

**MINUTES**  
**LEXINGTON COUNTY BOARD OF ZONING APPEALS**  
January 21, 2014

The Lexington County Board of Zoning Appeals held its regular monthly meeting on January 21, 2014, at 6:00 p.m. in the County Council Chambers on the second floor of the County Administration Building. Attendance was as follows:

**MEMBERS PRESENT**

James Spangler – Chairman  
J. R. Caughman  
Jane Cook  
Tracy Mitchell  
Morris Phillips  
Carl Sherwood  
Ed Yates

**STAFF PRESENT**

Synithia Williams  
Walt McPherson  
Jason Boozer  
Laura Haney  
Susan Neil  
Gayle Packard

**MEMBERS ABSENT**

Mark Bostic  
Sarah Wise

**VISITORS PRESENT**

See Attached

**CALL TO ORDER**

Chairman James Spangler called the meeting to order and presented the invocation. Chairman Spangler welcomed everyone to the meeting and advised that the meeting was being broadcast live on the Lexington County website and on Time Warner Channel 2, and that a video of the meeting would be available for viewing at any time afterward on the County's website. He asked all visitors to sign in on the visitor roster as a matter of public record. He explained the functions of the Board and the method used by staff to advise the Board of variance requests. He stated that anyone addressing the Board should state their name and address for the purpose of the Minutes.

Chairman Spangler dispensed with the approval of the Minutes and other business until after the variance requests were heard.

**NEW BUSINESS**

**ZONING VARIANCE REQUEST #13-13: THE APPLICANT REQUESTED APPROVAL OF REDUCTIONS IN BUFFER, SETBACK, AND SCREENING FOR A CONSTRUCTION SERVICES ACTIVITY. THE PROPERTIES ARE TMS#s 005427-01-001 AND 005427-01-032, ZONED ID (INTENSIVE DEVELOPMENT). TWO NOTCH**

**ROAD IS CLASSIFIED AS AN A (ARTERIAL) STREET AND CONCRETE ROAD IS CLASSIFIED AS AN L (LOCAL) STREET. THE SITE IS LOCATED IN THE CENTRAL LEXINGTON COUNTY PLANNING AREA ZONED EFFECTIVE DECEMBER 9, 1986.**

Gayle Packard, Zoning Assistant for Lexington County Community Development, presented Zoning Variance Request #13-13. Ms. Packard used a PowerPoint presentation to explain the request. She identified the applicant as Donald A. Benza, agent; the properties owner as DJ Specialty Properties, LLC; the location of the properties as Two Notch Road and Concrete Road, Lexington, SC 29073; the Tax Map Numbers as 005427-01-001 and 005427-01-032. Ms. Packard presented the explanation of the variance request as follows:

AOS Specialty Contractors – Explanation of Variance Request

TMS# 005427-01-005, formerly owned by Isa Dreher Black (deceased). Applicant is requesting the following for activity located on TMS# 005427-01-032:

- Reduction in Total Screening from 150 feet to 0 feet
- Reduction in Partial Screening from 225 feet to 0 feet

TMS# 005427-01-003, owned by Peggy Black (deceased) and Rebecca Ann Walker. Applicant is requesting the following for activity located on TMS# 005427-01-001:

- Reduction in Buffer from 70 feet to 25 feet
- Reduction in Setback from 100 feet to 25 feet
- Reduction in Total Screening from 150 feet to 0 feet
- Reduction in Partial Screening from 225 feet to 0 feet

TMS# 005427-01-003, owned by Peggy Black (deceased) and Rebecca Ann Walker. Applicant is requesting the following for activity located on TMS# 005427-01-032:

- Reduction in Setback from 100 feet to 80 feet
- Reduction in Total Screening from 150 feet to 0 feet
- Reduction in Partial Screening from 225 to 0 feet

TMS# 005427-01-004, owned by Peggy D. Black, (deceased). Applicant is requesting the following for activity located on TMS# 005427-01-001:

- Reduction in Total Screening from 150 feet to 0 feet
- Reduction in Partial Screening from 225 feet to 0 feet

TMS# 005427-01-004, owned by Peggy D. Black (deceased). Applicant is requesting the following for activity located on TMS# 005427-01-032:

- Reduction in Setback from 100 feet to 79 feet
- Reduction in Total Screening from 150 feet to 0 feet
- Reduction in Partial Screening from 225 feet to 0 feet

A Council District Map illustrated the properties are within County Council District 4, represented by Council Member Debbie Summers, and in the Central Planning Area, zoned in 1986. A Zoning Classification Map showed the properties are zoned ID (Intensive Development), and Two Notch Road is classified as an A (Arterial) street and Concrete Road as an L (Local) street. The presentation also included the reason for the request using the Standards for Variances; excerpts from the Zoning Ordinance; a site plan submitted by the applicant; 2013 aerial photography; and ground photographs taken by staff.

