

LANCASTER COUNTY  
BOARD OF ZONING APPEALS  
REGULAR MEETING  
SEPTEMBER 13, 2016  
MINUTES

Members Present: Don Brouwer, Reid Rushing, LaVilla Brevard, Terry Graham.

Others Present: - Penelope Karagounis, Planning Director (In Audience); Elaine Boone, Planner II; Alex Moore, Planner II (In Audience); Nick Cauthen, Planner I; Judy Barrineau, Secretary; Kenneth Cauthen, Zoning Officer; Dwight Witherspoon, Zoning Officer; Gavin Witherspoon, Zoning Officer; John Weaver, County Attorney;

Others Absent: Harvey Carnes, BZA Board Member; Frances Liu, BZA Board Member; District 6 – Vacant Seat; Amy Bowers, Zoning Officer; No members of the press were present.

The following press were notified of the meeting by email or by fax in accordance with the Freedom of Information Act: The Lancaster News, Kershaw News Era, The Fort Mill Times, and the local Government Channel. The agenda was also posted in the lobby of the County Administration Building the required length of time and on the County website.

**Approve the Agenda**

Terry Graham made a motion to approve the agenda and Don Brouwer seconded the motion.

VOTE:                      UNANIMOUS                      MOTION CARRIED

**Approval of the Minutes**

Don Brouwer made a motion to approve the June 2016 minutes and LaVilla Brevard seconded the motion.

VOTE:                      UNANIMOUS                      MOTION CARRIED

Reid Rushing called the meeting to order.

Staff introduced themselves and Judy Barrineau swore them in.

Judy Barrineau - Do you solemnly affirm that the testimony you are about to give is the truth, the whole truth and nothing but the truth?

Staff – Yes.

Reid Rushing – Have all the adjacent property owners and the applicant been made aware of tonight’s meeting including place, date, and time and advertised in the paper including a copy on file?

Nick Cauthen – Yes.

Reid Rushing – The zoning board of appeals duties are within three specific areas: A) Administrative review is an appeal of an order, requirement, decision, or determination of the Administrator that has alleged error. B) The power to grant variances when strict application of the zoning ordinance would not cause an unnecessary hardship and the granting of variances would not cause substantial detriment to adjacent property or the public good. C) Special exceptions are permitted when uses require a public hearing prior to granting authorization. The public hearing is conducted to review comments and information both for and against a proposed application. During the public hearing portion of the meeting all interested parties will be given the opportunity to speak and give factual information or present factual documentation. All people speaking will be placed under oath. All persons wishing to speak must sign the proper registry prior to speaking. Anyone speaking will come forward to the podium, speak into the microphone, state your name, address, and your telephone number. We must record all information for the

record. Applicant will speak first, all opponents second, the proponents next. The applicant will also have an opportunity for a rebuttal. Please, a 5 minute limit will be placed on each speaker.

**Variance application of Sign World, Inc. The applicant is requesting a variance from Chapter 10 Signs, Section 10.10 Maximum sign surface area for other than freestanding signs of the Lancaster County Unified Development Ordinance regarding additional sign area for a new Hobby Lobby. BZA-016-009**

Nick Cauthen – Presented the statement of matter.

Reid Rushing – If the applicant agrees with the statement of matter as read please come forward and sign.

Reid Rushing – I will now proclaim the public portion of our meeting open.

Reid Rushing – Have we received any calls or letters?

Nick Cauthen – We had one call just asking why the sign was posted.

Judy Barrineau - Do you solemnly affirm that the testimony you are about to give is the truth, the whole truth and nothing but the truth?

