

TOWN OF SMITHFIELD BOARD OF ADJUSTMENT AGENDA PACKET



Chairman: Stephen Upton
Vice-Chairman: Mark Lane

Sarah Edwards
David Johnson
Keith Dimsdale

Stephen Wensman, AICP, RLA, Planning Director
Mark Helmer AICP, CZO, Senior Planner
Julie Edmonds, Administrative Assistant

Meeting Date: Thursday, May 28, 2020

Meeting Time: 6:00 p.m.

Meeting Place: Council Chambers, Smithfield Town Hall

AGENDA
BOARD OF ADJUSTMENT
REGULAR MEETING
May 28, 2020
MEETING TIME: 6:00 PM
TOWN HALL

Call to Order.

Approval of the minutes for February 27, 2020

Swearing in of new member Keith Dimsdale

Public Hearing

BOA-20-03 Daughtry, Woodard, Lawrence and Starling: The applicant is requesting a variance to the Town of Smithfield Unified Development Ordinance, Article 10, Section 10.23.3 to allow for a reduction to the minimum sign setback requirements on property located within a B-2 (Business) zoning district. The property considered for a variance is located on the northeast side of the intersection of East Market Street and North Fourth Street and further identified as Johnston County Tax ID#15020051.

Old Business.

New Business.

Adjournment.

Draft
Smithfield Board of Adjustment
Minutes
Thursday, February 27, 2020
6:00 P.M.,
Town Hall, Council Chambers

Members Present:

Stephen Upton, Chairman
Mark Lane, Vice Chairman
David Johnson
Sarah Edwards

Members Absent:

Staff Present:

Michael Scott, Town Manager
Travis Scott, Town Councilman
Stephen Wensman, Planning Director
Mark Helmer, Senior Planner
Julie Edmonds, Administrative Support Specialist

Staff Absent:

CALL TO ORDER

Approval of minutes from January 30, 2020

Sarah Edwards made a motion, seconded by David Johnson to approve the minutes as written.
Unanimously approved

Public Hearing

Mark Lane made a motion to open BA-20-02; seconded by Sarah Edwards. Unanimously approved

BA-20-02 Johnston Regional Airport Authority

Mr. Wensman stated that Johnston Regional Airport has requested a variance which is in 5 parts. It's a 19 ft high variance from the maximum height for a ground sign. It's 82.19 sq. foot variance from the maximum monument sign area. It's a variance from the maximum number of signs allowed, which is only 1. It's a 59.44 sq. ft variance from the maximum electronic sign area. Also, an 87.44 sq. ft variance from the maximum sq. ft of all signs for the airport. Their current airport sign is on Swift Creek Road by their entrance. The airport is located on 673 acres, they have one sign on a vast amount of land area.

The proposed sign is supposed to go on top of the hill across from OPW on US Hwy 70. It will be 25 feet tall with 182.19 sq. feet. The sign has two parts, one with the airport name and the other will be an electronic messaging sign. The upper sign is 92.75 sq. ft and the lower part is

89.44 sq. ft. He asked the applicant to supply staff with a scaled sign so they would be able to visualize what they were looking at. The existing sign on site includes the monument sign. They are allowed one ground sign 6 foot tall. The current sign is 8 feet wide, so they have 36 sq. feet of sign area. They have two wall signs each being 35.25 sq. feet and 34 sq. feet each. In total, there are 105.25 sq. feet of sign area utilized by the airport today. They are allowed 200 sq. feet total. The ordinance allows for one ground mounted sign. The proposed variance would allow a second sign. The maximum height of a ground sign is 6 feet and the applicant are asking for 25 feet; that's a 19-foot variance and that's a 75% increase. The maximum ground sign area allowed is 100 sq. feet. This proposed sign would have 182.19 sq. feet., therefore this sign would be an 82.19 variance from the ground sign height with an 82% increase in ground sign area. The maximum sign area for electronic signs or digital signs is 30 sq. foot and the applicant are asking for 89.44 sq. feet. That is a 59.44 sq. foot variance and 198% increase in area for that sign. The maximum square foot for all signs in the ordinance is 200 sq. feet. They would have 287.44 sq. feet with this new sign which is an 87.44 sq. foot variance for a total of a 44% increase in sign area total across all signs.