Ms. Packard read the reason for the variance request, submitted by the applicant, addressing Section 122.60 Standards for Variances of the Zoning Ordinance:

Comments regarding the Standards for Variances that will aid the Board's decision concerning the proposed zoning variance for property located at 107 Concrete Road, Lexington, SC 29073, include the following:

*The Board may grant a variance if it makes the following findings:*

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property.*

Upon visiting each of the protected property owners for purposes of introducing the new owners, explaining their intended use of the property and the site plan, it was determined that certain property owners were deceased. Current occupants of these properties were informed of the site plan and intended use of the property and no objections were noted. All of the living property owners concurred with the site plan acknowledging their approval by signing the Buffering Restrictions Consent-Verification Form filed with the County.

- b. These conditions do not generally apply to other property in the vicinity.*

The property has been primarily used in the manufacture of building and concrete products for a significant number of years. Neighboring residences and commercial businesses have existed next to this property for a number of years with little change in ownership and without complaint.

The property will be used primarily to park employee cars, as an administrative office and, store equipment and materials. This unique property contains the existing buildings (storage & office) and lay down areas needed to support our construction services business.

- c. *Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

As we previously stated, no changes to the site plan as it exist today are being proposed as the property meets our minimum storage and lay down requirements. Should any changes be required to the site plan, their costs to implement would become prohibitive and, the available space for employee parking and equipment and materials storage would be dramatically altered effectively diminishing the value of the property for its intended purpose.

- d. *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.*

As we are a construction company with significant roots in Lexington, our work is primarily carried out at the remote job sites, thus activity at the location will be minimal. In talking to existing neighbors, this will be a welcomed change. Also, as we do not require any changes to the existing site and its use will be less intrusive than its previous manufacturing operation, we believe that we will make a good neighbor.

Ms. Packard read excerpts from the following applicable sections of the Zoning Ordinance, Article 2 – Application of Regulations, Chapter 3. Buffering Restrictions: Section 23.20 Buffer, Section 23.30 Setbacks, Section 23.40 Screening, and Section 23.60 Chart of Maximum Buffering Restrictions for a Constructions Services activity. Ms. Packard explained that the land use activity for AOS Specialty Contractors, Inc. was Construction Services. She added that although the properties are zoned Intensive Development, homes located on adjoining properties were built prior to zoning and are entitled to protection by using the buffering restrictions for Restrictive Development. She added that in the Restrictive Development District, the requirements are: buffer—70 feet, setback from adjoining property—100 feet, total screening—150 feet, and partial screening—225 feet.

Ms. Packard used a site plan and aerial and ground photography to review the posting of the Zoning Hearing sign; the locations of the two subject and three protected properties; and views of the properties, Two Notch Road, and Concrete Road. She explained that a Buffering Restrictions Consent—Verification Form was obtained from one property owner which alleviated AOS of all buffering restrictions for that property [TMS# 005427-01-027]. She added that the house on one of the protected properties [TMS# 00542701-005] was more than 250 feet away from one of the AOS properties [TMS# 005427-01-001], and the only protection being considered was from the other AOS property [TMS# 005427-01-032]. Ms. Packard used a color-coded site plan, illustrating the locations and Tax Map Numbers of the two AOS properties and the three grandfathered residential protected properties, along with the explanation of the variance request, read into record above, to review the buffering restrictions for each of the three

protected properties from the two AOS properties. She also identified the property owners for the three protected properties as: TMS# 005427-01-005—Isa Black (deceased); TMS# 005427-01-003—Peggy Black (deceased) and Rebecca Ann Walker; and TMS# 005427-01-004—Peggy Black (deceased). She added that Rebecca Ann Walker signed a Buffering Restrictions Consent—Verification Form for TMS# 005427-01-003, but it could not be accepted because Peggy Black's name was also on the deed. Ms. Packard added that the buildings shown on the AOS properties were previously constructed for a Manufacturing (Intermediate) activity and the current proposed land use was for a Construction Services activity.

