a Dunkin Donuts being planned in a commercial center located at 5225 Sunset Boulevard. The Sign Ordinance allows each business in a commercial center to have one wall

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sign unless the business is an end cap with a road facing wall. In this case the end cap exception does not apply because the end wall faces the adjacent property, not a road.

Chair Watts called for comments from the applicant and/or those *in favor* of the variance.

Ms. Kendra Garrett, Hilton Displays, applicant, asked the Board to consider this property an end cap because if it faced a road it would be allowed. She added unfortunately this property adjoins a parking lot with an ingress and egress for the business next door so there is no way to physically put a road there unless SCDOT rezoned everything. Ms. Garrett stated that the second reason to request a variance for the end cap sign was due to safety. She stated that if you are headed to Lexington and Dunkin Donuts would be on the left, you cannot see the business until you are at the monument sign which is after the entrance. She added that coming from the other direction it would not be safe to cross four lanes of traffic. Ms. Garrett stated that they are not looking to install a huge sign, but they would like to be considered an end cap because of the hardship parcel and be able to have a sign there to help traffic because there is only one entrance and one exit to the center and you have to go around the building to the drive thru.

Chair Watts called for comments from those *opposed* to the variance request. There were none.

Chair Watts called for questions from the Board. Board Member Sellers asked how it was a safety issue. Ms. Garrett stated that it was a huge safety issue but if you were driving down Sunset Boulevard in the morning and pass the center on your right, you see the monument sign and you are good to turn in. She added that if you are headed to Lexington and the center is on your left, you would not see the monument sign until you passed the entrance, but if there was an end cap sign you would know to turn.

Vice-Chair Fite confirmed that there would be a sign above the front door and he thought you would be able to see it coming down Sunset Boulevard, plus Dunkin Donut has one of the most recognizable logos in the country. Ms. Garrett stated that the logo has changed, and yes, the building would be recognized, but it does sit back from the road. She added if they could put an access road in it would help. Vice-Chair Fite confirmed that an access road is different from a road. Mr. Hanson stated that she was referring to a drive way. Ms. Garrett stated that the ordinance includes access roads. Mr. Hanson read from the ordinance which defined end-cap as “the end building within a shopping center which has a face toward a street may have two wall signs as long as the total allowable signage is not exceeded and one sign must be on the building face and the second sign on the side facing the street”. Board Member Sellers confirmed that they would also have a sign on the center’s monument sign in front of the building, which gives them the same placement as all the other businesses in that center.

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Mr. Peter Brooks, Dunkin Donuts Franchisee, stated that they have over 70 stores in three states. He stated that one reason they had selected this site was because it was an end-cap in a shopping center, or at least in his world it is considered an end-cap. Mr. Brooks explained that they originally looked at the space on the other end of the shopping center but they could not get the drive thru to work. He added that he noticed other stores that have multiple signs including Sprint, Circle K, AT&T, a Chinese restaurant, Zoe's Kitchen and AAMCO Transmissions. He added that they may be grandfathered or facing two roads. He stated that he did not think their request was unusual even though he understood the Board had their guidelines. Mr. Brooks stated that they did have a sign out front but cars headed west would not see the sign until they passed the store and it would be nice for them to see the store through the car dealership next door.

Vice-Chair Fite stated that the Board does not set precedence in variance requests in that they are handled on a case by case basis. He added that he understands the logic behind the request, but the ordinances do not support it.

Chair Watts called for a motion if there were no further questions from the Board.

A motion was made by Vice-Chair Fite and seconded by Board Member Sellers to deny variance request #2019-1(V). Chair Watts called for a roll call vote. Roll call vote results: Brown – Yes to the motion to deny. Fite – Yes to the motion to deny. Watts – Yes to the motion to deny. Richardson – Yes to the motion to deny. Sellers – Yes to the motion to deny. The motion to deny variance request #2019-1(V) was unanimously carried.

APPROVAL OF MINUTES

A motion was made by Board Member Richardson and seconded by Board Member Brown to approve the Board of Zoning Minutes from the January 3, 2019 meeting as submitted. The motion was unanimously carried.

OTHER BUSINESS

Mr. Hanson advised the Board that they would not have a meeting in March.

ADJOURNMENT: There being no further business Chair Watts called for a motion to adjourn. A motion was made by Board Member Richardson and seconded by Board Member Sellers to adjourn the meeting at 5:55 p.m. The motion was unanimously carried.

Respectfully submitted by:

Becky Hildebrand, CMC
Municipal Clerk

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APPROVED:

Mary Watts
Chair

FOIA COMPLIANCE – Public notification of this meeting was published, posted and mailed in compliance with the Freedom of Information Act and the Town of Lexington requirements.