



TOWN OF WAYNESVILLE Zoning Board of Adjustment

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Stephanie Strickland
Henry Kidder
Charles John Gisler
Neal Ensley (Chairman)
David Felmet (Vice Chairman)
Joshua Morgan, Alternate

Development Services
Director
Elizabeth Teague

Special Called Meeting

Town Hall, 9 South Main Street, Waynesville, NC 28786

Monday, September 11, 5:30 pm
2017

The WAYNESVILLE ZONING BOARD OF ADJUSTMENT held a special called meeting on September 11, 2017 at 5:30 pm in the board room of the Town Hall, 9 South Main Street, Waynesville, NC.

A. CALL TO ORDER:

1. Welcome/Calendar/Announcements

Mr. Neal Ensley, Chairman, welcomed everyone and called the meeting to order at 5:30 pm.

The following members were present:

Neal Ensley, Chairman
David Felmet, Vice Chairman
Stephanie Strickland
Henry Kidder
Charles John Gisler
Joshua Morgan, Alternate Board Member

The following staff members were present:

Elizabeth Teague, Development Services Director
Byron Hickox, Land Development Administrator
Jill Howell-Shook, Administrative Assistant

Others in Attendance:

James W. Kirkpatrick, Applicant
Randy Crawford, CEO of WNC Credit Union

Mr. Joshua Morgan, Alternated Board Member, was present and was asked to sit in on the panel to listen, but would not be allowed to vote as a quorum was already present. Attorney Ron Sneed's was absent as he was unable to attend this meeting due to a previous commitment.

2. Approval of Minutes

Board Member Henry Kidder, made a motion, seconded by Board Member David Felmet to approve the minutes, as corrected, for the August 01, 2017 meeting. The motion passed unanimously.

B. BUSINESS ITEMS:

1. Public Hearing to request for a Variance to Sign Standards – Variance of Section 11.8.1, prohibition of off-premise signs at 27 Kent Lane, PIN 5608-64-9857.

Chairman Neal Ensley read the procedures governing a quasi-judicial hearing and asked that all adhere to these rules and regulations.

Those who intended to speak at the hearing were sworn in to testify.

- Mr. Randy Crawford, CEO of WNC Credit Union
- Mr. James Kirkpatrick, III, Attorney, Owner of Property. Applicant
- Mr. Byron Hickox, Land Use Administration
- Ms. Elizabeth Teague, Development Services Director

Chairman Ensley asked the members to see if there were any ethical considerations or conflicts of interest that should be disclosed prior to beginning the first hearing. There being none, Chairman Ensley opened the public hearing and advised attendees to adhere to the Protocol for Hearings on Variance Applications. He then asked staff to give their presentation.

Mr. Byron Hickox entered into evidence the following:

1) Proper Notice Given

Notice for this hearing was mailed to the local property owners within 100 feet of the property, 27 Kent Lane. In addition, notice was given to the media for publication on September 1, 2017 and September 8, 2017, and the site was posted beginning on August 30, 2017

2) Application received from Mr. James Kirkpatrick requesting a variance from LDS Ordinance Section 11.8.1.

3) A Warranty Deed for parcel # 8605-75-0272: Grantor – WNC Credit Union and Grantee, Kent Lane Properties. An easement for the Grantee to erect a sign was duly marked.

- 4) Pictures enclosed for review of the property.
- 5) Staff Report submitted to the Zoning Board of Adjustment.

Mr. Hickox reviewed the staff report for the Board and the public. The Town received application from Mr. Kirkpatrick requesting a variance from the prohibition to off-premise signage, LDS Section 11.8.1, at 97 Kent Lane, PIN 8605-64-9857, on behalf of Mark's Pharmacy. This property contains the WNC Community Credit Union and is within the Hazelwood Business District.