Chairman Spangler asked Ms. Packard to clarify that because one of the deeds was in the name of a deceased (Peggy Black) and someone that was alive (Rebecca Ann Walker), the Buffering Restrictions Consent—Verification Form agreed to by Rebecca Ann Walker was unacceptable because the property was in both names.

Ms. Packard responded affirmatively. She added that every person on the deed had to sign a Buffering Restrictions Consent—Verification Form for it to be valid.

Chairman Spangler and Carl Sherwood both asked if Rebecca Ann Walker resided on either property.

Ms. Packard responded that to the best of her knowledge, she did not.

J. R. Caughman asked for clarification if the waiver was not legal.

Ms. Packard responded that it was not. She added that although Rebecca Ann Walker signed the consent form, it could not be accepted because her sister's name was also on the deed and her sister was deceased.

Chairman Spangler gave proponents the opportunity to speak.

Don Benza stated his address as 1224 Two Notch Road, Lexington, SC 29073. Mr. Benza pointed to the property [TMS# 005427-01-005, owned by Isa Black] where he said Rebecca Ann Walker was residing.

Carl Sherwood asked had the people living on those properties been approached and had there been any feedback from them.

Mr. Benza responded that he had approached them, they were the children of the two ladies that owned the properties, and everyone was in favor of the proposed change. He added that some of the residents were employees of the previous business.

Morris Phillips asked if they had signed off on any paperwork.

Ms. Packard responded that if the person named on the deed was deceased, the occupants of the

land had no legal right to sign a Buffering Restrictions Consent—Verification Form.

Morris Phillips responded that due to the fact a statement was made that the people had no objection, he wanted to know if there was a document.

Walt McPherson, Zoning Administrator, explained that even though Mr. Sherwood's question was valid regarding how the occupants felt, they could not legally sign a Buffering Restrictions Consent—Verification Form unless they were listed as the property owner.

Mr. Benza stated that they were proposing to occupy property that was going to become unoccupied as the previous owners planned to consolidate. He added that it fit their needs without making any changes to the property; therefore, they felt they would be a very good neighbor. He stated that they were already on a piece of the property, and they had been asked if they were actually there because they were very quiet. He explained the extent of how they used it—they showed up in the morning, parked their vehicles, got in their relatively small equipment (not very big, noisy equipment), went to the job sites, came back at night, got in their vehicles, and left. He added that there were times when they stored various small materials there used for a job site, such as poles and concrete stuff, and that their equipment was located there, particularly over the weekend; but they did not bring any hazardous materials there. He stated that they felt they were good neighbors and they had been approached very positively by people in the area who were looking forward to it. He added that they had two outstanding business owners—Dianne Rushing and Jane Plante, who were a pleasure to work with and who were really good in terms of making sure they were good neighbors. He added that they thought their business would be a good thing for people living in the area.

No other proponents spoke and there were no opponents. Chairman Spangler called for discussion.

Morris Phillips asked about the business not being grandfathered.

Mr. McPherson responded that a manufacturing activity was previously there for some time but because this use had not been permitted there, it had to meet the current Ordinance. He added that all the consent forms could not be obtained and signed from the protected property owners and that was why a variance was requested. He added that the equipment and buildings had been out there for some time.

Ms. Packard stated that there was a history of variances and buffering restrictions [waivers] for Americast and Specialty Products, both of which were Manufacturing (Intermediate) activities. She added that some of those buffering restriction forms were signed by protected property owners who were now deceased.

J. R. Caughman made a motion to approve Variance Request #13-13 based on the fact that there was no opposition, it was an existing business, and they had met all of the legal criteria required. Tracy Mitchell seconded the motion. There were six votes in favor of the motion (Caughman,

Cook, Mitchell, Sherwood, Spangler, and Yates) and one vote opposed to the motion (Phillips). The motion carried.