David Shirley – 771 Toll Road, Pilot Mountain, NC – As an employee of Sign World I'm representing Sign World on behalf of this variance who is also representing Starlite Sign who has been the national supplier for Hobby Lobby for a number of years. This is their national program that they have been putting out for Hobby Lobby for an excess of 25 years as their standard. Where Hobby Lobby can, this is building frontage they use as their standard when working with landlords and builders and the national trademark they use across the country. They are a well established old style company. I left a package on your desk before the meeting. If you look at page 2 of this you will see that Hobby Lobby is actually landlocked as far as signage or visibility goes by the other tenants and other construction that will be in this building. They are only seen in a very limited area that I've highlighted in green as you pass by. Most of the signage will only be visible really in the parking lot area. The idea here is that they are trying to maintain their visibility but keep their standard corporate look even though they really will not gain visibility outside of the common area for the center itself. As far as size of the sign, yes we are asking for a larger than standard signage; however that is not going to gain them that much as far as advantage in the market place. The color of the sign being orange is a very dense material so we are not talking about any lighting encroachment. It does not cast a heavy glare or lighting such as other signage in the area of other properties across the street and up and down that highway. Basically the standard we are trying to reach here is an aesthetic look on that property. This is a very large building and just trying to keep the standard scale of the building matching the scale of the signage that they have asked for to use here and they have used in the past throughout the country.

Reid Rushing – The public portion of this meeting is now closed.

Reid Rushing – Has a site check been done?

Kenneth Cauthen – On page 14 of the handout, number 3, other than a freestanding sign is a wall sign; that is what these are. You are allowed one square foot a signage area for each one foot of building length up and it says not to exceed 75 square feet. The whole long building is 240 feet and it's about 500 square foot of signage. Technically all the signage they could have for that one building is 75 square feet. Instead of a couple 20 foot variances it would be like 400 and something. If the board approves it that is fine it doesn't matter to us. We just need to straighten it up. It should be no more than 75 square feet max.

David Shirley – It was brought to our attention in the code book that under Section 10.9 paragraph 4; when a sign is located more than 500 feet from the street a multiplier of the true surface area of the sign times .3 which would allow a surface area of the sign of 250 feet.

Reid Rushing – Where did you find that at?

David Shirley – That was sent to us by somebody apparently with the County that is part of the code check we did some time back. I don't have a name on this document.

Reid Rushing – You know anything about that Kenneth?

Kenneth Cauthen - .3 times 75 is something like twenty something square feet so I'm aware of that ordinance so you are still talking about a maximum size sign of around 100 square feet.

Terry Graham -- They are asking for a variance for 3 times that?

Kenneth Cauthen – That is correct.

Reid Rushing – 3 times 27.2?

Terry Graham – If it's 100 square feet they are asking for 277. That is a huge difference.

Reid Rushing – It says to allow the maximum square footage to exceed by 10% of 250, 277.2. Where did the 250 come in?

David Shirley – This was in a letter we actually received pursuant of Chapter 10 of the UDO specifying a 10.10 Maximum Sign Surface Area Permitted on any building in commercial zoning is one square foot of the sign surface; linear footage of each designated least area, opposed commercial not to exceed 75 square foot.

Kenneth Cauthen – This drawing here where it shows crafts and frames; you are telling me that is different buildings, each one?

David Shirley – No the variance we are asking for is only Hobby Lobby at this point.

Kenneth Cauthen – That is the whole big long building, 240 feet long?

David Shirley – 240 feet long.

Kenneth Cauthen – ok, you are allowed 75 square feet plus .3 times 75 is about another 20 something feet so you are allowed around 100 square feet.

David Shirley – Then it says however, per Section 10.9 Paragraph 4, the surface area of any sign located on wall of a structure, at least 500 feet from the leading edge of the street which your store exceeds that; then the sign surface area is multiplied by true surface area sign by .3 therefore not exceeding the maximum of 35 square foot surface area of up to 250 square feet. Now I'm not sure who this came from here but this is information that was forwarded to us. We were told we could not have what we originally asked for and would need to request a variance. This is the document we originally received.

Reid Rushing – There is no initials or anything?

David Shirley – No, because it was forwarded to us from Starlite Sign; they had copied and pasted it so I don't know who it came from.

John Weaver -- Mr. Chairman there is quoted in here Section 10.9 Paragraph 4 of the UDO. I don't have a copy of it so I can't speak to it.

Kenneth Cauthen – As far as I know the only time we ran into this was at the Continental Tire building.

