

**BOARD OF ZONING APPEALS  
MINUTES  
MARCH 5, 2009  
6:00 P.M.**

The Board of Zoning Appeals of the Town of Rocky Mount, Virginia met at the Rocky Mount Municipal Building on Thursday, March 5, 2009 at 6:00 p.m. with Chairman Charles L. Hutto, Jr. presiding.

The following members were present:

Chairman Charles L. Hutto, Jr. and Vice Chair Susan Hapgood; Board of Zoning Appeals (BZA) Members Sanford "Lyn" Robertson, John Speidel, Lucas Tuning, and Alternate Member Maceo Toney.

Staff Members present included:

Assistant Town Manager and Community Development Director Matthew C. Hankins, Town Attorney John Boitnott, and Deputy Clerk Stacey B. Sink.

**APPROVAL OF AGENDA**

- Motion was made by BZA Member John Speidel to approve the agenda as presented, with motion on the floor being seconded by Vice Chair Hapgood. There being no discussion, let the record show that motion on the floor passed unanimously.

**APPROVAL OF MINUTES**

Prior to the meeting, the BZA members received the following draft minutes for review and consideration of approval:

- Draft June 5, 2008 – Regular BZA Meeting
- Motion was made by BZA Member Tuning to approve the minutes as presented, with motion on the floor being seconded by BZA Member Robertson. There being no discussion, let the record show that the motion on the floor passed unanimously.

**PUBLIC HEARING**

Chairman Hutto recessed the meeting to hold the following public hearing:

A) Centrex Properties, Inc. Variance Request

After being duly advertised, and in accordance with Article 28-16 of the Town of Rocky Mount Zoning and Development Ordinance, Centrex Properties, Inc. requested a variance for two outparcels located at its Rocky Mount Marketplace Shopping Center. Specifically, Centrex requested a variance from Article 28-14(C4), the requirement that “no on-premise freestanding sign shall be allowed on any lot having less than 100 feet of road frontage.” The property owner has been permitted by the Planning Commission and Town Council to subdivide lot 2030007804 into two parcels, and desires a variance to permit the two parcels to house separate businesses, each with a freestanding sign.

The Assistant Town Manager addressed the BZA, stating that he would first like to apologize for a procedural error that was made on his part. Since the last time the BZA met, the Town Planner Paul Stockwell has resigned and he has been doing the administration in the interim. The plan is to hire another planner but that may not happen until May or later. In his initial read of the code, he interpreted this request as something that is under the purview of the Planning Commission. However, it was not. The Planning Commission did have to approve the subdivision, but the freestanding sign issue should have been brought to the BZA. This is the purpose of tonight’s meeting.

The Assistant Town Manager continued, stating that the lot in question is 2030007804, and is located in the Marketplace Shopping Center between Kroger, Wendy’s, and Applebees. The lot is approximately 2.27 acres and will be subdivided per the approval of Planning Commission and Town Council into two lots that can be marketed and used by Centrex Properties, which is the marketing and leasing agent for the property. This lot will be subdivided; however, according to Town code, because it has no public road frontage, it cannot have freestanding signs unless a waiver is granted for the requirement. The code also states that freestanding signs cannot be on a lot that the use is not on. There would have to be one freestanding sign per lot and Centrex is not requesting a waiver from this.

Next, the Assistant Town Manager delivered a slide show presentation showing the use which is contemplated for the first lot next to Franklin Community Bank, which is planned to be a Kroger Fuel Center. The slide show detailed the different types of signage that currently exist on various Kroger Fuel Centers in neighboring localities. He reiterated that this request is to waive the requirement to allow freestanding signs on both lots that will be created by the subdivision. He has received site plans for the Kroger Fuel Center, but there currently is no use in mind for the second lot. Therefore, there is no sign request pending for the second lot.

Vice Chair Hapgood asked for clarification as to whether the BZA is being asked to grant a variance for the fuel center only, or if it is for each lot, with the

Assistant Town Manager confirming that it is for each lot so that the second lot can be marketed without having to come back before the BZA. Chairman Hutto added that this would make the second lot more appealing to potential tenants.