**ZONING VARIANCE REQUEST #15-13: THE APPLICANT REQUESTED THE APPROVAL FOR A REDUCTION IN BUFFER, SETBACK, AND SCREENING FOR A GENERAL RETAIL (LIMITED) ACTIVITY. THE PROPERTY IS TMS# 003400-04-016, ZONED ID (INTENSIVE DEVELOPMENT). NORTH LAKE DRIVE IS CLASSIFIED AS AN A (ARTERIAL) STREET. THE SITE IS LOCATED IN THE CENTRAL LEXINGTON COUNTY PLANNING AREA ZONED EFFECTIVE DECEMBER 9, 1986.**

Jason Boozer, Zoning Assistant for Lexington County Community Development, presented Zoning Variance Request #15-13. Mr. Boozer used a PowerPoint presentation to explain the request. He identified the applicant as Travis Clark Havird; the property owner as 131 West Church Street, LLC; the location of the property as 1456 North Lake Drive, Lexington, SC 29072; the Tax Map Number as 003400-04-016; and the explanation of the variance request as, "Applicant requests a reduction in buffer from 50 feet to 30 feet, a reduction in setback from 75 feet to 42 feet, a reduction in total screening from 75 feet to 30 feet, and a reduction in partial screening from 100 feet to 30 feet from TMS# 003400-04-017." A Council District Map illustrated the property is within County Council District 6, represented by Council Member Johnny Jeffcoat, and in the Central Planning Area, zoned in 1986. A Zoning Classification Map showed the property is zoned ID (Intensive Development), and North Lake Drive is classified as an A (Arterial) street. The presentation also included the reason for the request using the Standards for Variances, excerpts from the Zoning Ordinance, a site plan submitted by the applicant, 2013 aerial photography, and ground photographs taken by staff.

Mr. Boozer read the reason for the variance request, submitted by the applicant, addressing Section 122.60 Standards for Variances of the Zoning Ordinance:

*The Board may grant a variance if it makes the following findings:*

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;*
- b. These conditions do not generally apply to other property in the vicinity;*
- c. Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and*
- d. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.*

The property owner desires to use the building in its current location given the severe topography on the rear portion of the property rendering the rear area economically undevelopable. Additionally, there is a ditch located on the rear half of the property draining into a watershed on the property to the rear. The development of the rear portion of this site may impact water quality in downstream pond.

These detriments do not apply to properties in the vicinity due to the location of grandfathered residential uses in this commercially zoned area. With the recent expansion of SC Highway 6 to four lanes and its classification as an arterial roadway, the highest and best use for the property has changed to a more intensive use.

Under the Zoning Ordinance as written, the building would be required to be placed on the rear portion of the property given the grandfathered residential on the adjoining properties to the North and South. Given the topography and location of the ditch, the rear portion is not suitable for the development of a structure and adjoining parking.

The area is zoned Intense Development and commercial uses are permitted within the zoning classification. The use of the existing structure for a commercial business would not be a detriment to the adjoining property and will not affect the character of the area. The adjoining residential uses are nonconforming uses to the commercially zoned area will be no more affected than their current condition. Given the four lane highway in front of the property, current infrastructure is in place to support commercial use on this property, as well as adjoining properties in the area.

Mr. Boozer referenced Section 23.20 Buffer, Section 23.30 Setbacks, and Section 23.40 Screening from Article 2 – Application of Regulations, Chapter 3. Buffering Restrictions of the Zoning Ordinance that were read during the previous variance request. The Board felt it was not necessary to re-read those sections into the record. Mr. Boozer read Section 23.60 Chart of Maximum Buffering Restrictions for a General Retail (Limited) activity and explained that in the Intensive Development District, the requirements were 0 feet; and in the Restrictive Development District, which also applied to a grandfathered residence in the Intensive Development District, the requirements were a 50 foot buffer, a 75 foot setback, 75 feet for total screening, and 100 feet for partial screening.

Mr. Boozer used a site plan and aerial and ground photography to review the posting of the Zoning Hearing sign, the site and proposed location of Palmetto Propane, Inc., the surrounding properties, and North Lake Drive. Mr. Boozer illustrated the location of the subject property which had an existing residential structure previously converted into a real estate office with parking, the protected residential property (TMS# 003400-04-017) located to the north that required the variance request, an adjacent residential flag lot with a 30-foot wide driveway between the subject property and the protected property, and the residential property to the south from which a Buffering Restrictions Consent—Verification Form was obtained.

Chairman Spangler gave proponents the opportunity to speak.