Reid Rushing – How did they arrive at 250 square foot? It says the applicant wants to increase the maximum signage area from 250. So somewhere they have been led to believe that the signage is 250 square feet. But you don't know who told you that?

David Shirley – I'll have to check on that.

Kenneth Cauthen – The Hobby Lobby sign is five feet tall and 55 feet wide so that would be about 250 something feet. You add all these little signs together and that is another 200 and something.

Reid Rushing – That is the next application if I'm not mistaken.

Terry Graham – Does the sides of the sign just apply to one sign or do you add all those other signs in?

Reid Rushing – Wait a minute, we are just taking one application at a time.

Terry Graham – Yes but my question is when you are talking about sign requirements for a building do you take all the signage and add it together? Is that the way it is Kenneth?

Kenneth Cauthen – It should have been added for the whole building on one application. It says the true sign area. Is that what they want to do? The true area that is allowed is 75 square feet so .3 times 75 is like another 25 so the total signage would be 100 square feet.

Terry Graham – That is for all signs on a building?

Kenneth Cauthen – Yes.

Reid Rushing – So you are saying actually the total amount of square footage of signage should not exceed 100 square feet, around that?

Kenneth Cauthen – Then again it's in the packet we've approved similar signs. Of course I know that this is a different case.

Reid Rushing – Really and truly we are looking at an application to decrease the maximum signage area for 250 square feet to 277.2 so he actually wants to increase it 177 points.

John Weaver – I've been told and apparently they've gone to get it. This is part of a PDD and the section that he is talking about we believe comes out of the PDD Development Agreement. I have the ordinance here on signs and there is nothing that even references that in any of these sections. I think that Nick has gone to get the PDD and if that in fact is what it says, that will be the controlling document.

Kenneth Cauthen – Could be right, normally the PDD's refer back to Chapter 10 which is this right here.

Elaine Boone – That is what I'm thinking it does. I think PDD-20 goes back to Chapter 10.

Reid Rushing – What does Chapter 10 say?

Elaine Boone – 100 square feet.

David Shirley – Typically in a case of this type the Hobby Lobby wants to make sure before they sign the contract with a developer that they obtain the advertising and possibly some other items on this property that they feel secure in before they sign the final contract.

Reid Rushing – Has a site check been done?

Kenneth Cauthen – It is just woods.

Reid Rushing – Have all measurements been verified?

Kenneth Cauthen – Yes.

Elaine Boone – It refers back to Chapter 10.

Reid Rushing – Please read it to me.

Elaine Boone – Under signage 11.7, it says a master signage and graphic system specific to the various villages shall be developed and shall conform to the standards of Chapter 10 of the Unified Development Ordinance. A master signage program shall be submitted to the Planning Director for review prior to issuance of a permit. Entry sign may include project identification signs with signed copy area of up to 250 feet. I think that is where you got the 250. That comes off your entry signs; one off of 521 and one off of Jim Wilson Road. It also talks about being incorporated into an architectural feature such as a wall that will not exceed 12 feet height. Up to two such signs per entry to the community are permitted; all street signs and identifying signs for each component, subdivision, or establishment shall conform.....unable to hear due to talking in the background. It really just goes back to it shall conform to the standards of Chapter 10 if anyone wants to look at this.

Reid Rushing – You understand what has happened?

David Shirley – Yes, I've been mislead a little bit at some point and time. We need to research this further and see where this information came from then. We felt confident we would be able to obtain approval for this variance.

Reid Rushing – Based on the information given to us tonight both of these variances that you are asking for are incomplete.

David Shirley – Correct I feel it would be best in both our interests to withdraw these two applications at this time and do the code checks again and see where this 250 came from.

Elaine Boone – Could they table them and bring it back?

David Shirley – Could we table it until the next meeting?

John Weaver – You are talking about the first one and the second one. If the same confusion with the second one exists just like the first one then I would continue them both.

Reid Rushing – Neither one of them is going to fly because he is asking for even more footage on the second one.

