

**Draft  
Smithfield Board of Adjustment  
Minutes  
Thursday, May 28, 2020  
6:00 P.M.,  
Town Hall, Council Chambers**

**Members Present:**

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

**Members Absent:**

**Staff Present:**

Mark Helmer, Senior Planner  
Julie Edmonds, Administrative Support Specialist

**Staff Absent:**

Stephen Wensman, Planning Director

**CALL TO ORDER**

**Swearing in of new member Keith Dimsdale**

**Approval of minutes from February 27, 2020**

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

**Public Hearing**

**BA-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.

Mr. Helmer stated that Russell Meinert is requesting a 5-foot variance from the 10-foot sign setback located at 405 E. Market Street to allow for a new ground mounted monument sign that was recently destroyed in an accident. The property is a 0.297-acre tract of land and is currently used as a law office. 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 Street right-of way and 0-feet from the Market Street right-of-way. The new sign will meet the 10-foot setback on Fourth Street but will need approximately 5-foot variance on Market Street. We saw approximately 5 feet because the applicant didn't give us a surveyed drawing. Staff believes it is closer to 6 feet, so you may choose to grant a 6-foot variance.

Mr. Helmer reviewed Section 9.9 Nonconforming Signs from the Unified Development Ordinance.

#### 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.

Mr. Helmer said 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.

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.**

Mr. Helmer requested that the board review the application and make a decision for the variance.

Mr. Lane asked if there were any changes to the sign.

Mr. Helmer said it's generally the same. There may be some slight changes. It meets all requirements of the code except for the setbacks.

Mr. Lane made a motion to approve BA-20-03; seconded by David Johnson. Unanimously approved

Mr. Upton didn't close BA-20-03, he asked for a motion to close.

Mr. Dimsdale made a motion to close; seconded by David Johnson. Unanimously approved.

Old Business  
None

New Business  
None

David Johnson made a motion to adjourn, seconded by Mark Lane. Unanimously Approved



Julie Edmonds  
Administrative Support Specialist  
Town of Smithfield Planning Department