Mr. Wensman believes the airport is unique given its size given the variety of uses and events that take place on the site. It is a multi-use site and the current signage may not be meeting their needs. He feels there is a merit for a second ground mounted sign. He does feel that the sign height is warranted given the need to raise the sign above the existing 8-foot-high fence to be seen. However, he believes the 19-foot variance potentially is more than what's needed. The entire proposed sign would be located on top of the hill. Mr. Wensman suggested another option might be to move the fence, so a shorter sign could be installed in that location. Staff doesn't believe the amount of variance for the electronic messaging sign is warranted. They are more visible at a greater distance than traditional signs.

Staff recommends the Board of Adjustment consider this request. If all four finding of facts can't be met by the board, you could deny the variance citing those four finding of facts the staff has written. If you're interested in approving the variance because you believe the additional evidence supports the finding of fact you can approve the variance and provide that specific justification. Lastly, you could give the applicant an option to table to request and come to some compromise situation which could be presented at the next BOA meeting.

Mr. Upton suggested the board take the issue statements one at a time instead of jumping all around.

Mr. Lane said the applicant needs to understand that one denial vote is a denial, it must be unanimous.

Mr. Wensman said they have been informed of that already.

Mr. David Johnson stated in his opinion by looking at the illustration before him, the setback off the road and the fence and investment put into this sign it needs to be to the height and the

size requested. It's providing public good to the community by notifying every one of the airport and providing messages advertising any events or businesses leasing space.

Mr. Lane said the area that the proposed sign would be sitting on is very big. Therefore, the sign needs to be large; to be visible for passing traffic.

Mr. Lane asked if this variance is denied tonight, what would the applicant's position be at that point.

Mr. Wensman said they could come back to this board but with a different sign and hopefully not need a variance or a lesser variance.

Phil Lanier, the airport director came forward to answer any questions the board may have. Mr. David Johnson asked how far the Smithfield city limits were from Johnston Regional Airport.

Mr. Wensman said approximately 1 mile.

Ms. Edwards asked why the sign was within the fence.

Engineer Dixon said the fence is placed essentially along the right of way of Hwy 70.

Ms. Edwards asked Mr. Wensman based on the wayfinding signs that just went up, wouldn't the same setback requirement apply to those as far as distances.

Mr. Wensman said the towns ordinance doesn't require government signs to be 10 feet off the right of way.

Ms. Edwards said not setbacks but regarding the DOT's right of way.

Mr. Wensman said yes, anything in the right of way must have a breakaway sign. So, this sign couldn't be in the right of way.

Ms. Edwards asked if there was a map showing where the right of way was.

Mr. Wensman said the right of way is close to the fence and the telephone poles are a good indicator where the property line is.

Bruce Johnson of 1214 S. Vermont Street came forward to speak. He is on the board at the airport and in those two years he has served, a new sign has been topic of discussions. He wanted to express the great need for this new sign.

Ms. Edwards asked what the total dimensions of the proposed sign are.

Jason Honeycutt of Sign and Awning Systems spoke and said the dimensions of the sign are 60 ½ inches tall, 238 inches wide. The display is 50 inches tall by 110. This sign would advertise amber and silver alerts.

Ms. Edwards asked if businesses would be allowed to advertise on the digital area of the sign.

Mr. Bruce Johnson said they would promote businesses that lease space from the airport but no outside advertising.

Councilmen Travis Scott of 109 Parkway Drive attended the meeting. He wanted to express his opinion of the proposed sign and what a great addition the sign would be to the airport. He stated the airport houses our economic development for the County. A sign is often a first impression of a business. This new sign would bring awareness that an airport is even there. General aviation is a dying thing, it's expensive to be able to maintain an aircraft and give flying lessons. For us to have something like this in our community it's a huge asset.

Ms. Edwards made a motion to close BA-20-02; seconded by David Johnson. Unanimously approved

Mrs. Edwards stated that she was aware the airport was different from other projects and properties. Her concern is the precedence it sets in granting a variance like this. The idea that a similar sign could be accomplished without needing a variance. If a request for a variance was made that was less significant it would be easier to support. As far as the digital sign being as large as it is and the taller sign and a comparable sign for the airport section that would be approximately 161 sq. feet which is scientifically different than the variance requested. She stated knowing there is a 400-acre industrial site down the road. When that is built, she is concerned this same sign situation will arise again.