Ben Kelly stated his address as 1492 Fulmer Road, Blythewood, SC 29016. Mr. Kelly stated that he is the agent for Havird Oil Company who recently purchased the property that had been sold and converted from a residential use to a real estate office which operated there until about two months earlier. He added that last year, Havird Oil sold their facility at the corner of Church and Main Streets to the Town of Lexington for redevelopment and they had until the end of last year to relocate; however, they had secured an extension. He added that he looked for a new location for about six months. He stated that town location primarily sold grills, had a kitchen utensils showroom, and housed a number of their fleet trucks—which would be moved to another location. He added that the subject property would be used to house kitchenware, gasware, outdoor kitchenware, and a small filling station for 20-gallon propane tanks. He added that it had been quite difficult to find a new location given the parameters of what they had been using and, because of their other locations on Fish Hatchery Road and Batesburg-Leesville, in an area that would focus on serving Lake Murray in that general vicinity. He added that one of the adjoining owners had signed a waiver and one of the adjoining owners had opted not to. He added that the protected residential house was a rental unit. He added that there was some encroachment on the driveway where it currently was. He added that they could use the facility without making any changes—although the use would change from a general office (residential real estate), which had fairly high traffic with agents and clients coming and going, to a retail use with the sale of the products described and gas. He presented a site plan which showed the footprint of the existing 2,050 square foot structure along with the placement of a new 2,500 square foot building that could potentially replace the existing structure, the parking area, a 1,000-gallon propane tank, and the required buffer and setback distances, and stated that by tearing down the existing building that was visually less obtrusive, they could meet the buffering requirements with a new building. He added that the new building would be a short term option given the four lane arterial and commercial uses taking place up and down Highway 6. He added that the existing structure would take some additional renovation and the rear parking would not be needed; however, they were not sure how to handle the screening required on the north side with the encroachment of the existing driveway. He reviewed the location of the flag lot with a residence, the protected property with a residence currently rented, another residence which signed the waiver, the existing commercial structure previously used as a residential real estate sales office, and the driveway. He added that no new survey was completed on the property and there was question as to how the driveway functioned with the encroachment between the two properties. He added that there would be no major improvements to the house other than turning the inside into more showroom than office.

Morris Phillips asked if the location of the 1,000-gallon propane tank would be as it was shown.

Mr. Kelly responded that the propane tank would go on the side toward the property that had granted the waiver. He added that it was a small tank and it was flexible as to where it would go, but that property owner had signed a waiver as to that use.

Carl Sherwood asked about the size of the total property.

Mr. Kelly responded that it was about 3 acres.

Carl Sherwood asked if there were opponents on both the flag lot and the rental lot next door.

Mr. Kelly responded affirmatively and added that they were the same owner.

Jason Boozer responded that the house at the front [TMS# 003400-04-017] was owned by two sisters, which they inherited when their parents deceased, and one of those sisters lived in the house behind it on the flag lot [TMS# 003400-04-029]. He added that the residence on the flag lot was far enough away not to be affected by the subject site.

Carl Sherwood asked for clarification about the site plan of the existing home and the new building.

Mr. Kelly responded that they would like to use the existing home; however, if that was not allowed, they would demolish the home and build the new building. He added that the location of the new building would meet the buffering requirements. He added that part of the new building could go in the same footprint as the house, or they could cut off the end of the house and move it to the other side to meet the requirements.

Carl Sherwood asked if their driveway was the only access and if it encroached the flag lot.

Mr. Kelly responded that it was their only driveway and he did not believe they could get another driveway given the nature of the four lanes and the frontage. He added that it was a shared cut by nature.

Mr. Boozer added that the driveway was shown in the same location in the 2003 aerial photography when North Lake Drive was still two lanes, only the asphalt parking lot had been added.

No other proponents spoke at that time. Chairman Spangler gave opponents the opportunity to speak.

Jane Park stated her address as 1460 North Lake Drive, Lexington, SC 29072. Mrs. Park explained that she is the owner of the protected property and the flag lot property. She added that the land had been in her family for generations, she and her husband built their home and lived on the flag lot for approximately 30 years, and she wanted to protect her property. She added that her aunt had lived in the home on the subject property. She added that the real estate people had been good neighbors because there was very little traffic, and added that she did use the driveway. She explained that her mother died about a year and an half ago and they first allowed an intern from her mother's church to live in the home but were currently renting it to another couple from her church; however, they wanted to keep the property residential and had no plans to sell it, mainly because it bordered her land. She added that her sister, who co-owned the front 2 acres with her, was living in California, and she and her husband owned the back 4

acres. She added that she was concerned about the propane tank, and added that it was not brought to her attention when she was approached that it would be located on the opposite side of the subject property. She added that she was asked that they be allowed to have no restrictions on buffer, setback, or screening, and she needed to voice her concerns because they planned to continue to live there. She especially asked the Board to consider screening. She added that she wanted to protect the residential area where she had lived all her life. She illustrated the location of her aunt's house [TMS# 003400-04-016], and added that there was no problem sharing the driveway when it was put in. She added that they made no objections when the parking lot was added and there were no buffering waivers signed as far as she remembered. She illustrated the location of the shared driveway and her home back in the woods.