John Weaver – If he would like to table this or continue it and determine whether or not there is any hope or he may just withdraw it completely. I think a continuance would be appropriate if this board agrees.

Terry Graham made a motion to continue until the next Board of Zoning Appeals meeting and LaVilla Brevard seconded the motion.

VOTE: 4 AFFIRMATIVE 0 NEGATIVE MOTION CARRIED

Reid Rushing – We will continue both applications for Sign World.

**Variance application of Sign World, Inc. The applicant is requesting a variance from Chapter 10 Signs, Section 10.10 Maximum sign surface area for other than freestanding signs of the Lancaster County Unified Development Ordinance regarding additional signs for a new Hobby Lobby. BZA-016-010 (Application continued until next Board of Zoning Appeals Meeting)**

**Variance application of Lisa Outen. The applicant is requesting a variance from Chapter 5 Density and Dimensional Regulations, Section 5.1 Minimum lot size requirements of the Lancaster County Unified Development Ordinance in order to subdivide her property. BZA-016-011**

Nick Cauthen – Presented the statement of matter.

Reid Rushing – If the applicant agrees with the statement of matter as read please come forward and sign.

Reid Rushing – I will now proclaim the public portion of our meeting open.

Judy Barrineau - Do you solemnly affirm that the testimony you are about to give is the truth, the whole truth and nothing but the truth?

Lisa Outen – Yes, 7446 Suncrest Drive, Kershaw SC – I just would like to divide this land. On my tax notice we have been billed for 2.1 acres. When it was surveyed back in 2005 which I just found out after all this came about it came up 1.987. When we found out about the mobile home and we've had a mobile home on this lot before and didn't have a problem. Now we were told we have to have one acre per mobile home and it's such a small amount of land and I would just like to divide it.

Reid Rushing – I will now proclaim the public portion of our meeting closed.

Reid Rushing – Any calls or letter received on this?

Nick Cauthen – No sir.

Reid Rushing – Has a site check been done?

Kenneth Cauthen – Like she stated, she has paid taxes on two acres for years and years. She had it re-surveyed and it showed up less than two one hundreds of an acre and that happens quite often because years ago when they surveyed it wasn't done with computers so now everything is more accurate. She is in sandy land so there is no problem with the septic system and has existing septic so there should not be any problems with this.

Reid Rushing – Have all measurements been verified?

Kenneth Cauthen – Yes sir.

Don Brouwer made a motion to **approve** on the fact that the authorization of the 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 granting of the variance nor will the granting of this variance impair the purpose and intent of this Ordinance or the Comprehensive Plan; LaVilla Brevard seconded the motion.

VOTE: 4 AFFIRMATIVE 0 NEGATIVE MOTION CARRIED

**Variance application of Moseley Real Estate Advisors. The applicant is requesting a variance from Section 2.1.5, subsection 7 Highway Corridor Overlay District of the Lancaster County Unified Development Ordinance regarding the parking requirements for a proposed Freddy's Frozen Custard restaurant. BZA-016-012**

Nick Cauthen – Presented the statement of matter.

Reid Rushing – If the applicant agrees with the statement of matter as read please come forward and sign.

Reid Rushing – I will now proclaim the public portion of our meeting open.

Judy Barrineau - Do you solemnly affirm that the testimony you are about to give is the truth, the whole truth and nothing but the truth?

Collin Brock – 16748 Krishna Lane, Charlotte NC – I am speaking on behalf of my client Moseley Real Estate Advisors. We are looking for a variance along the parking along the street for the new proposed Redstone Development. This is one of the secondary entrances into the development and this is an out parcel that is located in that corner and we comply with all the current code. I know that you are all aware of the rewrite of the UDO and massaging the Highway Overlay Corridor Ordinance as well. In the context of my clients needs and from a timing standpoint we want to go ahead and get a variance of the current ordinance as it is and the overlay as it is right now. It is pretty simple the client is looking for the parking area that faces the front of that street. That also allows the drive thru coordination to a surplus building. There is also a small minor variance of part of the tree ordinance to allow a little bit more pedestrian friendly connectivity from that street over to the building so there is a requirement for a tree island in that parking area. So it is a tree we would not accommodate due to having a sidewalk instead of that tree at the main front entrance to the restaurant.

