

**BOARD OF ZONING APPEALS**  
**August 27, 2008**

THE REGULAR MEETING OF THE GREENE COUNTY BOARD OF ZONING APPEALS WAS HELD ON WEDNESDAY, AUGUST 27, 2008 AT 7:30 P.M.

Those present were:            Raymond Daughtry, Chairman  
   Richard Herring, Member  
   Bob Runkle, Member  
   Bart Svoboda, Zoning Administrator  
   Stephanie Golon, County Planner  
   Shawn Leake, Zoning Officer  
   Marsha Alley, Secretary

The Chairman called the meeting to order stating that there would be one public hearing tonight. He informed anyone who wanted to speak to sign the appropriate sheet.

**PUBLIC HEARING**

**Grant Avenue Development/Gateway Market Center, LLC request a special exception for a sign on a 0.741 acre tract which is zoned B-3, Business, located on Seminole Trail and identified on County Tax Maps as 60-(A)-20E. (SPEX#08-001)**

Mr. Daughtry asked Mr. Svoboda for a report.

Mr. Svoboda read the request and gave a summary of the application, reviewing sketches and maps of the area. He stated that the request is not a variance but is considered a special exception, sometimes referred to as a waiver which does not require that the strict criteria be met as with a variance request. He explained that corner lots, under the Greene County Zoning Ordinance (14-2-10) currently are allowed 2 signs (one per street frontage) at 15 feet tall and 50 square feet maximum allowable sign area. He stated that the applicant is seeking a special exception to allow one sign; 20 feet tall and 85 square feet maximum allowable sign area for the parcel of land, adding that the proposed sign location will be located at the corner of Route 29 southbound and the new shopping center road, at the north end of the Gateway Shopping Center. He noted that this affects only freestanding signs. He stated that the current regulations allow two (2) freestanding signs, fifteen (15) feet high, a total of 100 square feet for the parcel, and with a five (5) foot setback. He noted that this request is for one (1) freestanding sign, twenty (20) feet high, a total of 85 square feet, and with a five (5) foot setback. He pointed out that staff recommends the fifteen (15) feet height limit as currently regulated and that the applicant has voiced their agreement to that condition. He reminded the Board that the Board of Zoning Appeals may authorize, *Virginia Code § 15.2-2309 (6)*, by special exception, in accordance with the Greene County Zoning Ordinance, Article 14-9, an increase in sign area and sign height. He added that uses allowed by special exceptions are considered to have a potentially greater impact than those allowed as a matter of right and that the Board of Zoning Appeals may impose conditions to address the impacts related to the use for which a permit is granted as it deems necessary in the public interest. He added that these conditions may include limiting the duration of the permit. He explained that Special Exceptions are legislative in nature and decisions granting or

Exceptions are legislative in nature and decisions granting or denying special exceptions are presumed correct and shall be reviewed under the fairly debatable standard.

Mr. Svoboda informed the Board that the current sign ordinance, Article 14, was adopted on March 11, 2008 and this special exception application is the first request filed under Article 14-9. He stated that although this proposal would help eliminate "sign clutter" and result in less signage, it would also allow for a five foot taller and thirty-five foot larger sign area on the individual sign than otherwise allowed by the current ordinance.

Mr. Svoboda stated that after review, staff recommends the following conditions for the special exception:

- a. Freestanding signage shall be limited to one sign
- b. Height shall be limited to 15 feet
- c. Signage shall be limited to a maximum of 85 square feet for the one sign.
- d. Any change to this proposal shall be approved by the BZA.

Mr. Daughtry swore in speakers.

Dan Lovern, Director of Operations for Arby's, addressed the Board. He stated that the proposal would be acceptable for Arby's and would serve them well. He asked for approval of the request.

Mr. Daughtry asked if the electronic message center, which is pending a special use permit review, would be included in the 85 square feet maximum.

Mr. Lovern agreed that it would be included in that measurement which will require them to reduce the size of the Arby's hat.

Gordon Giuliano, Gateway Market Center, addressed the Board. He stated that he was happy to work with Arby's and would appreciate approval of the request.

There was discussion regarding the measurements and which areas would be included in the size limitations.

Mr. Herring stated that he liked Arby's and would like to see them do well but that he could not understand how to justify an approval with no apparent hardship.

Mr. Svoboda explained that the special exception criteria are not as strict as the variance criteria. He added that the special exception functions more like a special use permit in that conditions can be applied and that the use is the focus as opposed to the property.

There was discussion regarding the special exceptions, special use permits, and variances and the criteria under which they are reviewed.

There was also discussion regarding the fairly debatable standard used to review special exceptions, which functions like a reasonable opinion versus fact; it was noted that denial of a special exception is appealable to the Circuit Court.

Mr. Daughtry asked if the special exception, if approved, would be required to be demonstrated on a site plan for future reference.

Mr. Svoboda stated that the special exception, if approved, would run with the land, not the owner.

Mr. Runkle made a motion to approve special exception #08-001 with the following conditions:

- a. Freestanding signage shall be limited to one sign
- b. Height shall be limited to 15 feet
- c. Signage shall be limited to a maximum of 85 square feet for the one sign.
- d. Any change to this proposal shall be approved by the BZA.

Mr. Herring seconded the motion.

The vote was taken.

AYE

Mr. Herring  
Mr. Runkle  
Mr. Daughtry

NAY

The motion to approve special exception #08-001 carried by a 3-0 vote.

## **OLD/NEW BUSINESS**

There was no Old/New Business to address.

## **MINUTES**

Mr. Herring made a motion to approve the minutes of April 23, 2008 as submitted.

Mr. Runkle seconded the motion.

The minutes of April 23, 2008 were approved by a 3-0 vote.

## **OTHER MATTERS**

Mr. Svoboda informed the Board that Mr. Snow was renewed for another term. He added that Mr. Daughtry's term is the next to expire in 2009.

Mr. Svoboda suggested that the Board review the by-laws. He added that he did not anticipate that changes had to be made but that it would be a good idea to review them and re-adopt them.

Mr. Svoboda noted that previous decisions by the Board and ordinance revisions seemed to have resulted in less variance requests.

There was discussion regarding the Lamar request and the status of the appeal.

There was also discussion regarding electronic message centers.

Mr. Svoboda announced that there is an opening on the Planning Commission as Phyllis Woodfolk has resigned.

## **ADJOURNMENT**

There being no further business, the meeting was adjourned.

Respectfully submitted,

*Marsha Alley*

Marsha Alley, Secretary