

**CITY OF GASTONIA**  
**ZONING BOARD OF ADJUSTMENT**

October 26, 2017

Minutes

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The regular meeting of the Zoning Board of Adjustment was held on Thursday, October 26, 2017, at 9:01 a.m. in the City Council Chambers at City Hall.

Board Members present: Chairman Don Grant Jr., Vice-Chair Lee Taylor Jr., William Marino, Melanie Blankenship, and Sidney Craig

Board Members absent: None

Staff present: Charles Graham, Assistant City Attorney; Joe Gates, CZO, Zoning Administrator; and Chrystal Howard, Secretary

Chairman Grant called the Board of Adjustment meeting to order.

**Item Ib: Approval of October 26, 2017 Agenda**

Board Member Taylor made a motion to approve the agenda as presented and Board Member Marino seconded the motion. The motion was approved unanimously.

**Item Ic: Approval of September 28, 2017 Minutes**

Board Member Taylor made a motion to approve the minutes as presented and Board Member Marino seconded the motion. The motion was approved unanimously.

Because of the quasi-judicial format of these hearings it is required by North Carolina law to swear in persons that speak before the commission and offer evidence. Ms. Howard administered the oath.

**Item II: Public Hearing #8841 – Frederick R. Argenio – 1725 Pope Ave.**

Chairman Grant addressed Item II on the agenda, Public Hearing #8841 – Frederick R. Argenio – 1725 Pope Ave. The applicant has submitted an appeal request for an order to demolish the structure at 1725 Pope Ave. This item was continued from the September 28, 2017 meeting.

Chairman Grant recognized Mr. Joe Gates, CZO, Zoning Administrator for staff presentation.

Mr. Gates recognized Mr. Justin Gaff, Chief Code Enforcement Officer who is representing the City for this item. Mr. Gates stated that the Zoning department has not received any additional information on this case.

Mr. Gaff stated that 30 days was provided to give the owner time to get additional bids from contractors and determine his time frame. Chairman Grant asked if any progress occurred at the property and Mr. Gaff answered that he was not aware of any permits or work done to his knowledge. No further questions were asked by the board.

Mr. Chairman Grant recognized Mr. Frederick R. Argenio, 3216 Maywood Drive of Charlotte, NC. Mr. Argenio stated that the structure will need to be demolished and he has contacted two organizations for bids. No questions were asked by the board.

Board Member Blankenship made a motion to approve the demolition order to proceed and Board Member Marino seconded the motion. The motion was approved unanimously.

**Item III: Public Hearing #8875 – Franchise signs Inc., LLC – 3628 E. Franklin Blvd.**

Chairman Grant addressed Item III on the agenda, Public Hearing #8875 – Franchise signs Inc., LLC – 3628 E. Franklin Blvd. The applicant has submitted a variance request to allow for an individual freestanding sign for a lot inside a multitenant development.

Chairman Grant recognized Board Member Craig's request to recuse himself from this item. Board Member Marino made a motion to approve the request to recuse Mr. Sidney Craig and Board Member Taylor seconded the motion. The motion was approved unanimously.

Chairman Grant recognized Mr. Joe Gates, CZO, Zoning Administrator for staff presentation.

Mr. Gates stated this is a variance request at the address 3628 E. Franklin Blvd currently known as the Denny's restaurant location. Franchise Signs Inc. is present on behalf of RJC LLC. This request is for a freestanding sign. Mr. Gates read from the Unified Development Ordinance (UDO) 12.5.4 b. In no instance shall uses located in outparcels in shopping centers or similar multitenant developments be allowed to have a ground mounted or pole sign. Mr. Gates stated that this parcel was part of the multitenant development known as Phase 3 of Franklin Square and Mr. Gates referenced agenda pages 3-9 to 3-11 to identify parcel as part of the development. This parcel shares interior accesses and other common themes with the development. Staff has determined that this parcel is part of the multitenant development; therefore, any permit for a freestanding sign would be denied based on the ordinance 12.5.4 b.

Board Member Taylor asked if the Board of Adjustment approved any other freestanding signs in Franklin Square Phase I, II, or III and Mr. Gates answered no, the only freestanding sign allowed is multitenant signs. Each phase of Franklin Square has its own multitenant sign for business inside that particular phase. Board Member Taylor asked if there are any requests in the past that were turned down and Mr. Gates answered that he is unaware of any variance requests received. If questions were received in the past, the ordinance was provided and explained, and other methods were chosen.