David Johnson said if a sign keeps someone from developing that 400 plus acre site, then he encourages them to put up a sign and bring in the development and the jobs. It would be providing economic value to the community.

Mr. Lane said this is a unique situation because it's not a development it's an open space. He feels the sign is warranted.

Mr. Upton personally agreed, he stated it had many positives for the community.

Mr. Lane made a motion to approve BA-20-02; seconded by David Johnson. Unanimously approved

Old Business

None

New Business
None

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

Julie Edmonds

Julie Edmonds
Administrative Support Specialist
Town of Smithfield Planning Department

DRAFT



Request for Board of Adjustment Action

Agenda BA-20-
Item: 03
Date: 6/25/20

Subject: Variance
Department: Planning
Presented by: Mark Helmer
Presentation: Yes

Issue Statement

Russell Meinert is requesting a 5-foot variance from the 10-foot sign setback along East Market Street to allow for a new ground mounted monument sign that was recently destroyed in an accident.

Financial Impact

None

Action Needed

To review the variance application, conduct a public hearing and render a decision.

Recommendation

Planning Staff recommends approval of variance BA-20-03.

Approved: Town Manager Town Attorney

Attachments:

- Staff Report
- Finding of fact
- Draft BOA order
- Application



Staff Report

Agenda Item: BA-20-03
Date: 6/25/20

Application Number: BA-20-03
Applicant: Russell Meinert
Owner: Leo Daughtry, Kelly Daughtry and Luther Starling, Jr.
Agents: none
TAX ID number: 15020051
Town Limits/ETJ: City

PROJECT LOCATION: 405 E. Market Street

REQUEST:

Russell Meinert is requesting a 5-foot variance from the 10-foot sign setback along East Market Street to allow for a new ground mounted monument sign that was recently destroyed in an accident.

SITE DATA:

Acreage: 0.297 acres
Present Zoning: R-2 General Busienss
Proposed Zoning: N/A
Existing Use: Law Office
Proposed Use: N/A
Water Service: Town of Smithfield
Sewer Service: Town of Smithfield
Electrical Service: Town of Smithfield

ADJACENT ZONING AND LAND USES:

	Zoning	Existing Use
North:	B-2 Business	Commercial
South:	B-2 Business	Commercial
West:	B-1 Business	Commercial
East:	B-2 Business	Commercial

PETITION DESCRIPTION:

The applicant's previous sign was a legal non-conforming sign because it did not meet

current setback from adjacent streets and was in place for over 40 years, and prior to the current sign ordinance. The old sign was located about 6 feet from the N. 4th St right-of-way and 0-feet from the Market Street right-of-way. The sign was completely destroyed in an accident, including the footing; therefore, its replacement is required to meet current setback provisions. The UDO Section 9.9.6 indicates that signs destroyed by more than 50% of their value cannot be repaired or renovated:

SECTION 9.9 NONCONFORMING SIGNS.

9.9.1. Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of this article may be continued.

9.9.2. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition; nor may illumination be added to any nonconforming sign.

9.9.3. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this article.

9.9.4. If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this ordinance, and the remnants of the former sign structure shall be cleared from the land. For purposes of this section, a nonconforming sign is “destroyed” if damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign damaged.

9.9.5. The message of a nonconforming sign may be changed so long as this does not create any new nonconformity (for example, by creating a pole sign under circumstances where such a sign would not be allowed).

9.9.6. Subject to other provisions of this section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed within any 12-month period 50% of the value (tax value if listed for tax purposes) of such sign.

The applicant is proposing a replacement monument sign that is 6'-8" in length and 6-feet tall. The proposed new sign meets the 10-foot setback requirements from North 4th Street, but cannot physically meet the 10-foot setback on Market Street. If the sign were constructed at the building wall, the sign would only have an 8'-8" setback. The proposed sign cannot easily be constructed at the building wall and if it were, it would not be readily

visible in that location. The applicant is proposing a 5-foot setback from Market St, requiring a 5-foot variance.

RECOMMENDATION:

Staff recommends approval of the variance because the amount of variance has been minimized and is reasonable to allow for sign construction and visibility from the road.

