

MINUTES
BREVARD BOARD OF ADJUSTMENT REGULAR MEETING
Tuesday, September 7, 2021 – 3:00 PM – Council Chambers

The Brevard Board of Adjustment (BOA) met for a regular meeting on Tuesday, September 7, 2021, at 3:00 PM in Council Chambers of City Hall.

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

Staff Present: Paul Ray, Planning Director, Clerk to the Board
Aaron Bland, Assistant Planning Director
Brian Gulden, Board Attorney

Others: Dawn Raborn, Rite Lite Signs
Mark Gurley, Food Lion

I. WELCOME

Chair J. Mathews called the meeting to order at 3:05 PM and welcomed those present.

II. INTRODUCTION OF BOARD MEMBERS

Board members, Board Attorney, and Staff introduced themselves.

III. CERTIFICATION OF QUORUM

Chair Mathews certified a quorum of the Board was present.

IV. APPROVAL OF AGENDA

Mr. Jones moved seconded by Mr. Fogel, to approve the agenda as presented, carried unanimously.

V. APPROVAL OF MINUTES

Mr. Jones moved, seconded by Dr. Delzell that the August 10, 2021, minutes be approved as presented. Motion carried unanimously.

VI. NEW BUSINESS

a. Request of Rite Lite Signs, Agent for Centrex Properties, Inc. for a variance from UDO Chapter 12.9.b.4.c to allow for a 134.8 square foot front wall sign. The property is located in the Downtown Mixed Use (DMX) zoning district with the address of 100 College Station Drive within the corporate limits of the City of Brevard, further identified by PIN# 8586-62-0921-000.

Chair Mathews explained quasi-judicial procedures.

Attorney Gulden explained the procedures for granting a variance, and that a four fifths vote is required to grant the variance.

Dawn Raborn, Mark Gurley, and Aaron Bland were sworn by Paul Ray.

Chair Mathews polled the board as to exparte communications or conflicts of interest. There were none.

Chair Mathews asked the Applicants if they had any objections to the board seated to hear the matter. There were none.

Aaron Bland, Assistant Planning Director, presented his staff report. A portion of which follows:

Background

As a part of their renovations, the Food Lion grocery store located at 100 College Station Drive intends to replace their existing front wall sign with a new 134.8 square foot sign on the main façade of the store. Regulations limit permanent wall signs in the Downtown Mixed Use zoning district to 64 square feet in size. The applicant's desired 134.8 square foot sign represents a request for a 70.8 square foot variance from the allowable 64 square foot maximum. The store's existing front wall sign is 249.2 square feet in size; the proposed new sign would be 46% smaller than the existing sign.

Discussion

The purpose of the City's current sign regulations is stated, in part, as:
"...to promote the effective and compatible use of signage within the City of Brevard's planning jurisdiction by ensuring that no sign will, due size, location, color, illumination, movement, construction, materials, or manner of display, endanger the public safety of individuals; confuse, mislead, or obstruct the vision necessary for traffic safety; or otherwise endanger public health and safety ... to promote signs that are compatible with the use of the property to which they are appurtenant, compliment the landscaping and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained

in a structurally sound and attractive condition.”

The legibility of a sign is directly related to its overall size, and its relationship in size to the building façade upon which it is placed, as well as its distance from the road/sidewalk area. Permanent wall signs in non-residential districts typically are limited in size based on a formula that allows signage to scale to the size of the building upon which they are placed. This limit is equal to twenty-five percent (25%) of the total surface area of the front wall space of the main facade of the building, less the area of any windows and doors. This number is the maximum amount of all wall signs combined. However, there is a specific limitation on individual signs in the Downtown-Mixed Use (DMX) zoning district of 64 square feet. This is the only zoning district to have a maximum per sign size in the UDO.

Standards for the Granting of Variances

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. Economic hardship or the fact that property may be utilized more profitably with a variance shall not constitute an unnecessary hardship. In its motion the Board should include Findings of Fact to support each of the items listed above.

The board asked if the signage lettering stating bakery, deli, etc. would be removed. They further asked if the reason for the variance request was because a new sign was being installed, even though the sign applied for was smaller in size than the existing sign.

Mr. Bland answered, that the Applicant would need to answer any questions about the plans for the lettering signage. He further explained that the Applicant applied for a new sign and that because of the application for the new sign, and the changes to the sign ordinance, the only way to approve the application would be a variance.

Mr. Gurley, Food Lion, responded that the lettering will be removed, and the columns will be painted to match the remainder of the building.

Ms. Raborn, Rite Lite Signs, explained that the reduction of the sign to comply with the existing UDO would make the sign much too small for the Food Lion store front. She provided

renderings of the signage at 48” letter set size, and 30” letter set size, which is attached hereto and labeled, Exhibit “A”.

Mr. Gurley testified that the existing sign design is now 7 ½ years old, and they are updating all of their stores as they are remodeled with the new signage. The new sign is backlit which reduces the amount of illumination in comparison to their old sign.

There were questions about the property’s zoning district classification of DMX Downtown Mixed Use.

Aaron Bland explained that the ordinance was changed approximately 2 years ago, and that most existing signs would probably be preexisting nonconforming, because they predate these UDO changes.

Mr. Gurley asked Ms. Raborn how the sign is measured, and it was explained that the ordinance requires a box around the total lettering, or largest portion of the sign.

Chair Mathews closed the hearing.

Mr. Jones made the following motion:

With regard to variance request **21-003**, the application of Rite Lite Signs, for a 71 sq. ft. variance from the maximum permitted area of wall signs, as set forth in UDO Chapter 12.9.B.4., to allow for a 134.8 sq. ft. wall sign on property located at 100 College Station Drive, Brevard, North Carolina, within the Downtown Mixed (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 would be a hardship because the signage is out of date, loss in marketing ability, signage too small to compete with neighboring competitors who have larger signage.
- b) the hardship results from conditions that are peculiar to the property such as location size or topography;
There would be a hardship because the signage is out of date, loss in marketing ability, signage too small to compete with neighboring competitors who have larger signage.
- c) the hardship did not result from actions taken by the applicant or the property owner;
and
- d) **There would be a hardship because the signage is out of date, loss in marketing ability, signage too small to compete with neighboring competitors who have larger signage.**
- e) the requested variance is consistent with the spirit purpose and intent of the regulations such that Public Safety is secured and substantial Justice achieved.

The new signage would better comply with current standards.

Accordingly, I further move the board to **GRANT** the requested variance in accordance with and only to the extent represented in the application and plans.

Second by Mr. Fogel, unanimously carried, variance granted.

VII. UNFINISHED BUSINESS –

The Board had a discussion with Attorney Gulden as to the fact that they have 3 vacant ETJ positions to fill, and that we are out of statutory compliance. The Board requested that the City Clerk reach out to the County Clerk, and the City Attorney to the County Attorney to discuss remedies.

VIII. REMARKS – None.

IX. ADJOURN

Mr. Jones moved, seconded by Mr. Tartt that the meeting adjourn. Motion carried. Meeting adjourned at 3:42 PM.

Janice H. Pinson, Board Clerk

Judith A. Mathews, Chair