

**Smithfield Board of Adjustment Minutes**  
**Thursday, April 29, 2021**  
**6:00 P.M.,**  
**Town Hall, Council Chambers**

**Members Present:**

Stephen Upton, Chairman  
Mark Lane, Vice Chairman  
Sarah Edwards  
Richard Upton  
Jeremy Pearce

**Members Absent:**

Keith Dimsdale

**Staff Present:**

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

**Staff Absent:**

**CALL TO ORDER**

**Approval of minutes from December 17, 2020**

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

**Open Public Hearing**

**BA-21-01 Tina Hobbs:** The applicant is requesting a variance to the Town of Smithfield Unified Development Ordinance, Part I, Sections 10.2.1 and 10.3, to allow for a reduction of required off-street parking and to allow for the construction of off-street parking within a required landscape yard. The property considered for a variance is located on the north side of Stancil Street approximately 200 feet northeast of its intersection with Fareway Drive and further identified as Johnston County Tax ID# 15089017.

Stephen Wensman said McGill and Associates is representing the owner in requesting the variance to construct a parking lot with 4-parking spaces that is 2.5 feet from the public right-of-way. The structure on the property is a 3600 sq. ft. metal sided garage that was likely made non-conforming when the area was annexed into the Town with Town zoning regulations. The Structure is legal nonconforming as it does not meet the front yard setback requirements of the UDO. Furthermore, there is no parking facility associated with the property and no landscaping. The applicant is requesting the variance to construct a required parking for a new zoning permit. The property had been vacant for an extended period of time and an application for a zoning permit has been requested for permission to operate an auto repair garage. The UDO Section 10.3 has no specific parking requirement for auto repair garages or similar auto uses. The UDO requires the Board of Adjustment to determine required parking when the off-street parking requirement is unspecified for a particular use. The applicant for the zoning application began

operating the business without a valid zoning permit and often had 2-4 cars parked on site behind the building.

The minimum parking requirement for the use based on the demonstrated need is at least 4-spaces. To construct a parking lot with four parking spaces on this property, the parking facility will encroach into the streetyard area (no streetyard landscaping is required at this time). The UDO Section 10.2 specifically states, "No required off-street parking shall be located on any public right-of-way or encroach by more than 50% on any required setback, or into any required streetyard. The streetyard width is 15', so 50% is 7.5'. The proposed parking will be 2.5' from the public right-of-way, will encroach 12.5 feet into the streetyard and 5 feet beyond the maximum streetyard encroachment. It is typical for auto repair businesses and similar uses to utilize outdoor storage. The applicant for the zoning permit has already utilized the open space behind the building for the parking of cars from time to time. Outdoor storage is regulated in the Town of Smithfield and must comply with UDO Sections 7.41 and 7.44. No outdoor storage of material or vehicles has been proposed; therefore, no outdoor storage is allowed unless in accordance with Sections 7.41 and 7.44 and no parking is allowed unless in paved parking spaces.

Planning Staff recommends the Board of Adjustment approve the variance, BA-21-01, with the following conditions based on the finding of fact:

1. Outdoor storage shall only be allowed in accordance with the UDO requirements.
2. Off-street parking shall be limited to the paved parking lot.

In order to deny a variance, the Board of Adjustments shall find all of the following provisions cannot 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. ***Without the variance, a parking facility cannot be constructed which is a requirement to obtain a zoning permit.***

***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 property was developed prior to current zoning and it contains a building that does not meet current setbacks. The building is too close to the road to construct a parking facility that meets all UDO regulations.***

***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 exists because the property was developed prior to current zoning and the lot and its existing development does not accommodate standard parking meeting UDO requirements.***

***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 consistent with the spirit, purpose, and intent of the Ordinance. The applicant is constructing the parking facility in response to zoning requirements, although unable to meet all of them.***

***The proposed parking will be an improvement to the site and the neighborhood, ensuring public safety and providing justice to the applicant and the Town.***

Mark Lane asked if the applicant would be required to pave the parking lot.

Mr. Wensman said yes, the use ceased and according to the code it must come into compliance when the structure remains vacant for at least 6 months.

Sarah Edwards said if the applicant has a need beyond the 4 parking stalls, they would need to provide that in the back of the proposed location.

Mr. Wensman said yes or a screened storage yard to store them.

Stephen Upton pointed out the parking being shown in the back, he asked if there was a reason for that.

Mr. Wensman said the applicant doesn't want to build that rear parking yet, they are only proposing minimum parking for now. If everyone is in agreement that's all they need then great.

Mark Lanes asked how the Planning Board and Town Council can approve a project without any paved parking but this one has to be paved.

Mr. Wensman said he believed this project came into the town without any approval. This garage was built many years ago when the West side of town was annexed in and it became subject to our zoning code. The code has changed over time. This is a new use on a vacant property; therefore, the applicant needs to provide parking for the new use.