Entrances were discussed. Mr. Gates explained an option of directional signage commonly used for identifying ingress and egress. Mr. Gates stated that the options available could be to get on the multitenant sign and use directional signage. A signalized entrance with turn lane availability and visibility is on Franklin Blvd.

Multitenant signage was discussed. A concern was for drivers reading everything on the sign while driving.

Mr. Gates reminded the Board that the ordinance does not give an option and separates single tenant and multitenant. All shopping centers and some business parks follow the multitenant model.

Chairman Grant asked about the size limitations on multitenant signs and Mr. Gates answered that it is determined by the amount of total square footage within the development. A detached multitenant development sign may be allowed up to 200 square feet for development with a gross floor area greater than 25,000 square feet. A sign is available on Franklin Boulevard and another sign is available on the backside of the property for motorists traveling on I-85. Mr. Gates provided clarification on the maximum sign area.

Ingress and egress were discussed into the property at the backside and not directly from a main road. Mr. Gates stated for all the phases they have main primary accesses in all outparcels and all inwards have access off of internal drives. This brings everyone in through signalized intersections and parcel entrances use internal services road.

Board Member Taylor asked if applicants have to request a directional sign and Mr. Gates answered that directional signage does not require permits, but is subject to the ordinance which govern size and general location. The applicant can install a directional Denny's sign within ordinance regulations. Mr. Gates read from the agenda page 3-12, table 12.4-6 Multitenant Developments, Multitenant development signs: One freestanding on each thoroughfare (as indicated on the most recently adopted thoroughfare plan on the Gaston Urban Area) frontage. Such signs shall be at least 200 linear feet apart as measured using the shortest straight line distance. Mr. Gates commented that one is allowed unless you front on multiple thoroughfares. In this situation, Franklin Boulevard and I-85 would allow two.

Board Member Taylor shared a concern that if the Board approves a sign for 3628, then 3638 and every other parcel will possibly want their own sign. Chairman Grant understands this concern, but suggested that maybe the ordinance should change for properties that front a major thoroughfare. Chairman Grant shared his concern on traffic, sign locations and safety with a preference of monument signs. Chairman Grant provided an example of his business sign.

Mr. Graham commented that some discussion is regarding an ordinance amendment and this is an application for a variance and not an amendment to the ordinance. Mr. Graham recommended

after this hearing that if the board would like the City Council to consider an ordinance amendment, the board can make this recommendation for a vote and ask staff to make any suggestions.

No further questions were asked by the board.

Mr. Chairman Grant recognized Mr. Daniel Toohey, 2693 Glen Forest Drive of Winston-Salem, NC. Mr. Toohey represents Franchise Signs International. Mr. Toohey commented that this parcel is no longer is a part of the center because it was sold off; therefore, they cannot go on the multitenant signs and enjoy these rights. Mr. Toohey fully understands not wanting monument signs. The reason for the variance application is that they are not part of the overall center so they don't enjoy the multitenant sign rights, the property is unusual as it is difficult to see the restaurant at night due to landscaping and topography. The business sits above the road. The desire is to enjoy the same rights as all the other businesses along the road. Denny's is one of the only 24 hour restaurants in the area. This variance will give people a better opportunity to see a Denny's at this location. Mr. Toohey also stated that this property is different from other outparcels.

Board Member Blankenship asked if there is any other place that they can put a sign and Mr. Toohey stated that they do not have access to any of these signs. Board Member Taylor stated that they have access to directional signs.

Mr. Gates stated his knowledge to the building's wall sign facing Franklin Boulevard but asked if there is one on the side elevation facing the parking lot. Mr. Toohey answered that there is one but it is almost invisible because of landscaping and having to look upwards.

No further questions were asked by the board.

Board Member Taylor asked Mr. Gates if he was aware that the tenant cannot put a sign on the multitenant sign. Mr. Gates answered that this was discussed with the applicant when processing the variance application. Change of ownership changes all the time and does not have any effect on zoning or zoning rules or laws as these go with the property regardless of the owner. The ordinance was in place and available prior to the applicant's lease or purchase. Mr. Gates stated ownership does not change or provide a relaxation of the rules in the zoning ordinance. Board Member Taylor thinks that this sign ordinance was setup to make sure a sign was available.

Discussion occurred amongst the board and staff on the multitenant sign at this location. Mr. Gates also explained the design and idea of a multitenant complex.

