

**VARIANCE REQUEST
ZONING BOARD OF ADJUSTMENT
November 14, 2017**

CASE: ZBA-921, 11/17

PETITIONER: Splash N Dash Car Wash, LLC, applicant, on behalf of Payne Umstead Properties, LLC, property owner

REQUEST: 14' variance from the 6' sign height restriction for signs along Carolina Beach Road per Section 94-4(C) of the New Hanover County Zoning Ordinance

LOCATION: 5318 Carolina Beach Road
PID: R07606-003-003-000

ZONING: B-2, Highway Business District

PETITIONER'S REQUEST:

Splash N Dash Car Wash, LLC, applicant, on behalf of Payne Umstead Properties, LLC, property owner, is requesting a 14' variance from the 6' sign height restriction for signs along Carolina Beach Road per Section 94-4(C) of the New Hanover County Zoning Ordinance in order to build a sign 20' in height on the subject property at 5318 Carolina Beach Road. The property is currently under development as car wash and was previously vacant.

Although the property has a Carolina Beach Road address, it is located approximately 66' back from the adjacent property, and along the service road for southbound Carolina Beach Road.

BACKGROUND AND ORDINANCE CONSIDERATIONS:

In 2001, the Zoning Ordinance was amended to include a new provision limiting sign height and area along Carolina Beach Road:

94-4: *Principal Use Signs*

(1) *Freestanding Signs*

- (C) *Carolina Beach Road - Freestanding Signs along Carolina Beach Road shall comply with the provisions of this Section except that only one freestanding ground sign not to exceed six (6) feet in height and a maximum surface area of 150 square feet shall be permitted. (8/06/01)*

If the above provision did not apply, the freestanding sign dimensions allowed on the subject site would be a maximum height of 20' and the same maximum sign area of 150 square feet. The petitioner is not proposing to exceed the 150 sq. ft. sign area maximum.

Section 90 describes the purpose of the county's sign regulations:

Section 90: Purpose

The purpose of this section is to coordinate the type, placement, and physical dimensions of signs within the different zoning districts; to recognize the commercial communication requirements of all sectors of the business community; to promote both renovation and proper maintenance of signs; and to guarantee equal treatment under the law through accurate record keeping and consistent enforcement. The general objectives of these standards are to promote the health, safety, welfare, convenience and enjoyment of the public, and in part, to achieve the following: (12/7/87)

- (1) Safety - *To promote the safety of persons and property by providing that signs:*
 - (A) *Do not create a hazard due to collapse, fire, decay, collision, or abandonment;*
 - (B) *Do not obstruct fire-fighting or police surveillance; and*
 - (C) *Do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to read traffic signs.*

