

**Kershaw County Board of Appeals
Minutes – October 2, 2007 Meeting
Council Chambers, Government Center
Camden, SC**

Members Present: Stephen Staley, Sam Pruett, and Bill Denton

Members Absent: A. Jerome Cooke and Greg Newman

Staff Present: Carolyn Hammond and Jon Robinson

CALL TO ORDER

Vice Chairman, Stephen Staley called the meeting to order at 5:45 p.m.

MINUTES

Minutes from the February 7, 2007 regular meeting were reviewed. Motion to approve was made by Sam Pruett, seconded by Bill Denton, and approved by all.

STATEMENT OF PUBLIC NOTICE

Stephen Staley read the following public notice: Tommy Granger and Deana Boone are requesting a variance on the size of a sign as required in Article 5 of the Kershaw County Zoning Ordinance. The property is located at 1892 Highway 1, North, Cassatt, South Carolina, TMS# 201-00-00-007.

CASE

The applicant wishes to erect a new sign in conjunction to renovations at Midway School. The Application for Variance states that the proposal is for a 40 square foot sign, and the maximum sign size allowable in that location (RD-2) is 20 square feet.

The applicant, Tommy Granger of Signs Unlimited stated they are trying to get a variance for eight additional square feet. There are currently two signs on the property. One is a brick base sign and the other is a 4x8 white message board sign on a pole. He proposes to replace the 4x8 message sign with a new 5x8 sign with a reader board. The brick sign, he says, will stay. He went on to say that he has been in the sign business for ten years and this is the first time he has requested a variance for a school. His previous variance requests were for churches. He said, on two occasions, Rollie Reynolds asked him to get information together so that the sign ordinance could be changed so churches and schools could have 40 square foot signs without having to go through the variance process over and over. He said he gave the information to Mr. Reynolds both times, but he still has to keep applying for variances. He stated that schools and churches now are only allowed 20 square foot signs. He wants the ordinance changed to 40 square feet. He also stated that the other schools in Kershaw County have signs bigger than 20 square feet.

Deana Boone, Midway School parent and volunteer, told the Board that they have been waiting for this sign for years. It has bothered them that they have had to wait an additional three or four months to go through the variance process. She said they do not want to have to go through this again and that the ordinance needs to get changed.

Molly Lane, a school employee, said the proposed sign will be a source of pride for their children who, in their daily lives, do not often have anything to be proud about. Part of the funding for the sign will come from an incentive award the school won from the State Department of Education. The students have also held car washes and other fund raising events to help pay for the sign.

Mary Ann Hinson, Interim Principal of Midway Elementary, said that although Midway School is a part of Kershaw County, it does not always feel like it is. She said they need and deserve the proposed sign.

Burch Richardson, Principal of North Central Middle School, said he was there to support Midway's request. He went on to say his school is six years old and they do not have a sign either. His school will be getting a sign soon, and he hopes the ordinance will be changed so schools like his can get bigger signs.

Vice Chairman Staley closed the public hearing.

Jon Robertson, Attorney for Planning and Zoning reviewed the powers, duties, and criteria that the Board needs to look to when considering a variance. He stated that the provisions are clear and that there are specific criteria to consider. He offered to answer any questions.

Bill Denton asked why the other schools have bigger signs. Carolyn Hammond responded that the size of signs is determined by the zoning district in which they are located – not by use category as implied by Mr. Granger. The ordinance does not set a size in association with a particular use. Jon Robinson interjected that many of the school signs have never been applied for, that some slip through the cracks, and that there is also a lack of enforcement.

Bill Denton asked Tommy Granger if the proposed sign was already built. Mr. Granger replied that it was not.

Carolyn Hammond was asked to deliver the staff report. She told the Board that they need to decide on the variance they have before them that relates to the size of a sign. She pointed out that the application form stated that the proposed sign was 40 square feet and that, when a scaled rendering was supplied by the applicant, it was measured by KCZO Section 5-9.1 measurement regulations, and was found to actually be 70.74 square feet in size.

She went on to explain that, if only one of the existing signs was to be removed, an additional variance would have to be requested because the Ordinance does not allow two freestanding signs on property in this district. This would require the usual public notice, hearing, etc.

In reviewing the staff analysis of the justification given on the application, she pointed out the following:
Condition 1: **Describe the unusual conditions of the property causing unnecessary hardship which may justify variance from the terms of this ordinance.** The response is unrelated and does not address any unusual conditions of the property or unnecessary hardship the school would encounter with a 20 square foot sign.

Condition 2: **Describe extraordinary and exceptional conditions pertaining to the piece of property.** The response is unrelated and does not address any extraordinary and exceptional property conditions.

Condition 3: **Explain how the conditions described above do not generally apply to other property in the vicinity.** The responses to this and the two previous conditions are supposed to pertain the property itself, not the use. She gave examples of extraordinary and exceptional property conditions and said that these site conditions cannot generally apply to other properties in the area. The applicant's responses failed to indicate such conditions.

Condition 4: **Due to these conditions, explain how the application of the Ordinance to this particular piece of property would effectively prohibit or unreasonable restrict the utilization of the**

property. The responses failed to establish the required conditions, and failed to show how a 20 square foot sign would prohibit or restrict reasonable use of the property.

Condition 5: Explain how the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and how the character of the surrounding area will not be harmed by the granting of the variance. The discussion about the condition of the existing sign is unrelated and does not address the requested information. The discussion of the proposed new sign presents an argument that the sign would not be a detriment to the adjacent property and would be in the public interest.

She also added that the sign, at approximately 70 square feet, is 50 square feet and 3 ½ times larger than the allowed 20. In addition, she pointed out that only one permit for a Kershaw County School sign has been applied for and it was improperly issued. She concluded by saying Staff finds that the conditions for granting a variance for a larger sign do not exist, that the applicant has failed to establish a justification for granting a variance, and that Staff recommends that a variance not be granted.