Mr. Chairman Grant recognized Mr. Sean Morris, 1704 Ridgehaven Road of Waxhaw, NC. Mr. Morris is the Vice-President of Operations for Denny's. Mr. Morris stated that they assumed that the blank spot on the multitenant sign as theirs. Base on a phone conversation he was a part of, they were informed that the blank spot was for their tenants only. The lease was already signed. Mr. Morris stated that this was the reason for the variance request.

Discussion occurred on this particular parcel being a standalone property with separate ownership, the property prior to the development, and the three parcels on the front are individual parcels based on construction documents presented in the packet. Mr. Gates reiterated the ownership changing hands does not change the development as a multitenant design.

Board Member Taylor asked if it is an acceptable hardship that it is a separate owned piece of property. Attorney Graham stated that staff's explanation under the ordinance of what is a unified development is accurate. Unified developments can have multiple parcels within them, but when it is developed as a unit and the overall ordinance is applicable to that unit even if it is made up of extra parcels the ordinance still applies. Attorney Graham commented that this is probably a situation where a recommendation needs to be made for reconsideration for ordinance amendments. Attorney Graham clarified that he does not make any decisions for the board. The ordinance has a specific variance approval criteria that the Board weighs the evidence and makes a decision upon. Attorney Graham read from 5.14.5 – Variance Approval Criteria

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 could be made of the property;
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;

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;
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;

These are the grounds on which the Board can act and if the Board can find these findings then a variance can be granted and if the Board cannot find these findings, they should not grant a variance. In either case, the Board may, after this hearing, want to make a recommendation to staff that they ask City Council to reconsider for this situation.

Attorney Graham asked if there were any recorded cross easements, restrictions, or allowances for this development in terms of use, or any restrictive covenants on record. Mr. Morris answered that he is not aware of any.

Board Member Taylor mentioned not acting at this time and continue it for 30 days.

Board Member Blankenship made the motion to approve the variance with findings of unnecessary hardship resulting from the inability at all to put a sign on the multitenant sign because it is not common with the other properties, topography, and visibility. Board Member Taylor seconded the motion.

Mr. Gates stated if the board decides to grant this variance and while the sign contractor is present that the location they are proposing on the site is actually over a storm water, sewer utility. Therefore, building permits and site plans is actually on top on a main line. All other regulations will apply moving forward, including the review process.

Board Member Blankenship commented that this should not impede traffic views with ingress and egress.

Board Member Blankenship amended the motion to include that work will be handled directly with Mr. Gates that the sign is not over any type of utility easement and Board Member Taylor seconded the motion. The motion was approved unanimously.

#### **Item IV: Other Business or Announcements**

Board Member Blankenship commented that you cannot expect a business to not have some type of signage than on the front of the building. Board Members Taylor and Blankenship agree that the building is difficult to see.

Chairman Grant stated that he has talked to several people from other counties and was told that the City of Gastonia and Gaston County tends to have a closed for business sign and that they are not very business friendly. Board Member Blankenship stated that she hears it too. Chairman Grant stated that he has expressed this to members of Council and Commission. Chairman Grant provided a personal experience and observation.

Board Member Craig stated that he has lost a lot of business through signage and the big part of his business is out of county.

Mr. Gates requested clarification with the granted variance that it only allows for their sign and dimensions proposed or would they be technically open to freestanding signage ordinance. Mr. Gates gave an example of a larger sign presented than what they have shown in the agenda. Chairman Grant stated that the motion was based on what they presented for variance and is not to go outside of that request. They cannot change it once the rules have been made. Chairman Grant stated it was a good question.

For the record and for staff's clarification, Mr. Gates inquired if the Board would like to narrow the scope in the letter for these particular outparcel instances in shopping centers of multitenant settings and happen to be in an outparcel. This letter would include this information including qualifiers, such as you only get this option if you front a major thoroughfare (classifying

major/minor), a certain amount frontage, a severe topography, and no access to other multitenant signage.

Board Member Taylor made a motion to make a recommendation to City Council through Board of Adjustment and staff to consider amending the sign ordinance regarding standalone outparcels in developments and Board Member Blankenship seconded the motion. The recommendation was approved unanimously.

Chairman Grant noted there was no other business or announcements.

There being no further business or announcements, Chairman Grant entertained a motion to adjourn the meeting. Board Member Taylor made the motion to adjourn the meeting and Board Member Blankenship seconded the motion. The motion was approved unanimously. The meeting adjourned 9:58 a.m.

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Chrystal Howard, Secretary  
Zoning Board of Adjustment  
City of Gastonia, NC

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Chairman Don Grant, Jr.  
Zoning Board of Adjustment  
City of Gastonia, NC