



AGENDA
BREVARD BOARD OF ADJUSTMENT– REGULAR MEETING
Tuesday, September 6, 2016 – 3:00 PM
Council Chambers

- I. Welcome**
- II. Introduction of Board Members**
- III. Certify Quorum and Voting Members**
- IV. Approval of Agenda**
- V. Approval of Minutes**
 - a. August 2, 2016
- VI. New Business**
 - a. Request of Judy Wilson for a variance in the front setback from 10' to 4' (UDO 12.5.B). The property is located at 218 Rosman Highway, within the corporate limits of the City of Brevard, further identified by PIN 8585-37-1758-000.
- VII. Old Business**
- VIII. Other Business**
- IX. Adjourn**

MINUTES
BREVARD BOARD OF ADJUSTMENT – REGULAR MEETING
Tuesday, August 2, 2016– 3:00 PM – Council Chambers

The Brevard Board of Adjustment met in regular session on Tuesday, August 2, 2016 at 3:00 PM in Council Chambers of City Hall.

Members Present: Judith A. Mathews, Chair
 Tad Fogel
 Tom Tartt, Vice Chair
 Paul Welch
 Kevin Jones
 Coty Ferguson

Members Absent: Mike Young

Staff Present: Daniel Cobb, Planning Director
 Janice H. Pinson, Board Secretary
 Paul Ray, Senior Code Enforcement Officer
 Brian Gulden, Board Attorney

Others: Imran Iqbal, Applicant
 Farhan Iqbal, Agent for Applicant
 James Mudrey, Property Owner
 Scott Thomason, Henderson Oil Co.

I. Welcome and Introduction of Board Members

Chair, J. Mathews called the meeting to order at 3:00 PM. Chair, J. Mathews certified that a quorum of the Board was present and that the minutes would reflect that the hearing was properly advertised.

Chair, J. Mathews acknowledged that Carol Dillingham had resigned from the board. She further stated that the alternate members, Paul Welch and Kevin Jones, would be the voting members.

II. Approval of Agenda

J. Mathews requested a motion to approve the agenda. P. Welch moved to approve, seconded by T. Fogel, unanimously carried.

III. Approval of Minutes

J. Mathews requested a motion to approve the Minutes of the April 5, 2016 meeting. Motion by K. Jones to approve minutes as written, seconded by T. Tartt, unanimously carried.

IV. New Business:

a. Consideration of Application for Special Use Permit #SUP16-000001 by Imran Iqbal for request for a gas station and convenience store on property located at 20 Hendersonville Highway within the corporate limits of the City of Brevard, further identified by PIN # 8597-45-8002-000.

The following were sworn: Daniel Cobb, City of Brevard Planning Director, Imran Iqbal, Applicant, Farhan Iqbal, Agent for Applicant, James Mudrey, Property Owner, Scott Thomason, Henderson Oil Co.

Chair, Judy Mathews polled the board as to exparte communications, there were none. She further asked Imran Iqbal if he felt like there were any conflicts with any of the board members. He stated, "no".

Daniel Cobb presented his staff report, which is attached hereto and labeled, Exhibit "A". Staff recommended a condition of approval be that the applicant modify the street frontage and access points to the site within 12 months of approval by reducing the width of the driveways to a maximum of 24 feet and possibly adding infrastructure (curbing) to prohibit left turns from the site.

T. Fogel questioned parcel boundaries according to the Transylvania County GIS and asked if the Pisgah Forest Small Area Plan is approved with a roundabout how this property would be affected.

D. Cobb stated that through information obtained from surveyors that the parcel boundaries on the GIS maps are not always accurate. He further stated that no plans have been approved for the Pisgah Forest Small Area Plan, therefore he could not offer an opinion on how the property would be affected.

P. Welch asked if there were regulations in place that affect the underground storage tanks.

D. Cobb stated that there are no zoning regulations for underground storage tanks.

P. Welch asked how long the prior gas station had ceased to operate.

Scott Thomason, Henderson Oil Co., answered 2 years.

Daniel Cobb explained his reasons for requesting the ingress and egress changes to the site.

There was further discussion by the Board regarding traffic safety concerns.