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 result from the strict application of the Ordinance. The monument sign can only be constructed with a variance and the amount of variance has been minimized and is reasonable to allow for sign construction and visibility from the 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. ***The building setback is less than what is required in the B-2 zoning district which leaves less space for signs than is typical. A sign is a regular feature for business and the sign could not be constructed without the variance.***

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 previous sign was destroyed by an accident which was no fault of the owner. The location and configuration of the building on the lot and the remaining space for a sign was not created by the owner.***

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 granting of the variance is very much consistent with the spirit, purpose and intent of the sign ordinance. The applicant has minimized the variance as much as is reasonable in order to have the sign remain effective and visible to passing***

motorists. The properties located across the street on two corners have zero setbacks.

RECOMMENDATION:

Planning Staff recommends the Board of Adjustment approve variance BA-20-03 based on the adoption of Staff's finding of fact.

RECOMMENDED MOTION:

“Motion to approve BA-20-03, a 5-foot variance from the 10-foot sign setback from E. Market Street based on based on the adoption of Staff's finding of fact.



Town of Smithfield
 Planning Department
 350 E. Market St. Smithfield, NC 27577
 P.O. Box 761, Smithfield, NC 27577
 Phone: 919-934-2116
 Fax: 919-934-1134

VARIANCE APPLICATION

Pursuant to Article 4, of the Town of Smithfield Unified Development Ordinance, an owner of land within the jurisdiction of the Town (or a duly authorized agent) may petition the Board of Adjustment for relief from a requirement of the Unified Development Ordinance and to permit construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

In granting variances, the Board of Adjustment may impose such reasonable conditions as will insure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

Variance applications must be accompanied by nine (9) sets of the complete application, nine (9) sets of required plans, an Owner's Consent Form (attached) and the application fee.

SITE INFORMATION:

Name of Project: DWLS SIGN RESTORATION Acreage of property: 0.297
 Parcel ID Number: 15020051 Tax ID: _____
 Deed Book: 5535 Deed Page(s): 522
 Address: 405 E. MARKET ST., SMITHFIELD, NC 27577; mailing; PO DRAWER 1960, SMITHFIELD, NC 27577
 Location: " " " " " "

Existing Use: COMMERCIAL Proposed Use: _____
 Existing Zoning District: B-2
 Requested Zoning District: N/A
 Is project within a Planned Development: Yes No
 Planned Development District (if applicable): _____
 Variance Request (List Unified Development Code sections and paragraph numbers)

FOR OFFICE USE ONLY

File Number: BA-20-03 Date Received: 5/20/03 Amount Paid: \$400.⁰⁰

OWNER INFORMATION:

Name: N. LEO DAUGHTRY, KELLY K. DAUGHTRY AND LUTHER D. STARLING, JR.

Mailing Address: P.O. DRAWER 1960; SMITHFIELD, NC 27577

Phone Number: 919-934-5012 Fax: 919-934-9536

Email Address: russellmeinert@dwlslaw.com

APPLICANT INFORMATION:

Applicant: N. LEO DAUGHTRY

Mailing Address: P.O. DRAWER 1960, SMITHFIELD, NC 27577

Phone Number: 919-934-5012 Fax: 919-934-9536

Contact Person: RUSSELL MEINERT, PARALEGAL

Email Address: russellmeinert@dwlslaw.com

REQUIRED PLANS AND SUPPLEMENTAL INFORMATION

The following items must accompany a variance application. This information is required to be present on all plans, except where otherwise noted:

All required plans (*please see the plan requirements checklist*).

Owner Consent form

A Statement of Justification.

Required Finding of Fact.

Other Applicable Documentation: _____

STATEMENT OF JUSTIFICATION

Please provide detailed information concerning all requests. Attach additional sheets if necessary.

Our business sign was recently destroyed by a teenage driver. Our sign has been in existence for 40 plus years, long before the existing ordinance was passed.

REQUIRED FINDINGS OF FACT

Article 4, Section 4.10.2.2 of the Town of Smithfield Unified Development Ordinance requires applications for a variance to address the following findings. The burden of proof is on the applicant and failure to

adequately address the findings may result in denial of the application. Please attach additional pages if necessary.

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.

Our sign can be moved 10ft from property line from N. 4th St., but cannot be moved back 10ft from property line from market street and still remain visible

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.

The lot size and location of the building create a hardship in that the sign cannot be placed 10ft. from the property line fronting market street.