Mark's Pharmacy has been constructed on the lot (PIN 8605-75-1375) located north of the subject property. Due to the location of Mark's Pharmacy (more than 500 feet off of Eagles Nest Road, behind the credit union and adjacent to the 23/74 Expressway), there is concern about customers knowing where to turn to access the pharmacy. The only access to the Mark's Pharmacy property at this time is through the shared right-of-way with the WNC Credit Union on Kent Lane and there is an easement area for the proposed sign to accommodate an identification and directional sign to let the public know where to turn. However, the Land Development Standards Section 11.8.1 prohibits off-premise signs and makes no allowance for signs located within a granted easement. The requested variance would allow Mark's Pharmacy to construct a sign on the property of WNC Community Credit Union within the easement which is granted in the deed. The sign would comply with the Town of Waynesville's sign standards regarding dimensions.

Surrounding land use is commercial to the north, south, and east on the properties that front Eagles Nest Road and Sulphur Springs Road. The property is bordered along its entire western edge by U.S. Highway 23/74. All properties that are contiguous to the property in question are also located within the Hazelwood Business District.

Staff recommends approval of this variance. The location of the lot limits its visibility from Eagles Nest Road, so that without an off-premise identification and directional sign, the Pharmacy would be hard to find. A strict application of the off-premise signage prohibition sign would therefore create a hardship both for the business and the customers it serves. This condition is a result of the proximity of the 23/74 Right-of-way and the fact that the property itself has no road frontage other than the access road it shares with the Credit Union. The construction of a sign for Mark's Pharmacy within the easement granted will not detract from the character of the area, which is commercially developed. The location of a sign for Mark's Pharmacy would not create any foreseeable traffic concerns or visibility problems, and would mainly serve to avoid traffic confusion.

Mr. Dave Felmet asked if Kent Lane was a shared access, and Mr. Hickox added that both the Credit Union and the Pharmacy share access through Kent Lane. Mr. Hickox indicated the proposed location of the sign and added that if the sign location is within the NCDOT right-of-way, the applicant will need to get an encroachment agreement from NCDOT.

Mr. Randy Crawford, CEO of WNC Credit Union, asked if he could speak and Mr. Ensley invited him to the podium. He stated that he is the CEO of the Credit Union and is in favor of the variance for Mark's Pharmacy. He added that this was the only area available for a directional sign. He added that street repair and maintenance along Kent Lane will be shared by WNC Credit Union and the owners of the Pharmacy.

Mr. James Kirkpatrick, III, asked if he could speak as the applicant and Mr. Ensley invited him to the podium. Mr. Kirkpatrick lives at 265 Love Lane, Waynesville, NC, and is an Attorney and one of the owners for the Property of Mark's Pharmacy. Mr. Kirkpatrick stated that Mr. Hickox did a good job of explaining their reasoning for the variance request and asked if the Board had any questions of him. He added that the Pharmacy is concerned with its customers being able to find it and to know where to turn. He added that it is difficult to see the pharmacy from the roadway and that they have received several calls asking for directions.

Mr. Kirkpatrick explained that the Warranty Deed, provided contained the easement for the Grantee (Kent Lane Properties) to erect a sign in compliance with the Town of Waynesville ordinances to be located on the Grantors property at or near Eagles Nest Road, and said that the location was chosen so as not to interfere or detract from the Grantors (WNC Community Credit Union's) sign. Mr. Kirkpatrick stated that the easement is on the east side of the entrance road in the area indicated on the map. He added that the distance from the sign area to the Credit Union is about 40 feet and there was discussion related to the location of the easement. In response to a question from Mr. Felmet, Mr. Kirkpatrick stated that the sign would be designed of similar materials to the Credit Union sign.

Mr. Kidder asked how big the sign would be and if would be required to comply with the sign ordinance in other respects. Mr. Hickox stated that the sign design must comply with the standards and ordinances for the Town of Waynesville in terms of dimensions and design. There will be no blinking, or flashing lights. If the sign is found to be encroaching on the right-of-way of the Department of Transportation, then the applicant must go back to the Department of Transportation for a right-of-way encroachment before the Town could issue the permit. Mr. Hickox added that in his experience GIS may be off as much as 10' so it is hard to determine from the aerial where the easement location is relative to the NCDOT right-of-way.