J. Mathews asked if there were any further questions for Daniel Cobb. There were none.

J. Mathews went over the requirements to be met to grant a special use permit.

Farhan Iqbal, Agent for the Applicant, Imran Iqbal, stated that the property has been used as a gas station for a long time and that if the business had not closed that it would still be a gas station operating from this location today. He explained that their hopes are to obtain their customers by way of Highways 280 and 64 and not directly from the forest. He further stated that they want to hire local people to work at their business to create jobs for the area. He further explained the work they were doing on the site to improve the appearance. He explained their plans to put directional traffic arrows in the parking lot and also painted entry and exit arrows at the entrances located on Highways 280 and 64. Farhan Iqbal explained that the underground storage tanks are inspected and must be approved by the State before they can use them and that the tests have already been completed, adding that they will be installing new pumps. That their plans for the sight are that it be clean, nice, well lit and easily accessible. He explained to the Board that he has been in business for 25 years and that his hopes are that this business will not only be good for the community but also for his brother, Imran.

Daniel Cobb explained that the special use permit was for the use only and that separate development permits would be required for the site.

James Mudrey, owner of the property explained that he has owned the property since 1993. He is impressed with Farhan and Imran Iqbal and gave them a hardy endorsement.

J. Mathews closed the hearing.

T. Fogel made the motion as follows: **CITY OF BREVARD BOARD OF ADJUSTMENT**

With regard to Case No. SUP 16-000001, the application of Imran Iqbal for a Special Use Permit to operate a gas station in an existing structure at 20 Hendersonville Highway, I move the Board to make the following findings of fact:

- a) The use meets all requirements and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit;*
- b) The proposed use or structure will, if developed according to the plan submitted and approved, be visually and functionally compatible with the surrounding area; and*
- c) The proposed use or structure will not be injurious to the public health, safety, and welfare, and will not be detrimental to the value of adjoining property and associated uses.*

Accordingly, I further move the Board to grant the requested special use permit in accordance with and only to the extent represented in the application and plans and subject to the following conditions: That the applicant modify the street frontage and access points to this site within 12 months of approval. This will involve reducing the width of the driveways to a maximum of 24', and possibly adding infrastructure (curbing) to prohibit left turns from the site.

Seconded by P. Welch and unanimously carried.

VI. Old Business

None.

VII. Other Business

Kevin Jones stated that he would like to point out how well behaved the applicant's children had been during the proceeding and to congratulate the parents for a job well done.

VIII. Adjourn

Motion to adjourn by P. Welch, seconded by T. Tartt, unanimously carried and meeting adjourned at 3:47 PM.

Judith A. Mathews, Chairman

Janice H. Pinson, Board Secretary



The City of Brevard North Carolina

BOARD OF ADJUSTMENT STAFF REPORT

September 6, 2016

TITLE: Variance Request #16-000001
SPEAKER: Daniel P. Cobb, AICP, CFM, CZO – Planning Director
PREPARED BY: Daniel P. Cobb, AICP, CFM, CZO – Planning Director

EXECUTIVE SUMMARY: The Board will hear a request by Judy Wilson, owner of the Mountain Plaza Shopping Center, for a reduction in the front-yard sign setback requirement of 10 feet from the edge of right-of-way to 4 feet from the edge of the right-of-way.

Applicant: Judy Wilson
211 Badgers Ridge
Brevard, NC 28712

Date: September 6, 2016 – 3:00PM

Variance: Six foot reduction of front yard sign setback, from 10 feet to 4 feet

Property: 218 Rosman Highway
Brevard, NC 28712
PIN: 8585-37-1758-000

BACKGROUND: The Mountain Plaza Shopping Center was constructed in 1986, during which time the property was zoned C-4. The sign setback standard for a C-4 zoning district at that time was 10' from the edge of right-of-way.

In 2006 the property was rezoned to Neighborhood Mixed-Use (NMX). This rezoning occurred with the adoption of revised development standards (Unified Development Ordinance) and new zoning districts. While several changes to development standards occurred with the adoption of this ordinance, the same 10' sign setback standard remained.

This type of sign is considered a nonconforming ground sign due to its location, which is 4.68' from the edge of right-of-way, not the required 10'. Chapter 12 of the Unified Development Ordinance regulates size and location of signs and states the following *"The plastic inserts*

within existing nonconforming sign frames may be replaced for continued use until the amortization period expires [12.2.D.7].” The amortization period expired January 1, 2003, however this seems to have been an oversight when the ordinance was adopted. The effective date of the ordinance is April 3, 2006. *Figure 1* to the right is a photo of the sign in its current state.

Staff has issued permits for such signs (panel signs) in the past, however these were for replacing an existing panel, not adding anything additional.