Eric Ferguson, an attorney with Rhodes, Ferguson & Stone, came forward to speak on behalf of Centrex Properties, Inc. who is the property management firm, as well as the owners of the property, which is K-2 Properties, LLC and K-5 Associates, LLC. Centrex Properties and the owners are here because they have been to Planning Commission and Town Council and have received approval to subdivide the property into two parcels, with the fuel center on the front parcel. Centrex wants to be able to market the back part of the lot to an additional tenant, and without road frontage, there is technically no way to put a sign, and they would like the ability to have a freestanding sign on both lots. The request is to be able to put one sign on each lot that will advertise the business on that lot, and they have no objections to the items listed in the staff recommendation.

For the record, the staff recommendation reads as follows:

- a. *Recommend approving waiver of road frontage requirements for freestanding signs to be located on subsequent lots created from current Tax Map & Parcel Number 2030007804.*
- b. *That subsequent subdivision and use of the lots shall not permit freestanding signs for businesses locating there, except on the lots on which they are located.*
- c. *That any freestanding sign location on these properties should be calculated from the centerline of the nearest shopping center avenue used to convey business traffic to the site.*

Mr. Ferguson further stated that this waiver will allow the Marketplace to fully develop and be used to its fullest potential, which currently they can't do, and therein lies the hardship and the reason for requesting the variance. On behalf of the Centrex, the owners, and Kroger, he is pleased with the way the Town has handled the request and he will answer any questions.

BZA Alternate Member Toney stated that when there is a plan for a shopping center, the objective is for the shopping center to be full, and he is concerned that something is being missed if a variance is needed to allow this development to take place.

Mr. Ferguson addressed his comment, stating that he wasn't in on the development phase of the shopping center, but he thinks that this is a unique situation because there is no public road frontage and this additional development was not part of the initial phase of the shopping center. In speaking with the Assistant Town Manager, he thinks that there are only five parcels in town like this, being these two parcels, the two parcels at Lowe's and one at the

hotel. In general, he thinks development in the Town has been done well, and these five parcels exist because a use wasn't contemplated to start with.

BZA Member Speidel questioned if there were any particulars on the specific sign for the fuel center, stating that he thinks the sign requirements would be different on the two lots.

Pam Hochmuth, a representative of Centrex Properties, Inc. came forward to address the question. She first clarified that Centrex is more than just a management company, as they are affiliated with the property owners, and this is a family business. They all have the same interest as the owners. With this being said, they would like to accommodate this subdivision and Kroger's request for a freestanding sign. Centrex recognizes that signage is very important to any retail tenant, and they support Kroger's request. As far as the request for the undeveloped portion, she looks to the BZA for whatever kind of approval they can give. Centrex doesn't have a user for the second parcel, but they are currently working with engineers to plot out a building, to determine the maximum size, and to make sure it is self-parked. There is probably about an acre of usable land. Then Centrex will determine who to market the parcel to, be it a freestanding restaurant, a two-user retail building, etc. Depending on what goes there, a freestanding sign may or may not be important, and she asked for some flexibility on the freestanding sign for this particular undeveloped lot.

Mr. Ferguson distributed color photographs to the BZA Members of the sign just put in at the new Kroger Fuel Center at Towers Mall in Roanoke, Virginia, along with another photograph depicting a monument type sign that Kroger has also used.

BZA Member Tuning questioned if the addition of a sign would create traffic problems, as the traffic is already bad as it is. Mr. Ferguson addressed his question, stating that one of the conditions from Town Council in subdividing the property is that the lane markings will be redone and some additional markings added. The Assistant Town Manager also commented that the drawings indicate the sign will be set back closer to the Kroger side itself, rather than near the Wendy's side, and will be more in toward the shopping center, so there should not be any significant sight-line blockage near the bank.

BZA Member Speidel questioned if there would also be canopy type signs, with Mr. Ferguson confirming that canopy signs are planned similar to the Westlake and Thirlane Road locations. BZA Member Speidel stated that he doesn't think a monument sign will effectively relay the information and he thinks the canopy signs will be better. Would a monument sign be parallel or at a right angle with the road? He doesn't want to injure the business in any way, but he doesn't think a monument sign is needed because it won't be seen from the public road, whereas canopy signs would be more visible. BZA Member Tuning added that a

person would already be committed to entering the shopping center in order to use the fuel center.

