MINUTES
BREVARD BOARD OF ADJUSTMENT – REGULAR MEETING
Tuesday, January 12, 2016 – 7:00 PM – Administrative Conference Room

The Brevard Board of Adjustment met in regular session on Tuesday, January 12, 2016 at 7:00 PM in Administrative Conference Room of City Hall.

Members Present:	Judith A. Mathews, Chair Carol Dillingham Tad Fogel Tom Tartt
Staff Present:	Daniel Cobb, Planning Director Janice H. Pinson, Board Secretary Mike Egan, Board Attorney
Others:	Lane Lastinger, Agent for Applicant

I. Welcome and Introduction of Board Members

Chair, J. Mathews called the meeting to order at 7:00 PM, Board introduced themselves. Chair, J. Mathews certified that a quorum of the Board was present.

II. Approval of Agenda

J. Mathews requested a Motion to approve the Agenda. Tom Tartt moved to approve, seconded by Tad Fogel, unanimously carried.

III. Approval of Minutes

J. Mathews requested a motion to approve the Minutes of the October 13, 2015 meeting. Motion by T. Fogel to accept the minutes as submitted, unanimously carried.

IV. New Business

a. Request of Pisgah Forest Outdoors, LLC for a variance in the ground size requirements from 32 square feet surface area per side to allow 48 square feet surface area per side. The property is located at 74 Pisgah Highway within the corporate limits of the City of Brevard, further identified by PIN # 8597-45-3585-000.

The following were sworn: Lane Lastinger and Daniel Cobb.

Chair, J. Mathews explained the quasi-judicial hearing process and polled the Board as to exparte communications, there were none. She polled the Board and Lane Lastinger, as to conflicts of interest and there were none.

Daniel Cobb requested procedural guidance from M. Egan, Board Attorney, as to variance procedures and requirement of a super majority to approve the variance.

Attorney Egan, responded that it would take all four (4) Board Member's votes to approve this variance. Further explaining that the Board's By-Laws state that the Applicant be given a choice to wait until the next meeting because a variance would require four (4) out of five (5) votes, meaning he would be required to obtain all four (4) votes of members present for the variance to be approved.

L. Lastinger stated that he had been made aware of the situation and chose to continue with the proceedings.

Daniel Cobb, Planning Director, presented his Staff Report, which is attached hereto, labeled Exhibit "A", and incorporated herein by reference.

T. Fogel stated that there is a lot of clutter from existing signs along the highway, and that he felt this was a reasonable request. Further asking for clarification as to the location of the sign.

Lane Lastinger testified that their goal was to put their sign on the ground sign with Pisgah Outdoors in order to avoid clutter of signage on Highway 276.

He further stated that he has a tentative agreement with Bi-Lo to connect to their property in order to enter his property, and also is trying to negotiate with another adjoining property owner to gain another access by way of Highway 280, but that this has not come to fruition to date.

J. Mathews and T. Tartt, both shared their concerns about traffic congestion at the adjoining intersections.

J. Mathews stated she was glad to see that the location of the sign would not impede site distance for traffic.

J. Mathews asked, D. Cobb the size of the Oskar Blues ground sign. D. Cobb stated that he was not sure but would get the information for the board.

Lane Lastinger stated that the owner of Pisgah Forest Outdoors is in the process of requesting that NCDOT move the forest signs inside the forest and that he plans to join in these discussions.

T. Fogel brought up that the City's new wayfinding signage gives good direction to the forest from Highway 280.

J. Mathews asked if Mr. Lastinger had any further testimony.

L. Lastinger stated that surrounding properties have signs as large as 80 square feet and that they are not requesting a large sign, but just to be allowed to combine all of their signs into one (1) ground sign.

There being no further testimony, J. Mathews closed the hearing for the Board's deliberation.

J. Mathews reminded the board that all four (4) members were required to agree in order for the variance to be approved. She stated that she was going to briefly go over the four (4) points listed in the staff report.

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.

T. Tartt stated he felt the sign was in a good location and that he was good with all points.

J. Mathews stated that she felt that the hardship was not a result of action by the property owner or applicant.

It was agreed that the location does create a hardship because the property is located behind others and is outside the view of Highway 276 and that the request was in keeping with the spirit of the ordinance, that public safety and justice would be served by granting the variance.

J. Mathews reminded the board that staff recommended approval of the variance:

Allowing a larger sign to be installed on the Pisgah Forest Outdoor property eliminates the need for an additional separate sign for Pilot Cove. With this arrangement Staff feels the variance is in keeping with the spirit and intent of the City's sign ordinance.

After discussion by the board on all conditions, the following motion was presented by T. Fogel:

With regard to the request by Pisgah Forest Outdoors, LLC for a variance from the maximum sign size requirement contained in Section 12.9.B.1.i of the Unified Development Ordinance, I move the Board to find (a) unnecessary hardship would result from the strict application of the regulations; (b) the hardship results from conditions that are peculiar to the property, such as location, size, or topography; (c) the hardship did not result from actions taken by the applicant or the property owner; and (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. Accordingly, I further move the Board to grant the requested variance in accordance with and only to the extent requested in the application. Allowing the larger sign eliminates the necessity for a separate sign for Pilot Cove and is in keeping with the spirit and intent of the ordinance.

Motion seconded by C. Dillingham, unanimously carried.

VI. Old Business; None.

VII. Other Business

J. Mathews, Chair requested that Janice Pinson, Board Secretary, present the results of a survey taken by the Board in reference to their meeting schedule. The results were presented for the Board's discussion.

The Board unanimously approved to change the meeting time to the first Tuesday of each month at 3:00 PM in Council Chambers at City Hall.

There was discussion of board policies and procedures and applications for new members.

Daniel Cobb introduced Paul Ray, Senior Code Enforcement Officer to the board.

D. Cobb discussed board training for the next meeting and it was agreed that the training would be added to the February agenda.

Adjourn

There being no further business the meeting was adjourned at 8:09 PM.

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Judith A. Mathews, Chairman

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Janice H. Pinson, Board Secretary