J. R. Caughman asked if that was her only access.

Mrs. Park responded that they purchased adjacent property on Andrew Corley Road and they also had a driveway there. She added that they normally used the Andrew Corley driveway because of the traffic on North Lake Drive; however, they used the North Lake driveway sometimes.

Chairman Spangler asked about her major concern of being able to see the business and the location of the propane tank.

Mrs. Park responded that she was concerned about the propane tank and the screening. She added that there was no screening between the two houses because it had always been residential or an office that wasn't professional looking, but if it was going to be a business she definitely wanted the screening requirements to be considered.

J. R. Caughman stated that the propane tank would be on the opposite side of the house where it wouldn't necessarily be seen.

Carl Sherwood asked if there was any requirement as to where the propane tank was placed.

Mr. McPherson responded that it only had meet buffering restrictions.

J. R. Caughman asked Mrs. Park if she wanted screening down the access road to her house.

Mrs. Park responded that she wanted screening all the way from North Lake Drive because they owned that residence and they wanted to keep it as a residence.

J. R. Caughman asked who was staying in the front house.

Mrs. Park responded that they were currently renting it to a couple from her church and she hoped some of her own children would one day reside there.

There were no other opponents to speak.

Ben Kelly stated that after speaking with Clark Havird, they were more than willing to put screening in place. He asked where Mrs. Park would want the screening to go because there was an issue with screening the subject property.

Mr. Boozer responded that zoning regulations required screening to be on the subject property.

Mr. Kelly stated that, not knowing how to deal with the driveway and the timing of the move from downtown, they were more than happy to meet with the landowner to come to a resolution regarding the screening and to put the tank in a less prominent location. He added that if they screened all the way to North Lake Drive, it would impede access to the property and he was not sure which side of the driveway to access.

Chairman Spangler agreed that one of the concerns was the driveway—he did not know how to screen a shared driveway.

Carl Sherwood stated that the driveway was deeded to Mrs. Park.

Chairman Spangler responded that the driveway split the property line.

Mr. Kelly illustrated that approximately three-fourths of the driveway was on the Havird property.

Carl Sherwood stated that without moving the building or cutting the end of the house off, it did not look like you could turn off the road and onto the property.

Chairman Spangler asked Mrs. Park if she would be willing to talk to the applicant and try to reach an agreement regarding the screening and location of the propane tank.

Mrs. Park responded that she and her sister, who was living in California, were co-owners and she would have to discuss it with her. She added that she would also like to get some advice from other people that were very familiar with it. She added that she was certainly willing to have a conversation and would definitely want to have something in writing that specified where the propane tank would be located, where the screening would begin and end, how they would share a driveway, and so forth.

Chairman Spangler asked Mr. Kelly if that was agreeable with him.

Clark Havird stated he is the property owner of 1456 North Lake Drive. He added that he would be more than happy to work out some screening restrictions to make everybody happy but the bottom line was that he had to get out of the current location at the end of the month and could not wait two months or so before they struck an agreement. He added that he understood the concerns regarding the traffic from a retail office versus a real estate office; however, his business was not a shopping center. He added that they would be a very low traffic count business with only a handful of customers a day coming to buy a set of gas logs, a fish cooker, or

a grill. He added that the subject site would not be anything like their location in Lexington or any of their other locations; it was just a retail showroom and would not have propane or service trucks parked there. He added that he would be happy to do anything to work together, to get it done, and to use the existing structure.

Carl Sherwood asked if anything would prevent Mr. Havird from bringing ice machines for repairs and surplus ice machines for placement to the subject site after the Board's decision. He added that his biggest concern was there being something different on the 3 acres later.

Mr. McPherson responded that there were no specific categories under a General Retail activity; however, if they brought equipment in to service, that would be a General Repair and Maintenance Service activity. He added that anything new or different would have to meet current regulations.

Mr. McPherson suggested that it seemed like there might be an amicable solution if both parties had more time to get together and work out their differences in the next week or two, and added that the Board had the option to ask for a continuance until their next meeting on February 18. He added that if they were able to work out those differences, they would not need to come back before the Board.

