

Draft
Smithfield Board of Adjustment
Minutes
Thursday, September 26, 2019
6:00 P.M., Town Hall, Council Chambers

Members Present:

Stephen Upton, Vice Chairman
Sarah Edwards
Mark Lane
Doris Wallace

Members Absent:

David Johnson

Staff Present:

Stephen Wensman, Planning Director
Mark Helmer, Senior Planner
Julie Edmonds, Administrative Support Specialist

Staff Absent:

CALL TO ORDER

APPROVAL OF MINUTES FROM January 31, 2019

Doris Wallace made a motion, seconded by Mark Lane to approve the minutes as written.
Unanimous

CHANGE IN AGENDA

Mark Lane made a motion to remove swearing in of new member, seconded by Doris Wallace.
Unanimously approved

VOTING IN OF NEW CHAIRMAN

Mark Lane nominated Stephen Upton as chair of the Board of Adjustment seconded by Sarah Edwards. Doris Wallace made a motion to close the nomination seconded by Mark Lane.
Unanimously approved

VOTING IN OF VICE-CHAIRMAN

Sarah Edwards nominated Doris Wallace as vice-chairman. Unanimously approved

OPEN PUBLIC HEARING

Sarah Edwards made a motion, seconded by Doris Wallace to open the public hearing.
Unanimously approved

All witnesses were sworn in.

Mr. Helmer pointed out in order for a decision to pass it would require four-fifths of the board and there is a missing member tonight. You would need a unanimous vote by this board tonight to approve the request in front of you. If there is an issue that can't be approved tonight, the board can table the request for 30 days.

BA-19-02 Johnston County Board of Education: Smithfield – Selma High School is requesting a 2 foot variance form the 6 foot maximum height for the construction of a sign located within an OI (Office-Institutional) zoning district. The property considered for a variance

is located on the southeast side of the intersection of Booker Dairy Road and Kellie Drive and further identified as Johnston County Tax ID#14075033.

Mr. Helmer stated that the Planning staff issued a sign permit to Advance Signs & Service, Inc. on May 23, 2019 for the construction a six foot tall monument sign to be located at Smithfield-Selma High School. The approved sign was partially constructed when it was noticed that the visibility of the sign will be limited due to the increase in elevation of the newly constructed Booker Dairy Road. The new roadway is approximately two feet above the ground elevation near the subject sign. Therefore, the applicant is requesting to add an additional two feet in height of the base of the sign which will raise the text of the message above 12 inches which is the maximum allowed. That in itself is a variance using the 12 inch rule. No additional sign area is requested at this time. The existing monument sign is to be removed as a condition of approval of the original sign permit.

Ms. Edwards asked Mr. Helmer to clarify what the 12 inch rule was.

Mr. Helmer said with monument signs, the portion with the text can be no higher than 12 inches above the ground.

FINDINGS OF VARIANCE APPROVAL:

In order to approval a variance, the Board of Adjustments shall find all of the following provisions must be met (Staff's findings are in ***bold/italic***):

4.10.2.2.1. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. ***Unnecessary hardship will occur, because without the variance, the subject signs will not be viewable from the public right-of-way of Booker Dairy Road.***

4.10.2.2.2. 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. ***Recent changes to the elevation of Booker Dairy Road is creating a unique situation were the subject property is below the adjacent grade of the right-of-way.***

4.10.2.2.3. 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. ***The hardship is created by NCDOT roadway improvements to Booker Dairy Road and not the result of actions taken by the applicant.***

4.10.2.2.4. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured and substantial justice is achieved. ***The variance is in keeping with the spirit, purpose, and intent of the Ordinance. The variance will serve to protect and preserve the fabric and history of the district in which the dwellings are located.***

Planning Staff recommends the Board of Adjustment approve variance BA-19-02 to allow for a 2' variance from the 6' maximum sign height with the condition that the existing monument sign is removed before energizing the new sign.

Mr. Upton wanted to point out to Junior Creech; the representative for Smithfield-Selma High School that he could opt to continue this hearing for a later date if needed.

Mr. Helmer said if this board has issues with the sign and conveys it to the applicant; the applicant could request the case be tabled due to the absence on the board tonight. It could be heard the following month.

Mr. Lane said he had a problem with the old sign being removed. That sign was a gift from the first graduating class of Smithfield-Selma High School. He feels that the sign is a piece of history and should remain there.

Ms. Edwards asked Mr. Helmer if the current sign could be retained on the property as a landmark in a difference location.

Mr. Helmer said it's possible the sign could be relocated elsewhere on the site. It just couldn't function as a sign. The applicant didn't request a variance to allow for two signs and it was also a condition of a previously issued permit. Technically the applicant should make application for a variance for two signs.

Mr. Lane said he doesn't have a problem with the new sign, but he wants the current sign to remain.