Mr. Kidder asked if there was a "break" in the curbing at the end of the roadway as shown in one of the GIS photographs. Mr. Hickox answered that the street was stubbed-out for future connectivity, but that connectivity is not established and so the only entrance to the pharmacy is from Eagle's Nest Road.. In response to other questions, Mr. Hickox added that landscaping is not required to be removed to accommodate the sign as there is adequate spacing.

Mr. Hickox commented that the sign would have to be sighted in a way as to not interfere with traffic safety and that the Town does not prohibit signage within the "sight triangle" of an intersection so that it would not impede traffic.

Henry Kidder asked if this variance would set a precedence for another sign variance. Mr. Hickox responded that each variance case is taken on a case-by-case basis and as a unique

circumstance that is related to a particular property or location. Granting of this variance does not mean that the Board will have to grant another variance. Mr. Kidder asked Mr. Hickox if he gets many variance requests for off-premise signs. Mr. Hickox responded that he has worked for the Town for 7 years and this is the first one he has dealt with.

2. Public Hearing closed for Board deliberation.

Mr. Ensley asked if anyone had additional questions of either the staff or the applicant and there being none, closed the public hearing at 6:05 so that the Board could discuss. Mr. Ensley called attention to draft findings of fact that was provided by the Town based on the staff report. David Felmet stated that he thought the findings provided adequately address the situation. Stephanie Strickland stated that being familiar with Mr. Kirkpatrick she knows that the sign will look nice and be done according to ordinance.

Mr. Ensley reviewed proposed findings of fact for discussion:

1. The Zoning Board of Adjustment has jurisdiction over this matter pursuant to Section 14.4.1 of the Land Development Standards.
2. Proper notice of this meeting and hearing of the Zoning Board of Adjustment was provided as required by the Town ordinances and the state law.
3. Applicant owns land at 97 Kent Lane in the municipal jurisdiction of the Town of Waynesville. This property is in the Hazelwood Business District (H-BD), and is identified on the tax maps of Haywood County as being PIN # 8605-64-9857.
4. The total acreage is shown as approximately 4.71 acres, and the lot is located behind WNC Community Credit Union and adjacent to the 23/74 Expressway.
5. The property does not have roadway frontage on Eagle's Nest Road or on Sulphur Springs Road and shares an access road with the WNC Community Credit Union off of Eagle's Nest Road. The Credit Union has agreed to let Mark's Pharmacy have a sign on their property to indicate where the public should turn to access the Pharmacy property.
6. Unnecessary hardship will result from the strict application of the ordinance prohibiting off-premise signs because it would not allow this entrance sign to be placed as agreed upon by the property owners. Without signage, the Pharmacy is difficult to see and find from Eagles Nest Road and signage is necessary to inform the public of where to turn. Public safety will be enhanced by a sign that reduces confusion for traffic to the pharmacy as additional support.
7. Proposed signage would comply with the LDS Standards for dimension and style as a monument sign and would otherwise be allowed within the District.
9. The requested variance is consistent with the spirit, purpose and intent of the

Ordinance as the completed structure will match the look and dimensions of other signage in the neighborhood.

10. Any signage placed at this location would have to meet the approval of the Credit Union and the NCDOT if involving their underlying property or right-of-way.

11. No evidence was presented to indicate that this variance, if granted, will reduce or adversely affect public safety, as no new or greater use is requested and no hazard would be created.

Board discussed the draft and agreed to its content.

3. Variance Vote

With no evidence of objections, Board Member David Felmet made a motion, seconded by Board Member Stephanie Strickland to accept the variance for the Off-Premise Sign for the property 27 Kent Lane, for Mark's Pharmacy. The motion carried unanimously.

C. ADJOURN

With no further business, Dave Felmet made a motion to adjourn and it was seconded by Stephanie Strickland. The motion carried unanimously and the meeting adjourned at 6:33pm.

The next regularly scheduled meeting will be held on October 03, 2017@5:30pm.

X Neal Ensley

Neal Ensley, Chairman

X Jill Howell-Shook

Jill Howell-Shook, Administrative Assistant