There were no other proponents or opponents. Chairman Spangler called for discussion.

Chairman Spangler stated that they had an opportunity to let things work themselves out without creating more problems than they could fix, and added that a continuation was worth consideration. He added that there were a lot of challenges with the driveway so if they were willing to sit down and talk and try to work it out, it would be a great solution.

Carl Sherwood stated that time was of the essence; therefore, they might be able to move a little faster to try to appease both sides.

Morris Phillips stated that he respected both situations but there was such a thing as talking to each other. He added that Mrs. Park didn't seem to object to Mr. Havird so much but she wanted screening where screening was supposed to go and he wanted to make sure he could have access. He asked Mrs. Park if there was any way right then that the two of them could say they could work it out and agree to where to put the screening so they could put that into a proposal and clear it out.

Mrs. Park responded that she could not make that decision without consulting with her sister who was a co-owner.

Carl Sherwood made a motion to table Variance Request #15-13 until the Board's next meeting on February 18, 2014. Ed Yates seconded the motion. There were six votes in favor of the motion for a continuance (Cook, Mitchell, Phillips, Sherwood, Spangler, and Yates) and one vote opposed to the motion (Caughman). The motion carried.

**ZONING VARIANCE REQUEST #14-13: THE APPLICANT REQUESTED THE APPROVAL FOR AN INCREASE IN HEIGHT AND AN INCREASE IN ELECTRONIC DISPLAY FREQUENCY FOR A PROPOSED BUSINESS SIGN FOR A CHURCH ACTIVITY. THE PROPERTY IS TMS# 005300-02-062, ZONED ID (INTENSIVE DEVELOPMENT) AND RD (RESTRICTIVE DEVELOPMENT). BARR ROAD IS CLASSIFIED AS A C (COLLECTOR) STREET AND DESIGNATED AS A SCENIC CORRIDOR 1, AND WILDLIFE ROAD IS CLASSIFIED AS AN A (ARTERIAL) STREET AND DESIGNATED AS A SCENIC CORRIDOR 1. THE SITE IS LOCATED IN THE CENTRAL LEXINGTON COUNTY PLANNING AREA ZONED EFFECTIVE DECEMBER 9, 1986.**

Walt McPherson, Zoning Administrator for Lexington County Community Development, presented Zoning Variance Request #14-13. Mr. McPherson used a PowerPoint presentation to explain the request. He identified the applicant as Evans Jones; the property owner as First Baptist Church of Lexington; the location of the property as 415 Barr Road, Lexington, SC 29072; the Tax Map Number as 005300-02-062; and the explanation of the variance request as, "Applicant requests an increase in height for a new sign from 6 feet to 8 feet and a change in frequency for electronic display from daily or hourly to every 15 seconds." A Council District Map illustrated the property is within County Council District 3, represented by Council Member Kent Collins, and in the Central Planning Area, zoned in 1986. A Zoning Classification Map showed the property is zoned ID (Intensive Development), Barr Road is classified as a C (Collector) street with that portion having a Scenic Corridor 1 designation, and Wildlife Road as an A (Arterial) street with that portion having a Scenic Corridor 1 designation. The presentation also included the reason for the request using the Standards for Variances, excerpts from the Zoning Ordinance, a site plan and sign diagrams submitted by the applicant, 2013 aerial photography, and ground photographs taken by staff.

Mr. McPherson read the reason for the variance request, submitted by the applicant, addressing Section 122.60 Standards for Variances of the Zoning Ordinance:

Lexington County Board of Zoning Appeals:

I am writing on behalf of the members of First Baptist Church of Lexington. This letter is to request two variances from the published standards of the Lexington County Zoning Ordinance:

1. Request change in sign height from 6 feet high to 8 feet high.
2. Ability to change copy up to once every 15 seconds.

FBC of Lexington currently has a membership of 950 and strives to be a good neighbor in our community. We provide numerous programs and events that not only serve our members, but also to those in our area. One example is Celebrate Recovery, which is open to everyone in our area. Also, for the last several years and again in 2014, we budget funds for "Loving Lexington" and seek to make our community a better place to

live. In October of this year, we had a community fish fry on our grounds with an open invitation to our entire community. When the Wildlife Club was evicted from their property, we provided a meeting location for them at no cost.