Mr. Helmer said the locations of the two signs are close together and coming eastbound you wouldn't be able to see the old sign, only the new one.

Mr. Upton said with Mr. Lane's statement and opinion about the old sign, we're not going to be able to approve the variance tonight. He offered for the applicant to return at a later date with answers to any questions they may have.

Ms. Edwards said she didn't think it was the Board of Adjustments job to mandate the old sign to stay on the property. She understands where Mr. Lane is coming from though. Ultimately the applicant has come before this board tonight to approve the new sign. She doesn't know that the old sign bares any weight in the decision this board is being asked to make tonight.

Mr. Helmer said he agrees with Sarah Edwards. The existing sign does not have any bearing on the variance for increased sign height and is not factually relevant. The State Legislator has not given the Board of Adjustment the authority to legislate or place conditions on a variance when that condition has no nexus with the request.

JR Creech of 27 Brookwood Drive came on behalf of Smithfield-Selma High School. He stated that Mr. Allen mentioned removing the old sign at some point. Having heard that himself he also had concerns as Mr. Lane did. Mr. Creech told Mr. Allen that he would likely get a lot of negative feedback if the old sign was removed.

Mr. Upton said he understands this is a variance for the height of a sign but it's also brings up an imbalance with the older sign.

Mr. Upton asked Mr. Helmer if Mr. Creech and Mr. Allen could communicate among themselves about this issue with the older sign.

Mr. Helmer stated you can't receive testimony via telephone.

Mr. Upton said he meant at a later date not tonight.

Mr. Helmer yes absolutely, and he recommends we honor the current application as it is currently written and staff will work with the school to make other arrangements for the old sign within the confines of what the code allows for. If we can't do that it's their right to request a variance for the second sign.

Ms. Edwards asked if the second sign could be considered public art with reduced regulations.

Mr. Helmer said we could look at different possibilities.

Ms. Edwards asked if there were some flexibility that Town Staff could administratively handle that wouldn't require the applicant to come back before this board.

Mr. Helmer said we will look at it in every possible angle and see what can be done.

Mr. Lane said he would like to see this case tabled until we find out what's happening to both signs. It's hard for Mr. Lane to support the new sign going up not knowing what will happen to the old sign.

Mr. Upton said with that being said there is no way we will pass this variance with the feelings of Mr. Lane.

Mr. Creech asked Mr. Lane if we were to move the old sign somewhere out front where it would be seen, would you still have objections.

Mr. Lane said saying you're going to do it and actually doing it are two different things.

Mr. Lane asked Mr. Helmer if this variance is turned down tonight, the only appeal the applicant has is to the court system.

Mr. Helmer said no actually the Board of Adjustment appeals go to Town Council.

Mr. Helmer said I encourage each of you to look at the Findings of Fact because that's what you're supposed to be basing your decision on. Tonight their request is for a 2 foot variance. If you're looking at information that's not factual to the request then it exposes you.

Mr. Helmer said each member has to vote on each one of these findings and any objection is a denial to the application.

Mr. Creech sent a text to Mr. Allen asking about moving the old sign. He suggested relocating it to an area of grass over by the tennis courts.

Mr. Lane said telling me it's going to happen and doing it are two different things. It sounds like the perfect place but will it actually happen.

Mr. Creech said yes we will make it happen if we can get this variance approved.

Mr. Upton said approval won't happen with this board tonight on a condition that the old sign may or may not be moved to the location just mentioned. We would have had to have it in the variance request.

Mr. Helmer said staff is showing willingness to work with the school. If we can work it out we will issue a permit if we can't we will come back to the Board of Adjustments for another variance. That's the proper way to do it.

Ms. Edwards asked if this particular request could be amended if we table their request instead of having to make a second variance application for the second sign it's all tied into one.

Mr. Upton answered no, it will have to come back before this board and go through all the proper channels.

Ms. Edwards said she thought if we tabled the variance tonight, we could bring it back and hear both requests for the new and old sign next time.

Mr. Upton said he apologized, he didn't realize that was her question.

Mr. Helmer said the board can table the meeting.

Mr. Lane said I don't think the variance will be approved tonight if it's not tabled.

Ms. Edwards said the variance isn't likely to be approved tonight due to questions about the current sign and its ability to stay on the school grounds. The reason she suggested combining both variances into one, was to prevent the school system from having to pay more fees.

Mark Lane made a motion to continue BA-19-02 until the October meeting, seconded by Doris Wallace. Unanimously approved

Old Business

None

New Business

None

Sarah Edwards made a motion to adjourn, seconded by Mark Lane. Unanimously approved

The next Board of Adjustment meeting will be held on Wednesday, October 30th at 6:00 pm in the Town Council Chambers.



Julie Edmonds
Administrative Support Specialist
Town of Smithfield Planning Department