Mr. Ferguson added that the canopy signs and smaller monumental sign would be within the body of the shopping center, and they can work with the Town to place the signs so that the sight line and visibility is maintained. The same concerns, however, would not exist for the back lot.

BZA Alternate Member Toney questioned if by "line of sight" staff was referring to the lanes that feed into and out of the parking lot proper, with staff confirming that it was. The Assistant Town Manager gave an example that if this proposal had road frontage and they could build a sign by right, the maximum sized sign allowed would be 100 square feet (a 5 feet by 10 feet double sided sign for example). However, one of the signs examples submitted for the fuel center is about 25 square feet double sided, so approximately 50 square feet total. This would be significantly smaller than what would be allowed.

Vice Chair Hapgood questioned if the conditions listed in the staff recommendation should be included in the motion, with the Town Attorney confirming that the BZA could impose any conditions related to the use that they feel would be appropriate.

BZA Member Robertson questioned if traffic to and from the fuel center will turn in by Wendy's and go through the parking lot, with the Assistant Town Manager directing the question to the shopping center representatives. Mr. Ferguson illustrated the traffic flow as running parallel to Marketplace Drive. Traffic would come into the shopping center and turn left in front of Wendy's or else circle around. He also confirmed that the sign in question would be within the shopping center, located just beyond where traffic turns to go to Wendy's and this lot. Traffic flow will primarily be parallel to Marketplace Drive.

BZA Member Speidel pointed out that his drawing depicts it on the back side near Wendy's. The Assistant Town Manager produced the site plan for review by the BZA members, which more accurately depicts the proposed location of the sign.

BZA Member Tuning questioned if a maximum height had been considered. BZA Member Speidel pointed out that Article 28-14(C9) indicates that the maximum height allowed is 25 feet. The fuel center monument sign is planned to be five feet in height.

BZA Alternate Member Toney questioned if it would "tie Centrex Properties' hands" for there to be an imposed height limit of five feet, with Kroger representative confirming that Kroger's standard monument sign does not exceed five feet in height so this would not be inhibitive.

Let the record show that no one else came forward to speak in regards to the request.

There being no further discussion, Chairman Hutto called the meeting back into regular session and entertained a motion.

- Motion was made by Vice Chair Hapgood to approve the variance as requested for Tax Map & Parcel Number 2030007804, for the portion that will be the Kroger Fuel Center, on the conditions that it shall conform to the Town ordinance and will not exceed five feet in height, and that the sign location will be calculated from the centerline of the nearest shopping center avenue used to convey business traffic to the site, with motion on the floor being seconded by BZA Member Tuning. There being no further discussion, let the record show that the motion on the floor passed unanimously.

Regarding the second parcel:

- Motion was made by BZA Member Robertson to approve the variance as requested for a waiver of the road frontage requirements for freestanding signs, for Tax Map and Parcel Number 2030007804, on the conditions that the subsequent subdivision and use of the lots shall not permit freestanding signs for businesses locating there, except on the lots on which they are located, and that any freestanding sign location on these properties should be calculated from the centerline of the nearest shopping center avenue used to convey business to the site, with motion on the floor being seconded by BZA Member Speidel. Chairman Hutto called for any further discussion. The Assistant Town Manager asked for a clarification of the motion as to whether or not it contained a height requirement, with BZA Member Robertson confirming that it does not, except that it must meet the sign ordinance requirements of 25 feet or less. There being no further discussion, let the record show that the motion on the floor passed unanimously.

### **OLD/NEW BUSINESS**

Let the record show there was no old or new business to discuss at this time.

### **BZA MEMBER CONCERNS**

Let the record show that BZA Members expressed no concerns at this time.

The Assistant Town Manager advised the BZA Members that even though the BZA does not meet very often, he wishes to extend to them an invitation to come and talk to him anytime.

Chairman Hutto pointed out that he likes the new variance request form as it contains space to adequately address the nature of the variance request. The Assistant Town Manager noted that staff is currently revamping many of the forms to make them more "customer friendly."

**ADJOURNMENT**

There being no further business to discuss, Chairman Hutto made a motion to adjourn at 6:55 p.m., with motion being seconded by BZA Member Speidel and carried unanimously

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Charles L. Hutto, Jr. Chairman

ATTEST:

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Stacey B. Sink, Deputy Clerk

/sbs