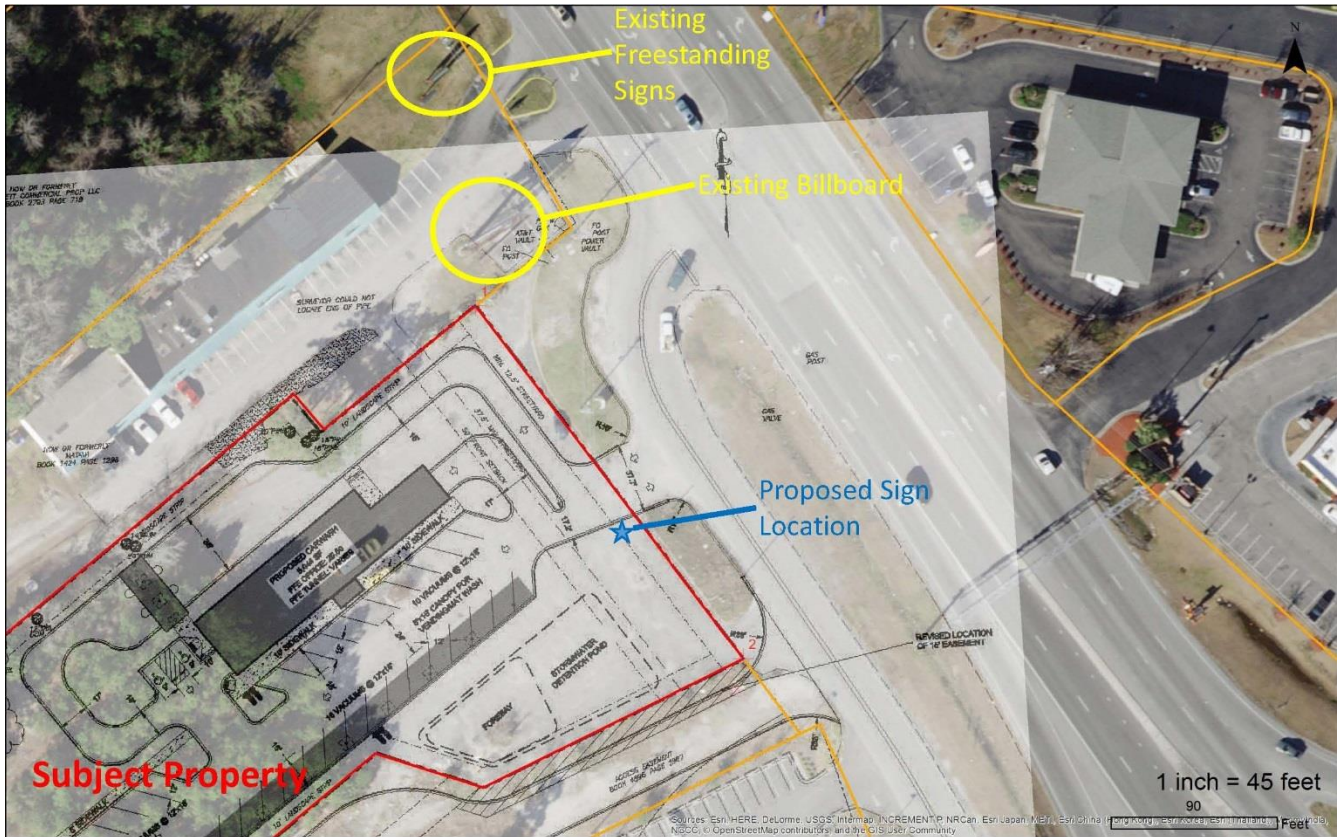
- (2) Communications Efficiency - *To promote the efficient transfer of information in sign messages by providing that:*
 - (A) *Those signs which provide messages and information most needed and sought by the public are given priorities;*
 - (B) *Businesses and services may identify themselves;*
 - (C) *Customers and other persons may effectively locate a business or service;*
 - (D) *No person or group is arbitrarily denied the use of the sight lines from the public right-of-way for communication purposes; and*
 - (E) *Persons exposed to signs are not overwhelmed by the number or size of messages presented, and are able to exercise freedom of choice to observe or ignore said messages, according to the observer's purpose.*

- (3) Landscape Quality and Preservation - *To protect the public welfare and to enhance the appearance and economic value of the landscape by providing that signs:*
 - (A) *Do not interfere with scenic views;*
 - (B) *Do not create a nuisance to persons using the public rights-of-way;*
 - (C) *Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height or movement;*
 - (D) *Are not detrimental to land or property values; and*
 - (E) *Contribute to the special character of particular areas of the community, helping to orient the observer within it.*

There are several signs in the vicinity of the subject site that are legally nonconforming to the height and area allowances of Section 94-4. These signs are considered legal nonconforming signs (or "grandfathered"), as they were in place prior to the Zoning Ordinance rule change in 2001. The petitioner contends that some of the

nonconforming signs, in conjunction with the unusual lot shape that would force the sign further back into the lot, would impede visibility of a sign on the subject property if it was limited to 6 ft. in height. The petitioner is not seeking any relief from the 10' setback requirement, therefore the sign would need to be setback at least 10' from the front property line.

The diagram below shows the unusual property shape along with the existing signs to the north of the property and the proposed sign location for Splash N Dash.



In summary, the petitioner is requesting a variance to allow a freestanding sign to be 20' tall, 14' over the 6' height maximum allowed for signs along Carolina Beach Road in the Zoning Ordinance, due to visibility constraints imposed by existing freestanding signs and the unusual parcel shape as it is located at the entrance to the service road that runs adjacent to southbound Carolina Beach Road.

BOARD OF ADJUSTMENT POWER AND DUTY:

The Board of Adjustment has the authority to authorize variances from the terms of the Zoning Ordinance where, due to special conditions, a literal enforcement of the regulations would result in unnecessary hardship. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with the Zoning Ordinance. A concurring vote of four-fifths (4/5) of the voting members of the Board shall be necessary to grant a variance. A variance shall not be granted by the Board unless and until the following findings are made:

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 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 ordinance, such that public safety is secured, and substantial justice is achieved.

ACTION NEEDED (Choose one):

1. **Motion to approve the variance request based on the findings of fact (with or without conditions)**
2. **Motion to table the item in order to receive additional information or documentation (Specify).**
3. **Motion to deny the variance request based on specific negative findings in any of the 4 categories above.**