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 did not result from actions of applicant as the sign has been there for 40 plus years, prior to being destroyed through no fault of 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 SIGN WILL BE PLACED 10 ft from property line off of N. 4th St. and 5ft. from property line of Market St. This is an additional 3ft from Market St. and 20 inches from N. 4th St. from the signs original location.

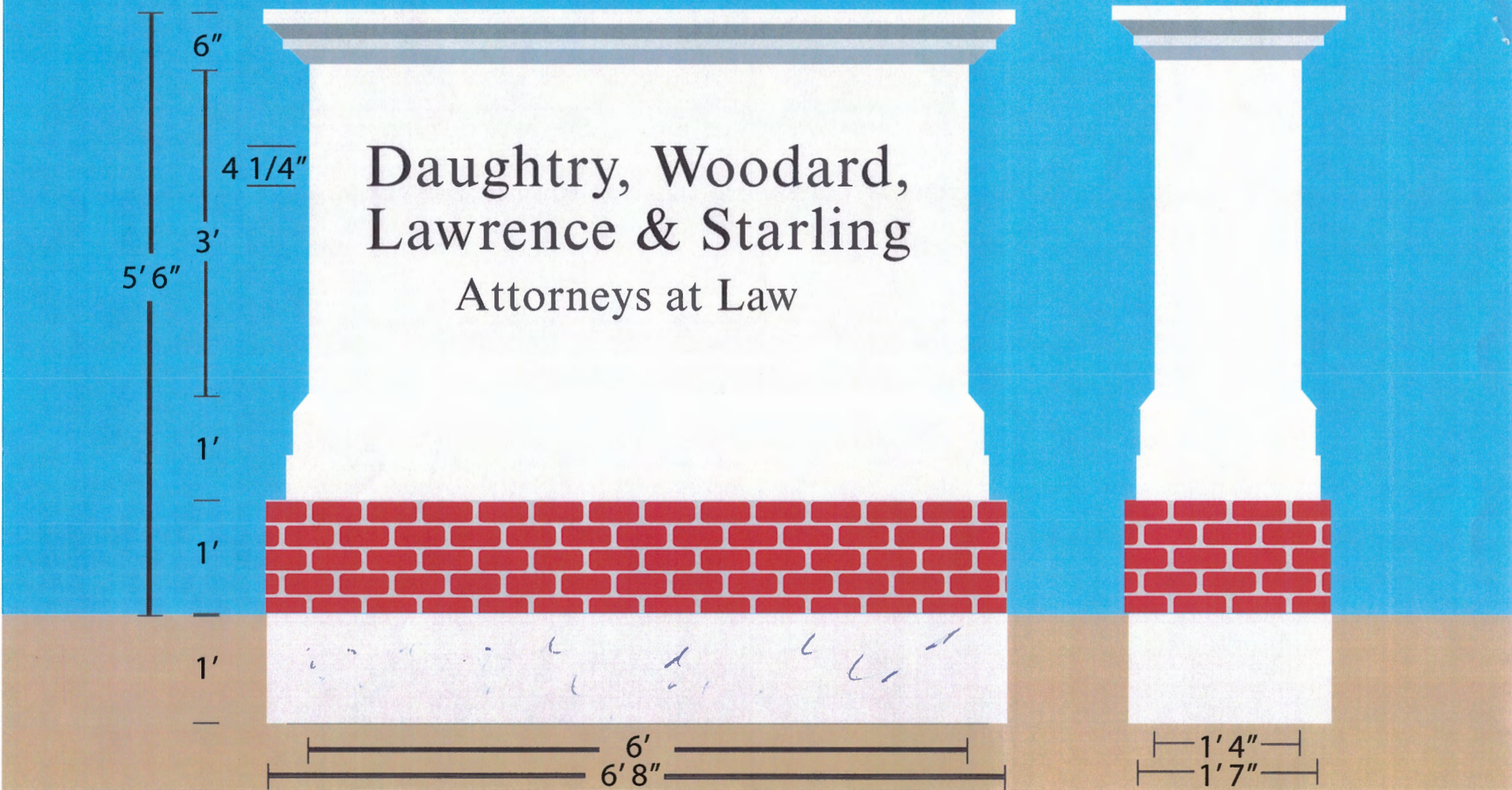
APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Board of Adjustment of the Town of Smithfield to approve the subject Variance request. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Smithfield, North Carolina, and will not be returned.

