

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

December 2, 2021

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The Board of Zoning Appeals held their regular scheduled meeting on December 2, 2021 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, Board Members Reve' Richardson, Ronald Fisher and Justin Brown.

Staff Members present were: Director of Planning, Building and Technology John Hanson, Assistant Zoning Administrator Jessica Lybrand, Town Attorney Brad Cunningham, Digital Media Coordinator Libby Dallis and Assistant Municipal Clerk Karen Hanner.

One citizen was present and no one from the news media was present.

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Chair Watts called the meeting to order at 5:33 p.m. and read an opening statement which explains the rules of procedure for a Board of Zoning Appeals meeting:

*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 2021-11 (V): Variance from the Sign Ordinance at 925 East Main Street**

Director of Planning, Building and Technology John Hanson presented the application from Mr. Tripp Davis who requested two variances from the Sign Ordinance for a new building located at 925 East Main Street. The Sign Ordinance allows each business in a commercial center to have space on the center's freestanding sign and one wall sign. The allowable size of a wall sign is limited to 15% of the area of the first story of the building or business to which it is attached. Mr. Davis is requesting to install two wall signs for each business and to increase the allowable size of the signs by five square feet.

Mr. Rex Casterline introduced himself as CEO and attorney with Blair Cato and added he has a vested interest in the property because he is a tenant and the sign directly impacts him there. He referred to the building as one of the newest buildings in the Town, in front of 84 Lumber and accessible from the side street that leads to 84 Lumber. He added the building is close to Highway 1 partly due to the topography and parking is in the back.

Mr. Casterline said what 2029 Properties seeks is the Board of Zoning Appeals to grant a variance from strict application of Section 159.07.03b in that the sign facing US1 for Palmetto Mortgage, which is the tenant on the side closest to the Town, is seeking the five square foot variance. He continued the sign for Blair Cato is within the 15% and is not at issue. He added two of the three tenants would be granted signage on US1 and the third tenant, Herring Insurance, would only have one sign on the parking lot side other than what is on the monument in front of the building.

Mr. Casterline continued that what is being prohibited by the ordinance is the one sign facing US1 that needs to be five square feet larger and because of how the building sits they need the second signs for the parking lot side for two of the three tenants. It would be the second sign for Blair Cato and Palmetto Mortgage.

He referred to the extraordinary and exceptional conditions criteria pertaining to the property and reminded the board that the building sits as you are cresting the hill past the wooded and wetlands area on the right as you leave the Town. He stated it was the owners desire to have an attractive building with three professional tenants. He continued the building is close to Highway 1 with parking in the rear and the entrance on the side street towards 84 Lumber. He noted signage for Blair Cato is on the I-20 side and has no issue and signage for Palmetto Mortgage faces Highway 1.

Mr. Casterline said when you enter the parking lot there is no way to tell which unit is for which tenant. He stated his clients are going to Palmetto Mortgage because it has a bigger entrance and they have to be redirected to his office. He added a second sign would eliminate that.

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Mr. Casterline noted the incline of the building makes visibility a challenge. He said you don't see the building until you have passed the wooded area. He continued the Palmetto Mortgage sign would be at the top of the building and to the right.

Mr. Casterline continued regarding conditions that do not generally apply to other properties, the Palmetto Mortgage sign, for legal reasons, should disclose that it is part of a larger lending group as part of its advertising. He added if the five extra square feet is not granted, the signage would have to shrink significantly or they risk issues with their corporate structure, Lend US, by not having that banner underneath.

Mr. Casterline added as far as other property in the vicinity, the main public entrance is in the rear of their building and properties across the street and next to them have parking in the front so one sign is sufficient for those.

Mr. Casterline stated regarding application of the ordinance to the property effectively prohibiting or unreasonably restricting the utilization, the owner is fixated on the quality of construction and wants signage that not only directs clients to its respective units without impacting others but in a professional, well-lit manner.

He continued that if a variance is not granted, Palmetto Mortgage would have to shrink its sign to a point where it would be meaningless and become illegible or risk its regulatory company punishment for not having the banner language. He added it is going to be a struggle to see the sign because of the incline going away from the Town. He added if the variance for the second sign was not granted customers would continue to walk into the wrong tenant and have to be redirected. He noted as a lawyer he had a hard time thinking his clients were walking into a mortgage company that is not affiliated with him and someone in that company recognizing that client who now has no privacy after accessing what they thought was the law office suite.

