

MINUTES
BREVARD BOARD OF ADJUSTMENT REGULAR MEETING
Tuesday, June 4, 2019 – 3:00 PM – Council Chambers

The Brevard Board of Adjustment met for a regular meeting on Tuesday, June 4, 2019, at 3:00 PM in Council Chambers of City Hall.

Members Present: Judith A. Mathews, Chair
Tom Tartt, Vice Chair
Kevin Jones
Tad Fogel
Allen Delzell
Paul Welch

Staff Present: Daniel Cobb, Planning Director
Janice H. Pinson, Board Clerk
Bryan Brightbill, Planner

Others Trey Foster, Agent for Applicant

I. WELCOME

Chair J. Mathews called the meeting to order at 3:00 PM and welcomed those present.

II. INTRODUCTION OF BOARD MEMBERS

Board members and Staff, introduced themselves.

III. CERTIFICATION OF QUORUM

Chair J. Mathews certified a quorum of the Board was present and that alternate, Allen Delzell would not need to serve at this meeting.

IV. APPROVAL OF AGENDA

P. Welch made a motion, seconded by T. Fogel to approve the agenda as presented, carried unanimously.

V. APPROVAL OF MINUTES

P. Welch moved, seconded by T. Fogel that the May 7, 2019, meeting minutes be approved as presented. Motion carried unanimously.

VI. NEW BUSINESS

a. Request of Trey Foster, Agent for Jackson Wine for a variance from UDO Chapter 12.9.G.2 to allow a 12 sq. ft. projection sign, a variance of 4 sq. ft. from the ordinance requirements of not to exceed 8 sq. ft. per side. The property is located in a Neighborhood Mixed Use (NMX) zoning district with the address of 175 King Street, within the corporate limits of the City of Brevard, further identified by PIN# 8586-42-6422-000.

Daniel Cobb, Planning Director and Trey Foster, Agent for Applicant were sworn by the Board Clerk.

Daniel Cobb stated that the matter had been properly advertised, property posted and neighbors notified.

J. Mathews, Chair polled the board as to exparte communications and conflicts of interest. There were none.

Trey Foster was asked if he had any conflicts with any of the board members hearing the case. He replied that he did not.

Daniel Cobb, Planning Director presented the staff report prepared by Bryan Brightbill, Planner and explained the case before the board as follows:

Background

Trey Foster (Applicant/Agent) for property owner Jackson Wine is requesting a total increase in allowable projection sign surface area of four sq. ft. per side. The requested increase is intended to allow the previously installed projection sign, measuring 12 sq. ft. per side, to remain.

Discussion

The City received a request from the Applicant/Agent on April 22, 2019 for a Variance from the maximum allowable projection sign surface area. (see Attachment A).

UDO Chapter 12.9.G.2 allows one projection sign at a business's main entrance with a maximum surface area of eight sq. ft. per side. The applicant has previously installed a projection sign measuring 12 sq. ft. per side above the entrance to Vescovo Neighborhood Eatery. This specific portion of the ordinance has been included below for reference:

Projection sign: One suspended or projection identification sign per business establishment, not to exceed eight square feet per side of sign up to a maximum of 16 square feet of aggregate surface area for the entire sign. Suspended or projection identification signs shall be located at the main entrance of the business.¹

¹ City of Brevard Unified Development Ordinance, Chapter 12 – Signs

The requested increase is intended to allow the previously installed projection sign, measuring 12 sq. ft. per side, to remain.

In order to grant the variance *all* of the conditions below must be met:

1. Unnecessary hardship would result from the strict application of the regulations. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can 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 regulations, such that public safety is secured, and substantial justice achieved. Substantial justice is not achieved when granting the variance would be injurious to the neighborhood or to the general welfare.

Economic hardship or the fact that property may be utilized more profitably with a variance shall not constitute an unnecessary hardship. In its motion the Board should include Findings of Fact to support each of the items listed above.

Summary:

Application VAR-19-003 is for the increase in allowable projection sign surface area of four sq. ft. per side for the property located at 175 King Street, Brevard, NC 28712. This request is made to allow the previously installed projection sign, measuring 12 sq. ft. per side, to remain.

Trey Foster, Agent for Applicant testified that his wife purchased the sign and had it hung while he was out of town. That it was designed in keeping with the pitch of the roof and when he returned to town he applied for the permit and was told the sign was too big. He stated that he thinks that the sign is tastefully done.

There being no further questions the hearing was closed.

The board had a brief deliberation.

K. Jones made the following motion:

With regard to variance request #**VAR-19-003**, the application of Trey Foster, Agent for Jackson Wine for a variance from UDO Chapter 12.9.G.2 to allow a 12 sq. ft. projection sign, a variance of 4 sq. ft. from the ordinance requirements of not to exceed 8 sq. ft. per side. The property is located in the Neighborhood Mixed Use (NMX) zoning district with the address of 175 King Street within the corporate limits of the City of Brevard, further identified by PIN# 8586-42-6422-000. I move the Board to **GRANT** the application based upon the following findings of fact:

- a) that unnecessary hardship would result from the strict application of the regulations;
A smaller sign would be difficult to see and would be the smallest sign in the direct vicinity.
- b) the hardship results from conditions that are peculiar to the property such as location size or topography;
The property was leased as is and the geography of the building and roof line would make any other type of sign difficult to serve the business successfully.
- c) the hardship did not result from actions taken by the applicant or the property owner; and
That no actions were taken by the applicant to create the hardship.
- d) the requested variance is consistent with the spirit purpose and intent of the regulations such that Public Safety is secured and substantial Justice achieved.

That the sign is in keeping with the spirit purpose and intent of the regulations and public safety is secured and substantial justice achieved.

Accordingly, I further move the board to Grant the requested variance in accordance with and only to the extent represented in the application and plans.

Motion seconded by T. Fogel, unanimously carried and variance was granted.

b. Cancellation of July 2, 2019 Meeting.

Motion to cancel July 2, 2019 meeting by K. Jones, seconded by T. Tartt, unanimously carried.

VIII. REMARKS

T. Tartt explained that he has moved from the ETJ into the city limits.

Janice Pinson, Clerk to the Board explained that she had notified Transylvania County, Trisha Hogan and City Clerk, Jill Murray and that T. Tartt's reappointment as a city alternate would go before City Council at their June meeting.

IX. ADJOURN

K. Jones moved, seconded by T. Tartt the meeting be adjourned. Motion carried. Meeting adjourned at 3:29 PM.

Janice H. Pinson, Board Clerk

Judith A. Mathews, Chair