N. Leo Paughtry
Print Name


Signature of Applicant

5-18-20
Date



Company & Customer Name	Job Size	Job Details	Materials & Pricing
Daughtry, Woodard, Lawrence & Starling	3' w x 6' h monument sign with base and cap.	New sign to replace damaged, existing sign	TBD

Date: 05/11/2020

Designer: Lyle Pollard

Fonts: Times New Roman MT Standard



We take pride in providing quality artwork for our customers, and that takes considerable time. Time is Money!
 IF THIS ARTWORK IS USED WITHOUT EXPRESS PERMISSION, OR TAKEN TO ANOTHER BUSINESS FOR REPRODUCTION YOU WILL RECEIVE AN INVOICE FOR OUR ARTWORK TIME!

400 Block of East Market Street

Project Name:
Daughtry, Woodard,
Lawrence & Starling

Location:
405 East
Market Street

File Number:
BA-20-03

Existing Zoning:
B-2 (Business)

Request:
Variance from
Published Sign
Standards

Property Owner:
Leo & Kelly
Daughtry

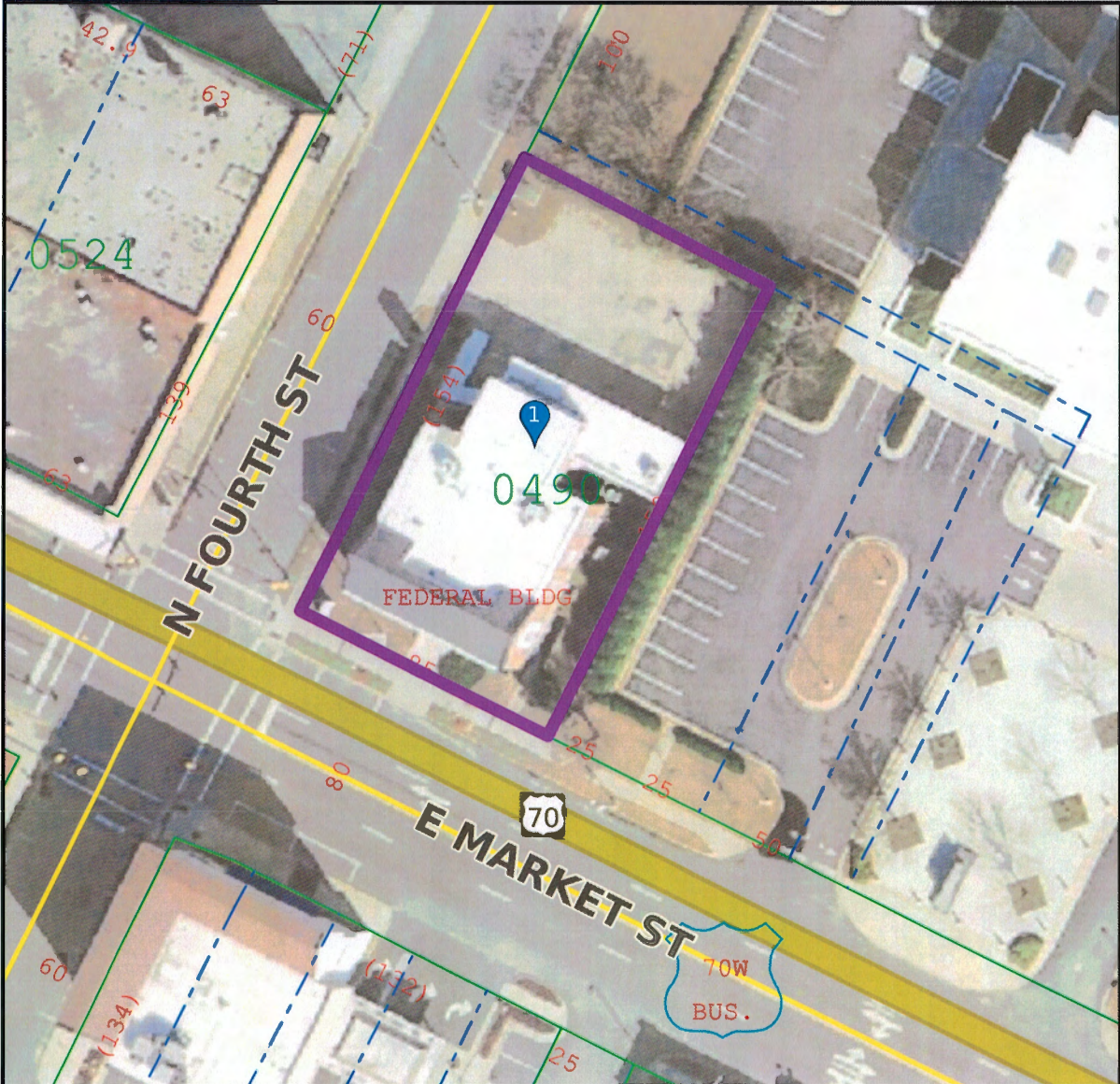
Tax ID# 15020051



1 in = 83 ft

Map created by the Mark E. Helmer, AICP
Senior Planner, GIS Specialist on 5/19/2020





Result 1

id: 15020051
Tag: 15020051
NCPin: 169419-51-0490
Mapsheet No: 169419
Owner Name 1: DAUGHTRY, N. LEO
Owner Name 2: DAUGHTRY, KELLY K.
Mail Address 1:
Mail Address 2: PO BOX 1960
Mail Address 3: SMITHFIELD, NC 27577-1960
Site Address 1: 405 E MARKET ST
Site Address 2: SMITHFIELD, NC 27577-
Book: 05535
Page: 0522
Market Value: 414300
Assessed Acreage: 1.000
Calc. Acreage: 0.297
Sales Price: 105000
Sale Date: 2020-03-02



Scale: 1:629 - 1 in. = 52.4 feet

(The scale is only accurate when printed landscape on a 8 1/2 x 11 size sheet with no page scaling.)



PLANNING DEPARTMENT
Mark E. Helmer, AICP, Senior Planner

ADJOINING PROPERTY OWNERS CERTIFICATION

I, **Mark E. Helmer**, hereby certify that the property owner and adjacent property owners of the following petition, **BOA-20-03**, were notified by First Class Mail on **5-18-20**.


Signature

Johnston County, North Carolina