Reid Rushing – The public portion of our meeting is now closed.

Reid Rushing – Any calls or letters?

Nick Cauthen – Just two Black Horse Run residents asking about the development in general and no opinion regarding the variance request.

Reid Rushing – Has a site check been done?

Kenneth Cauthen – This is just like the other one. The land is about finished being graded and you have to go by site plans and I think the main item brought up was the safety pedestrians crossing the drive. That would be on the alternate plan.

Reid Rushing – Have all measurements been verified?

Kenneth Cauthen – Yes.

Terry Graham – Does the alternate plan conform with what the current ordinance would allow?

Nick Cauthen – The alternate plan that is in the packet doesn't conform? Is that correct Alex?  
As you can see on that, there is also parking on that side yard.

Terry Graham – Ok I see what you are saying. On this proposed plan there is parking on both sides.

Collin Brock – Just parking on the one side. The two challenges with the other plan is the safety issue where pretty much every patron would have to cross over a drive thru lane to get to the front entrance which is obviously I think is not a positive for their patrons.

Terry Graham – So the variance you are asking for is not for the main road, Hwy. 521?

Collin Brock – The way the ordinance is read it says “street” and there is not a lot of clarification on whether or not we consider this a street because it is a private drive but there is not a clear delineation between drive and street.

Terry Graham – So this proposed plan is because it would be safer?

Collin Brock – Yes, if you look at the alternate plan almost the entire majority of patrons would have to cross that drive thru which has we all know if you've been through a drive thru they tend to be the most distracted drivers. You are checking to see if you got your mustard packet and whatever so from the patrons they tend to cater to and families; it is a very family oriented business. We looked at numerous lay

outs that none of them complied and that was the closest we could comply to. In addition that requirement also had to expand a large patio area to create quote unquote building envelope to kind of block that which is also kind of an attachment to the client. The biggest issue is the safety and this plan that we are proposing I think is the most prudent lay out and allows the most pedestrian connectivity safely to passage to the main entrance. The only non-conforming issue we have is that frontage so to speak to the Redstone drive.

Brief discussion between Nick Cauthen, Terry Graham, and Reid Rushing regarding extending the patio.

Collin Brock – The other challenge for expanding that patio technically is when you increase that patio and you want to put seats, your parking is based on seats so the more patio the more seats and more parking needs. It kind of creates a double detriment.

Terry Graham made a motion to **deny** and Don Brouwer seconded the motion.

VOTE: 4 AFFIRMATIVE 0 NEGATIVE MOTION CARRIED

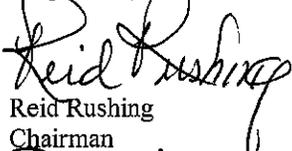
Reid Rushing – We need a reason for denial.

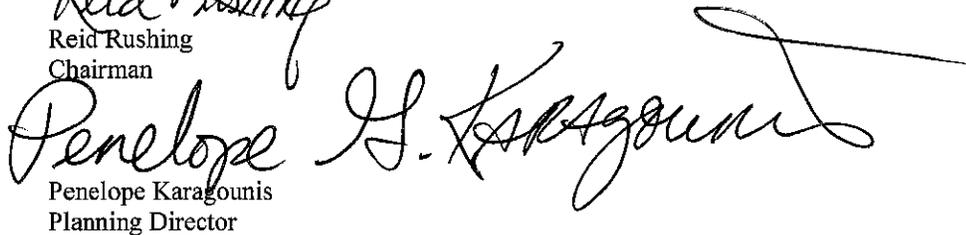
Terry Graham – There are no extraordinary and exceptional conditions pertaining to this particular piece of property.

Don Brouwer made a motion to adjourn and LaVilla Brevard seconded the motion.

VOTE: UNANIMOUS MOTION CARRIED

Respectfully Submitted,

  
Reid Rushing  
Chairman

  
Penelope Karagounis  
Planning Director