The ordinance allows for the maintenance and repainting of nonconforming signs (no other changes). It appears the intent of this is to allow for the continued use of nonconforming signs as long as they are safe and functional. Any changes to a nonconforming sign requires compliance with current standards. For example, in the image to the right, the Bryson Carpets sign could be repainted in the same design if it becomes faded and make no other changes. However, the *New Words* sign outlined in blue to the right, is considered a new panel and can not be permitted at this time.



Figure 1 – Current Sign Configuration – September 1, 2016



Figure 2 – New Panel Example in Blue

DISCUSSION: The purpose of sign regulation is to prevent dangerous conditions from occurring due to their size, location, construction, or manner of display or to mislead the public by causing confusion, or obstruct the vision necessary for traffic safety. The intent is also to support and complement land use objectives set forth in the zoning ordinance for the City of Brevard.

Until the nonconforming aspect of the sign is addressed, no additional panels may be added. In order to comply with setback standards the sign must be relocated or the requested variance must be granted.

In order to grant the variance all of the conditions below must be met:

1. Unnecessary hardship would result from the strict application of the regulations. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured, and substantial justice achieved. Substantial justice is not achieved when granting the variance would be injurious to the neighborhood or to the general welfare.

SUMMARY: The standards governing the reason, size, location, construction, and manner of display of signs have applied, and remained consistent for the last 30 years. While a new ordinance was adopted in 2006, it did not affect sign setbacks. The Board should consider the facts of this case and decide accordingly.

City Of Brevard, North Carolina
BREVARD BOARD OF ADJUSTMENT

Application for Variance

Variance Case/File Number: # V16-000001

Property Owner:

Name Judy Wilson
Address 211 Badgers Ridge
City/State/Zip Code Brevard NC 28712
Telephone Number 828-884-9143 Email Address _____

Applicant and/or Agent (if different than property owner):

Name _____
Address _____
City/State/Zip Code _____
Telephone Number _____ Email Address _____

Location of Property:

218 ROSMAN HWY. BREVARD, NC 28712

Property Identification Number (PIN): 8585-37-1758-000

Zoning District(s): NMX Within City Limits? Yes/ No _____

Request VARIANCE from City Zoning Ordinance, Section(s) CDO Chap. 12.5.B

Zoning Ordinance Requires: 10 foot setback from right of way.

REQUESTING VARIANCE TO ALLOW: Ground sign to be utilized by tenants - variance of setback of 6'

Following must be included with Application:

1. _____ Site Plan
2. _____ Listing of names and mailing addresses of all property owners within two-hundred feet (200') from the boundaries of the property in question.
3. _____ Application filing fee ~~\$500.00~~ 200.00 per variance