I, Julianne Edmonds, Notary Public for Johnston County and State of North Carolina do hereby certify that Mark E. Helmer personally appeared before me on this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the

18th day of May, 2020


Notary Public Signature

Julianne Edmonds
Notary Public Name

My Commission expires on January 15, 2023
(Seal)



Adjacent Property Owners of
BOA-20-03

TAG	PIN	MAPSHEET	NAME1	CITY	STATE	ZIP CODE
15020006	169419-51-0626	ROBERTS & WELLONS INC	PO BOX 986	SMITHFIELD	NC	27577-0986
15020008	169419-51-0524	ROBERTS & WELLONS INC	PO BOX 986	SMITHFIELD	NC	27577-0986
15020051	169419-51-0490	DAUGHTRY, N LEO	PO BOX 1960	SMITHFIELD	NC	27577-0000
15020056	169419-51-3481	TRUST DAL50	P O BOX 27131	RALEIGH	NC	27611-7131
15025020A	169418-41-7187	TOWN OF SMITHFIELD	116 S 4TH ST	SMITHFIELD	NC	27577-0000
15025036	169419-51-0138	PNC BANK NA	130 S JEFFERSON ST STE 300	CHICAGO	IL	60661-5763



PLANNING DEPARTMENT

Mark E. Helmer, AICP, Senior Planner

Notice Of Public Hearing

Notice is hereby given that a public hearing will be held before the Board of Adjustment of the Town of Smithfield, N.C., on Thursday, May 28, 2020 at 6:00 p.m. in the Town Hall Council Chambers located at 350 East Market Street to consider the following request:

BOA-20-03 Daughtry, Woodard, Lawrence and Starling: The applicant is requesting a variance to the Town of Smithfield Unified Development Ordinance, Article 10, Section 10.23.3 to allow for a reduction to the minimum sign setback requirements on property located within a B-2 (Business) zoning district. The property considered for a variance is located on the northeast side of the intersection of East Market Street and North Fourth Street and further identified as Johnston County Tax ID#15020051.

All interested persons will be given an opportunity to be heard on this request. To accommodate disabilities and to comply with ADA regulations, please contact the town office if you need assistance. Further inquiry regarding this matter may be directed to the Smithfield Planning Department at 919-934-2116 or online at www.smithfield-nc.com.