Sam Pruett questioned the size of the sign. Mr. Granger disputed Carolyn Hammond's method of calculating sign face area. He said the only part of the proposed sign that was considered "sign" was the message board. The rest of the sign, he said, did not count because that area was structural. Carolyn Hammond read Section 5-9.1, Sign Face Area, from the KCZO. She added that the proposed sign has advertisement on the pencil area and also in the block containing James Ervin's logo.

Deana Boone added that there is no way a driver can safely read the copy on a 20 square foot reader board. She asked how other schools in the county were zoned. Carolyn Hammond answered that they were located in various zoning districts. Stephen Staley stated that he did not know if the Board could consider other schools at this time.

Tommy Granger spoke up and said he "...had actually gone through this process with the churches before. Rollie requested information from me and drawings for 40 square foot signs so that would be the standard instead of 20. He requested that information from me twice and I gave it to him twice. And here we are, going through this again!"

Bill Denton asked the audience how they would feel if this was not a school sign. Mr. Granger replied that there are several business near the school that have signs a lot bigger than the one they are proposing. He said the sign across the street at Prestage Farms is a big one, but he had not measure it.

Bill Denton, referring to the County's lack of zoning enforcement, said, "We are not your problem here. County Council is your problem." County Councilman Gary Elliott spoke and said that the reason he was at the hearing was to support the people from Midway school. He went on to tell about his experience in enforcement.

Sam Pruett asked where the new sign was to be located. A site plan was produced showing that the new sign would be located at the beginning of the school's driveway.

Bill Denton, again referring to existing un-permitted and violating signs, asked if some sort of precedent had been set. He would like to know how many exceptions the BZA has made and if the rules had been bent in the past. Jon Robinson replied that this had happened on a regular basis and that the majority of signs that are up have not been applied for. Mr. Robinson added that the issue of changing the Ordinance to allow for bigger school signs had come up before, but was never forwarded to County Council for action because larger signs were not desired.

Jon Robinson said that with the way the current law is written, this sign would not qualify. He told the group they had two issues. One was the size requirement and the other was the number of signs. All other schools have signs that are larger than what is allowed and most of them were done without permits or with permits that were issued in error.

Bill Denton said this situation puts the Board in a hot seat. He added, if recommendations are made to County Council to pass ordinances, they should be enforced. He went on to ask, if they are not enforced, why should we bother to have them? Jon Robinson said Carolyn Hammond and the Planning and Zoning Staff would agree. Enforcement has been lacking and funds and manpower are not there. He said he would certainly take the point back to Council.

Someone from the audience said that if they are proposing a sign like the one proposed tonight in an RD-2 district, you would have to come back for a variance unless the county would change the ordinance. It would take a couple of months to change the Ordinance.

Bill Denton said to Councilman Stephen Smoak who had recently entered the room, "I would like your thoughts on breaking the rules." Mr. Smoak replied that he had only heard about five minutes of the discussion. Mr. Smoak explained to the crowd that P&Z had requested a codes enforcement officer every year, but had been turned down every year. Bill Denton said, "I don't like them being put in that position. That's where I've been put." Steven Smoak added that enforcement only comes from call ins. He thinks the people from Midway are doing the right thing by coming and applying for this variance instead of doing it illegally.

Representatives from Midway added that many schools need variances and that they "are going to have to come back in here every time unless County Council changes the ordinance." They added that they do not like having to go through this each time.

Bill Denton said, "Schools are not the only problem here. School is just one of the many." Referring to Councilmen Smoak and Elliott, he added, "I'm going to make an offer to you two gentlemen. I will offer my vote to vote for the variance if you two would, in the future meetings, request to County Council to take a more proactive role in enforcing the regulations. Otherwise we don't really have a function here, do we? Whatever those regulations are, that's up to Council. I would like to enforce your regulations. Because that's what I'm here to do. Quite frankly, I would turn this down in a heartbeat, but it seems to me precedence has been set and nobody is doing anything about it, and they're going to go about doing it anyhow."

Stephen Smoak replied, "That doesn't make it right. We simply don't have the resources. I wish we did. It's not a perfect situation. I'll take your comments to heart and go back to Planning and Zoning and be more proactive in this." Bill Denton replied, "And I would hope County Council would be more proactive in enforcing these regulations." He added that he would definitely be discussing this with Steve Kelly.

Sam Pruett said he would make a motion that the Board approve the sign under the conditions that the application be resubmitted appropriately, questions answered correctly, and the two existing signs addressed. Jon Robinson said the Board needed to make a decision on the conditions. Stephen Staley said, because they are only allowed to have one sign they would have to apply for another variance if they wanted to have two signs. If it was approved to put this sign up, they will either have to take both signs down and move the brick sign up closer to the building. Someone asked what was going to be done with the other sign if this sign is approved. Tommy Granger said the brick sign is an old and sentimental part of the school and it will stay. He added that when a school is built, the contractor builds the brick sign

with the school name on it from leftover brick and they (Signs Unlimited) go in and put in a reader board sign as the second sign.

Sam Pruett stated that the application needs to be redone to answer questions about size and location of the proposed sign. Carolyn Hammond added that it would not do any good to revise the variance application, but that the Sign Permit Application has the sign's specifications in it.

In the end, Sam Pruett's motion was amended without objection and seconded by Bill Denton to approve the variance for the proposed sign with the condition that the reader board sign be removed prior to installation of the new sign. The motion passed unanimously.

OTHER BUSINESS

There was no other business

ADJOURNMENT

Stephen Staley adjourned the meeting at 6:40 p.m.

Respectfully submitted,

Carolyn B. Hammond