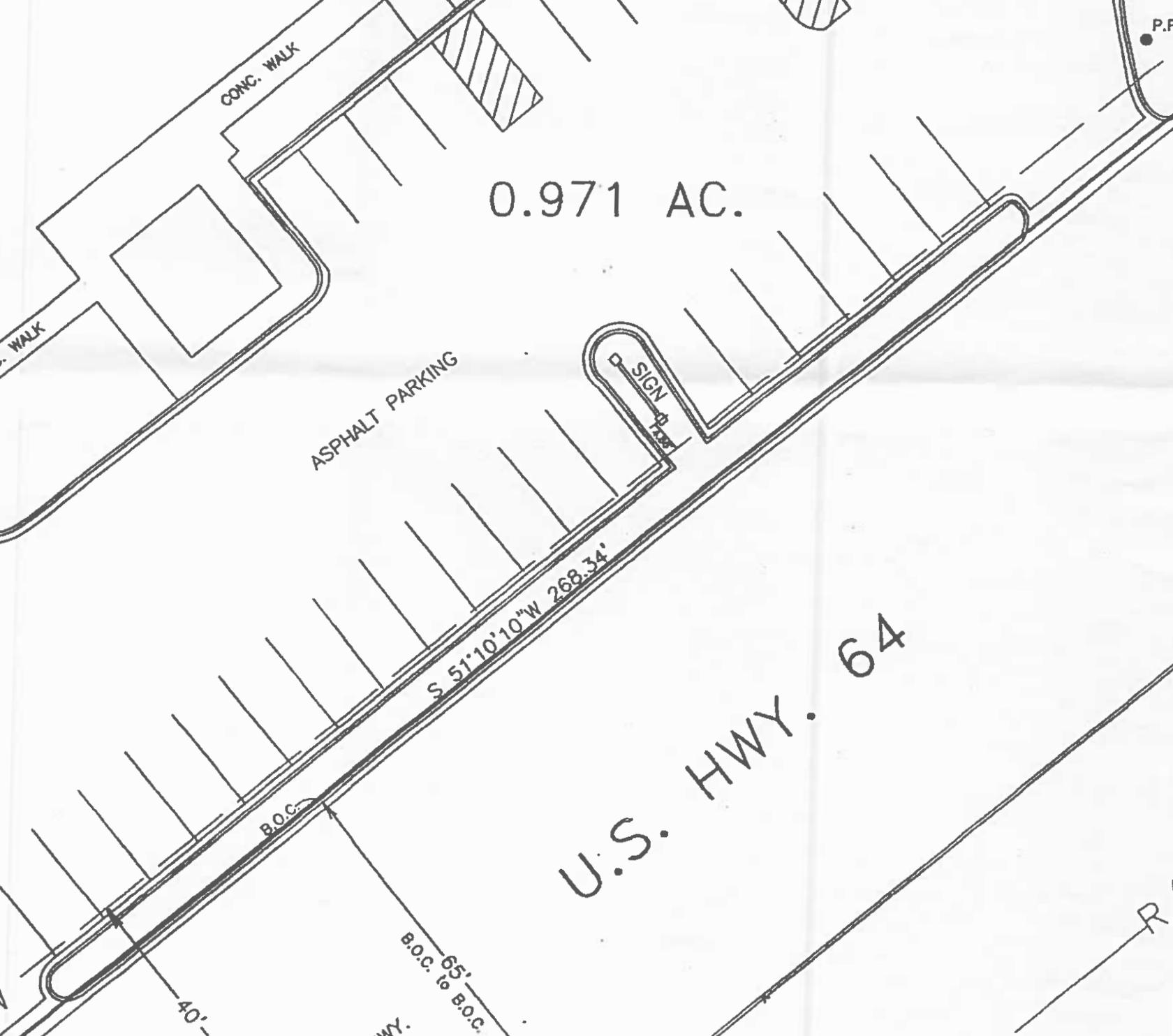
Judy Wilson
Signature of Property Owner

Signature of Agent (if different than property owner)

8-2-16
Date

Date

VARIANCE Request to be heard by BOA on: _____



CONC. WALK

0.971 AC.

ASPHALT PARKING

SIGN

S 51°10'10"W 268.34'

U.S. HWY. 64

B.O.C.

40'

65' B.O.C. to B.O.C.

P.P.

R

CITY OF BREVARD

STATEMENT OF FEES



CUSTOMER INFORMATION

Customer name: Judy Wilson Telephone: _____
 Contractor name: _____ Telephone: _____
 Development Permit Number: _____
 Location (911 Property Address): 218 Rosman Hwy
 Billing address: _____
 Tax ID or Fed. #: _____

FEES

Category	Fee	Account Code	By
Business License		10-1260-0300	
Utility Account Deposit		30-2360-0200	
Water Tap Fee		30-3730-0100	
Sewer Tap Fee		30-3730-0200	
Water Impact Fee ¹		35-3730-0100	
Sewer Impact Fee ¹		35-3730-0200	
Zoning Permit	<u>200.⁰⁰</u>	10-3350-0200	<u>(Signature)</u>
Stormwater Fee-In-Lieu		35-1010-0480	
Parking Fee-In-Lieu		10-3350-0600	
Sidewalk Fee-In-Lieu		35-1010-0460	
Sign Permit Fee		10-3350-0200	
Miscellaneous Bonds		10-2010-1000	
Other (Describe)			
Total Fee ²	<u>200.⁰⁰</u>	Receipt Number: <u>355013</u>	Date: <u>8/2/16</u>

***Note to Planning Staff: Knox Box fees should be collected separately and forwarded to the vendor.**

Please bring this form with you to the Water Dept to pay fees and we will be happy to give you a receipt for necessary permits.

Day meter to be set (if applicable): _____

Property Owners

- ① Arnold Insurance Agency Inc.
P.O. Box 268, Brevard, N.C. 28712
- ② Jina Searcy Almany
58 Forest Hill circle
Brevard, N.C. 28712
- ③ City of Brevard
Brevard, N.C. 28712
- ④ Brevard Electric Co.
5133 Boylston Hwy.
Mills River, N.C. 28759
- ⑤ KJSC Development LLC
284 Wilson Dr.
Brevard, N.C. 28712
- ⑥ Lucky 20 Inc.
47 Pine Street
Brevard, N.C. 28712