Mr. Casterline said regarding detriment to adjacent property or character of the district, he was not aware of any impact. He added most neighboring businesses have parking in the front and the few with rear parking are single tenant buildings. He said adjacent properties would not be affected by additional signage on the rear of the building. He stated the additional five feet for Palmetto Mortgage would not be significantly noticeable but would make a difference to the public trying to identify them and would allow them to let people know who they are in a legally proper manner.

Chair Watts asked about the entrance from the parking lot and didn't see a picture in the packet of the back side of the building. Board member Fite noted the references to the front and back of the building and asked if the front faced the parking lot. Mr. Casterline stated the front of the building faces US1. Mr. Fite clarified that everyone coming to the building enters by the back door. Mr. Casterline confirmed that as correct. Mr. Davis stated there is no actual front entrance, the door is on the front for fire code. Mr. Fite said that is semantics and they said there are three signs on the front but he would like a picture of what the building looks like from the parking lot. He added he had four photos in his packet that did not show that.

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Mr. Joel Merrill from Flagship Sign introduced himself and stated he had been asked to design these signs. He showed board members a picture of the back of the building and the requested second sign. Chair Watts asked about the entrance and if there are three doors. Mr. Merrill said there are three doors that face the parking lot. Chair Watts asked if they could put something on the door as you enter. Mr. Merrill said that could be an option. Mr. Davis said it would be difficult to put lettering on the inside of the heavily tinted door windows which all face full sun.

Board member Fisher clarified that there are three separate doors and asked how big of an area it is. Mr. Davis answered 120 feet. He added there are 13 parking places including the handicapped spots and as someone approaches right now they don't know which door to go to because there aren't any signs. He continued that a small sign on the window wouldn't be big enough and one could walk up to the wrong door. Chair Watts asked if there were steps or if it was even. Mr. Davis responded there are steps on the left side but the right side is on grade. The Blair Cato entrance is on grade but there are steps to enter Palmetto Mortgage and the handicap ramp is in the middle at the door to the insurance office.

Mr. Merrill asked if they had copies of the elevations. Director Hanson stated they were requested on November 9<sup>th</sup>. Mr. Merrill asked if they have the layout of the entire building. Assistant Zoning Administrator Lybrand stated that was not submitted but it was requested with the signs superimposed on November 9<sup>th</sup>. Mr. Merrill stated he understood but he was looking for the elevations from the architect. Ms. Lybrand responded she received his email on November 18 and it said the layout showed the signs but they were not in the proper location. She added she did not include that in the packet to not confuse the situation by showing signs in the incorrect location. She said her email on November 18<sup>th</sup> requested the superimposed sign images on the drawing. Mr. Merrill stated that was in the original elevations. Ms. Lybrand stated everything that was sent in the original submittal was provided to the Board in their packet.

Mr. Tripp Davis introduced himself as the owner and tenant of 2029 Properties and offered drawings of the front and the back of the building showing the three business doors for the Board to consider. Board member Fite clarified on the drawing which side faced Highway 1 and which side was the parking lot, the location of the proposed signage and the location of the monument sign (attached).

Chair Watts asked for additional comments from the applicant. Mr. Davis stated the request for the additional five feet would allow their sign to be approximately 14 or 15 feet wide and signs across the street are 24 or 26 feet wide. Chair Watts said they were dealing with this one only.

Chair Watts asked if the monument sign would state the affiliation. Mr. Davis responded it would not be large enough to be legible and would be too small to be seen but if they had to do it they would do it.

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Board member Fite asked Director Hanson to remind him of the formula for the size of a monument. Director Hanson stated it cannot be more than ten feet but for a commercial center it is pretty substantial and it can be 150 square feet, ten feet tall and fifteen feet wide. Mr. Merrill responded they don't have the space for that size and they are too close to the road to have the proper setback. Mr. Merrill offered to show where the monument is proposed. Mr. Casterline added if they put it close to the corner, they risk people driving by it before they see it. Chair Watts commented they aren't going to miss the building. Mr. Merrill stated that it was ten feet wide and nine feet tall. Chair Watts asked if they could design it larger. Mr. Merrill stated they don't have enough distance from the road to make it wider. Director Hanson asked that they consider the variance request.

Board member Fite asked Director Hanson to clarify if it is the one sign that is being requested for a variance or a combination of everything. Director Hanson noted the application is written requesting an additional 5 feet but that only applies to one sign. He asked the applicant to confirm that the request is to add two signs for two of the tenants and one of the signs for one of the tenants is to exceed the 15% by five feet. Mr. Casterline and Mr. Davis agreed that is correct. Director Hanson restated that one sign is allowed for the commercial center and they want an additional sign for two of the tenants and one of those needs the additional five feet.