Dan Simmons of 125 Everett Lane, Smithfield, NC came forward on behalf of the applicant. Mr. Simmons said the original use of this building was for the West Smithfield Sanitary District and Maintenance area. It was built in the 1960's. We've come up with as many parking spaces as we could to accommodate this project. We're encroaching on the front yard setback

Mark Lane made a motion to approve variance BA-21-01, with the following conditions based on the finding of fact found in the staff report; seconded by Jeremy Pearce. Unanimously approved.

1. Outdoor storage shall only be allowed in accordance with the UDO requirements.
2. Off-street parking shall be limited to the paved parking lot."

**BA-21-02 Aaron's:** The applicant is requesting a variance to the Town of Smithfield Unified Development Ordinance, Article 10, Section 10.23.2 to allow for a 31 square foot increase over the maximum permitted sign area. The sign considered for a variance will be located at 1267-A North Brightleaf Boulevard and within the Centre Pointe Plaza shopping center. The property is further identified as Johnston County Tax ID# 14074002.

Mark Helmer stated Sign Consulting and Permitting is representing Aaron's in requesting a variance to allow for a 92.53 square foot sign on a portion of a wall that is 1249.33 square feet in area. Aaron's is a long-term tenant within the Centre Point Plaza. Aaron's occupies approximately

48 linear feet of the shopping centers store front. They have an existing wall mounted sign estimated to be approximately 168 square feet in area. Between the years of 1988 and 2008, the Town of Smithfield limited wall signs to one sign per store front with a maximum wall mounted sign size of 1.25 square feet per linear foot. It is unclear how the existing sign was permitted and no records of any previous issued variances have been found. The front façade of the shopping center is setback approximately 830 feet from the right of- way of North Brightleaf Boulevard with two landscaped outparcels between the right of- way of North Brightleaf Boulevard and the proposed wall sign. Any expectation of visibility of the proposed wall sign from North Brightleaf Boulevard is unreasonable. Aaron's has an existing advertisement on one of the two existing shopping center pylon signs located on North Brightleaf Boulevard.

The applicant has submitted a rendered sign drawing showing the proposed 92.53 square foot all-new wall mounted sign. Since the wall is greater than 20 feet high, 5% of the wall area is used to calculate the maximum permitted sign area. The dimensions of the proposal are as follows:

Wall dimension  $25.85 \times 48.33 = 1249.33$  sq ft

Max sign area permitted  $1249.33 \times .05 = 62.46$  sq ft

Wall sign requested 92.53 sq ft

**Requested Variance 30.1 sq ft**

Staff generally agrees with these sign computations as submitted. Since the proposed wall sign exceeds the maximum permitted by Section 10.23.4, the proposed sign will require a 30.1 square foot variance. The existing shopping center pylon sign located adjacent to North Brightleaf Boulevard can be refaced as submitted with a staff approved zoning permit.

Planning Staff recommends the Board of Adjustment deny the variance, BA-21-02, since no hardship exists and the requested variance is not consistent with the spirit, purpose, and intent of the Ordinance.

#### **STAFF FINDINGS OF FACT:**

In order to deny a variance, the Board of Adjustments shall find all of the following provisions cannot 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. ***The maximum sign area permitted by the Town of Smithfield Regulations for Signs does not create a hardship. Thus, no grounds for a variance exists.***

**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. ***There is nothing peculiar about the Aaron's façade that is different from any other store front located within the Centre Pointe Plaza shopping center. Aaron's store front is very typical in size and any sign meeting the Town of Smithfield Regulations for Signs will be seen from within the shopping center parking lot.***

**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. ***There is no hardship requiring the need for addition sign area above what is allowed by the Town of Smithfield Regulations for Signs.***

**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 not consistent with the spirit, purpose, and intent of the ordinance. Granting the variance will afford Aaron's with privileges that are not available to other businesses requesting new signs.***

Mark Lane asked if the existing sign was considered all one sign since it had separate lettering spaced all around it.

Mark Helmer said yes, in his estimation of the square footage of that he would draw a 4-sided polygon two going across and two going down. The spaces between the letters and the components of the sign are considered part of the sign.

Stephen Upton asked if this was in the UDO?

Mr. Helmer said yes, it is.

Mr. Helmer said the applicant is going with a smaller sign but it still exceeds what is allowed by code.

Mark Lane asked the square feet of the existing sign.

Mr. Helmer said 168 sq. feet

Mark Lane asked the square feet of the proposed sign.

Mr. Helmer said 92.5 sq. feet, which is 30 square feet more than the sign code allows.

Karla Sherrell of 6010 Renaissance Parkway, Atlanta Georgia came forward on behalf of the applicant. She stated it had been at least 20 years since this Aaron's location had been updated. Last year they came in and remodeled the entire interior of the store. In doing that, their branding has changed. That would be the purpose in changing the sign.

Sarah Edwards made a motion to deny variance BA-21-02 for failing to meet all the required finding of fact for a variance to the maximum permitted sign area; seconded by Jeremy Pearce. Unanimously approved.

**Old Business**

**None**

**New Business**

**None**

Sarah Edwards made a motion to adjourn, seconded by Richard Upton. Unanimously Approved

Julie Edmonds

A handwritten signature in black ink that reads "Julie Edmonds". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

Administrative Support Specialist  
Town of Smithfield Planning Department