

MINUTES
BREVARD BOARD OF ADJUSTMENT REGULAR MEETING
Tuesday, May 3, 2022 – 3:00 PM

The Brevard Board of Adjustment (BOA) met for a regular meeting on Tuesday, May 3, 2022, at 3:00 PM.

Members Present: Kevin Jones, Chair
Judith A. Mathews, Vice Chair
Allen Delzell
Tad Fogel
Tom Tartt

Staff Present: Aaron Bland, Assistant Planning Director
Janice Pinson, Board Clerk
Brian Gulden, Board Attorney

Others: Khadijahs, Inc, - Layton Parker, Applicant

I. WELCOME

Chair K. Jones called the meeting to order at 3:00 PM and welcomed those present.

II. INTRODUCTION OF BOARD MEMBERS

Board members, Board Attorney, and Staff introduced themselves.

III. CERTIFICATION OF QUORUM

Chair Jones had the Clerk certify that a quorum of the Board was present.

IV. APPROVAL OF AGENDA

Motion to approve the agenda by A. Delzell, second by J. Mathews, carried unanimously.

V. APPROVAL OF MINUTES

Motion to approve the minutes of the April 5, 2022, as submitted by J. Mathews, second by T. Tartt, motion carried unanimously.

VI. APPROVAL OF ORDERS

Motion to approve Ryan Jacques Order, VAR-22-001 by T. Fogel, second by Dr. Delzell, unanimously carried.

Motion to approve Rogers/Brevard Tire Order, SUP-22-001 by T. Fogel, second by J. Mathews, unanimously carried.

VI. NEW BUSINESS

a. VAR Request – Khadijahs, Inc. VAR-22-003

Request of Khadijahs, Inc. for a variance from UDO Chapter 12.C.1.b. for a variance to reduce the required side setback for freestanding ground signs of 10 feet to 4 feet. The property is located in the Downtown Mixed Use (DMX) zoning district within the corporate limits of the City of Brevard, further identified by PIN# 8597-45-7490-000.

The matter was properly advertised, property posted, and letters were mailed to the neighboring property owners.

Chair Jones explained quasi-judicial procedures.

The Board was polled as to conflicts of interest and ex parte communications. There were none.

The Applicant, Layton Parker was polled as to conflicts of interest and he had none.

The following were sworn by the Board Clerk: Layton Parker, Khadijahs, Inc. and Aaron Bland, Assistant Planning Director.

Chair Jones opened the hearing.

Aaron Bland presented his staff report a portion of which follows:

Background

The applicant, Layton Parker of Khadijahs Inc., owner of the Hampton Inn in Pisgah Forest, owns a very small outparcel, separate from the lot upon which the hotel building sits, which is located in the Downtown Mixed Use (DMX) zoning district within the corporate limits of the City of Brevard. The parcel identification number 8597-45-7490-000.

The applicant is requesting a variance from the required side yard setback for freestanding ground signs requirement of 10 feet, per Section 12.9.C.1(b) of the City's Unified Development Ordinance. The request is for a variance of 6 feet on the sides of the parcel, resulting in setbacks of 4 feet to both side lot lines. The application does not make request for variances to the front or rear setbacks, which are 5 feet and 10 feet respectively.

See Attachment A for the application materials, Attachment B for Section 12.9.C.1(b) of the UDO, and Attachment C for a site map.

Discussion

The subject parcel is extremely small, approximately 40 feet long x 10 feet wide or 0.009 acres. It adjoins the NCDOT right-of-way for NC 280 and sits between the parking lots of

Pizza Hut and the former BI-LO grocery store. This unusually small parcel was subdivided and purchased specifically for the placement of a sign to advertise the Hampton Inn, as the hotel building sits several hundred feet off of Highway 280. Additionally, it is hidden from view by the Forest Gate shopping center and the wooded lots that sit between the hotel and the road. The legal description of the lot in the tax records is "SIGN PARCEL."

The required 10-foot side yard setbacks for freestanding ground signs are impossible to conform to on such a small parcel. Given that illuminated ground signs are typically 1-2 feet thick, the applicant requires a reduction of the rear yard setback from 10 feet to 4 feet. Because of the very small size of this parcel, Staff recommends that, in the event a variance is granted, the Board consider including a condition that the property corners marked by a licensed land surveyor in order to assist with the placement and inspection of the sign in relation to the property lines. The Board may also consider other conditions that are reasonably related to the variance and the standards for its approval.

Layton Parker, Applicant stated that Aaron Bland had done a great job explaining the situation. When asked why he waited until now to apply for a variance for a sign on the parcel, he explained that NC Department of Transportation is in the process of acquiring easements to build a roundabout and that he will lose his current sign and that it is time to place a ground sign on the parcel originally designed as a sign parcel.

After a brief discussion T. Fogel made the following motion:

With regard to variance request **22-003**, the application of Khadijahs, Inc., seeking a variance from Section 12.C.1.b. of the UDO for property located on NC 280, Brevard, North Carolina, within the Downtown Mixed Use (DMX) Zoning District, I move the Board to make the following findings of fact:

a) that unnecessary hardship would result from the strict application of the regulations;

There is a lack of wayfinding for the Hampton Inn because of its location in relation to adjoining highways.

The sign parcel is too small to meet the ordinance setback requirements on one side which would prevent any use of the property without the requested variance.

b) the hardship results from conditions that are peculiar to the property such as location size or topography;

NCDOT will be taking property and force the removal of the existing ground sign when they build a roundabout in this location. The sign parcel was previously subdivided as an out parcel with dimensions of 40 feet long by 10 feet wide for the express purpose of installing a sign.

c) the hardship did not result from actions taken by the applicant or the property owner; and

The sign parcel was created as part of the original development and is just now being utilized because of upcoming changes to the highway infrastructure. The Applicant was not a part of the original development which created this sign parcel.

d) the requested variance is consistent with the spirit purpose and intent of the regulations such that Public Safety is secured, and substantial Justice achieved.
Allowing directional and wayfinding signs to avoid confusion complies with the intent of the City's UDO.

Accordingly, I further move the board to **GRANT** the requested variance to reduce the required side setback for freestanding ground signs as required in DMX from 10 feet to 4 feet in accordance with and only to the extent represented in the application and plans.
and subject to the following conditions:

Applicant agreed to have the survey pins located so that the Planning Department can perform their setback sign inspections.

J. Mathews seconded and unanimously carried.

VII. UNFINISHED BUSINESS – None

VIII. REMARKS

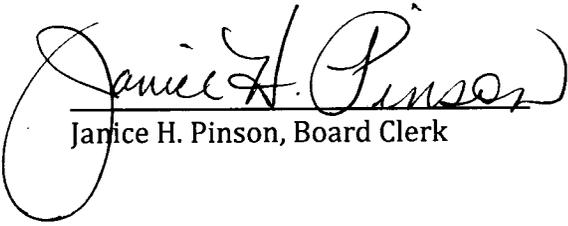
T. Fogel began a discussion on the need for members. J. Mathews stated that she is working on the matter with Transylvania County.

Also, there was a discussion on how to speed up the process of Orders being approved and given to applicants in a timelier manner.

It was decided that Attorney Gulden and the Board Clerk would make every effort to speed up the process and that if Applicants have time sensitive deadlines that the Orders will be expedited by email or by in person approval prior to the next meeting if necessary.

IX. ADJOURN

T. Fogel moved, seconded by Dr. Delzell that the meeting adjourn. Motion carried. Meeting adjourned at 3:47 PM.



Janice H. Pinson, Board Clerk



Kevin Jones, Chair