Chair Watts asked the Board to discuss. Board member Brown asked Director Hanson if the entrance to the building parking lot was on a driveway or a road. Director Hanson responded that it is a driveway. He added if it were a road they would be allowed an additional monument sign but not additional wall signage.

Mr. Merrill asked to clarify that on the Highway 1 side that he called the front of the building, one request is for two signs, one which meets the requirements and the second sign to make the text large enough needs the additional five feet over the allowed 15%. He stated the second request is for two additional signs on the back side of the building, one for Palmetto Mortgage and one for Blair Cato, to identify the entrances.

Board member Fite noted they have dealt with this issue before but they do not control the architecture of a building. He stated they are calling the back of their building an entrance for clients. Mr. Fite said he didn't have a problem with one of the signs being larger but he had a problem with signs on both sides. He added there is a monument sign identifying the building and he didn't see the need to have large signs on both sides.

Chair Watts stated with three separate entrances, there are ways to identify where you are going in. Board member Fite agreed there are alternatives. Chair Watts said she didn't see the need to put something on top of the building when something could be put on the door. Board member Fite stated it was the responsibility of the business to market themselves. Board member Brown said he felt the opposite and would disagree with the extra size on the front and allow additional on the back. Board member Fite stated it was a lot of signage for the building. Chair Watts commented

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that she drives past this building every day and there is no way you could miss it. She added it is a very beautiful building.

Director Hanson commented that this Board does not set precedent but in the past the Board has allowed extra signage but not extra size.

Mr. Tripp Davis commented that if they are going to be limited to one sign they would want to put it on the E. Main Street side and do some other alternative on the rear. He continued that if the Board denied the second sign it would limit on the back side and they would still do the front side. Board member Fite stated that is their prerogative.

Board member Brown stated he didn't see a need for the extra size. Board member Fisher stated he was torn and just didn't see the need for additional on the back but he was okay with the additional size on the front. Board member Fite confirmed that the requested additional size was on the front. Board member Brown stated he agreed with additional signage on the rear to identify which entrance people want to go see. Chair Watts commented something could be put on the door and there are alternatives to putting a sign on the back of the building.

Director Hanson suggested that there could be two motions, one for the additional five feet and one for the additional signage.

Board member Brown made a motion to approve a part of Variance Request 2021-11 regarding the additional signage on the back of the building based on the following. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography and these circumstances are described as due to the topography of the property the building had to be located near the highway with parking in back so the main entrances are in the rear of the building. These conditions do not generally apply to other properties in the vicinity because they are able to place parking on the street side of the building and therefore the entrances are identifiable on the front of the building. Because these conditions apply to this particular piece of property it would restrict or unreasonably restrict the utilization of the property, the customers do not readily know where to enter without additional signage. The authorization of this variance will not be of substantial detriment to adjacent property or to the public good because additional signage would not be visible from the highway. Board member Fite seconded the motion.

Chair Watts called for a roll call vote. Roll call vote results: Board Member Brown, yes to the motion. Vice-Chair Fite, yes to the motion; Chair Watts, no to the motion. Board Member Richardson, no to the motion. Board Member Fisher, no to the motion. The vote was two in favor and three against. The motion failed.

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Board member Fite made a motion to deny the request for a variance for an additional five square feet sign. Board member Richardson seconded.

Chair Watts called for a roll call vote. Roll call vote results: Board Member Brown, yes to the motion. Vice-Chair Fite, yes to the motion; Chair Watts, yes to the motion. Board Member Richardson, yes to the motion. Board Member Fisher, yes to the motion. The vote was unanimous in favor of denying the requested variance for the additional five feet.

**APPROVAL OF MINUTES**

A motion was made by Board Member Richardson and seconded by Board member Fite to approve the Board of Zoning Appeals minutes from the September 2, 2021 meeting as submitted. The motion was unanimous in favor of approval.

**OTHER BUSINESS**

Assistant Zoning Administrator Jessica Lybrand reported the Board members have completed their required training.

Director Hanson thanked the Board for another year of service to the Town. Chair Watts stated they appreciate him and the staff are phenomenal and do such a good job, especially Jessica.

**ADJOURNMENT:** There being no further business Board member Fite made a motion to adjourn. The motion was seconded by Board member Brown. The motion was unanimously carried by all those present. The Board of Zoning Appeals meeting adjourned at 6:10 PM.

Respectfully submitted by:

Karen Hanner  
Assistant Municipal Clerk

**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.*