However, with so much to offer to our neighbors and friends, it is difficult to inform the Barr Road corridor of our upcoming events with our current static sign. With a traffic count of 8,000+ cars per day on Barr Road, we have concluded our best avenue of communication is a digital sign with changing copy. While our existing sign has served us well for 19 years, we see the need for a new and modern sign. While applying for these two variances, we completely understand that we must conform to the other requirements with regard to: no video allowed, no fading in and out, restriction of colors used, no scrolling, etc.

I will address these two requests in order of your published "Standards for Variances."

*The Board may grant a variance if it makes the following findings:*

- a. *There are extraordinary and exceptional conditions pertaining to the particular piece of property.*

Our church property is located in a grove of established, mature pecan trees. With the setback restrictions based on road right of ways, our proposed sign will sit back on the property. The proposed location is also taking in your requirements of "no sign can be within 500 feet of another FBC of Lexington church sign." Therefore, our proposed sign will be somewhat obscured by tree trunks and overhanging limbs. As you approach our property driving north on Barr Road, you crest a hill at our property line. Driving south on Barr Road, you come around a slight curve as you drive toward our property. With these factors to consider, we had a sign company to bring a "mock" sign for us to view. We drove by the sign from all directions not only to see it visually, but to also place the sign in its best location to meet your other requirements. So this request for an 8 foot high was something we researched, not simply something we pulled out of the air.

With regard to this height variance request, we would also ask that you take in consideration this size of our existing sign (to be removed when new sign installed). The overall height of the sign is 8 feet, 6 inches with a triangle on top that measures 11 feet from ground level.

Our existing signs total square footage is 124 feet. This compares to the requested total square footage of our proposed sign of 86 feet, a reduction in sign size of 38 square feet (31 percent smaller).

Also, the width of our current sign at the 8 foot, 6 inch height is 13 feet, 6 inches. The proposed digital sign will be only 6 feet, 10 inches across at the requested 8 foot

height, a 50 percent reduction in width.

Another consideration for us was to make the sign more aesthetically appealing, using the stone structure around the sign to match our two existing signs at the entrance to our parking lots.

Likewise for the copy change request, the road and site conditions will allow us to maximize the use of the technology.

- b. *These conditions do not generally apply to other property in the vicinity.*

From the intersection of Barr Road/Highway 1 continuing to Barr Road/Longs Pond Road, Barr Road has one curve as it approaches our property. The balance of the road is substantially straight. Also, of the types of organizations that could have a sign on Barr Road, our sign location, as mentioned earlier, sets back among our established grove of pecan trees. It is not our desire to remove any of these trees.

Regarding our request to change copy at 15 second intervals, we worked in conjunction with our sign company. By using the mock sign, it was determined that 15 second intervals would conform to our desire to get our message out.

- c. *Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

While the application of the ordinance would not prohibit the utilization of the property, it would restrict our ability to use this technology to effectively utilize our sign. Our due diligence indicates our message would be more effectively communicated in light of our sign location and road conditions at a height of 8 feet.

Again, changing copy at longer intervals does not prohibit the utilization, but does restrict our ability to inform the community of what's happening at FBC of Lexington.

- d. *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.*

From the location of our sign, there is no adjacent property owner with a house/building within 750 feet. Additionally, the majority of the road frontage on Barr Road adjacent to the proposed sign is owned by FBC of Lexington. With regard to "character of the district," we are offering a sign that is smaller than our existing sign (in square footage) and more aesthetically pleasing. We feel it will add to the character of the area.

In the matter of copy change, the sign will be a long distance away from any neighbor, so in no way should this be a distraction to our neighbors. The area closest to our sign is a pasture for horses and property owned by FBC of Lexington.

From the members of FBC of Lexington, thank you for your consideration of this variance request. We recognize your job is not an easy one and appreciate your efforts in helping make our community a better place to live. I look forward to seeing you on January 21, 2014 and can answer any additional questions your may have.

Sincerely,  
H. Evans Jones  
Business Manager

Mr. McPherson read excerpts from the following applicable sections of the Zoning Ordinance: Article 2 – Application of Regulations, Chapter 5. Signs, Section 26.55 Business Signs on Scenic Corridors; and Article 12 – Administration, Chapter 2. The Board of Zoning Appeals, Section 122.60 Standards for Variances. He explained that the proposed business sign met the display area square footage requirements for a Scenic Corridor 1—a maximum of 60 square feet for static display area and a maximum of 30 square feet for changeable copy display area; however, they were requesting an 8-foot versus the allowable 6-foot overall height and a change in the electronic display frequency from daily or hourly to every 15 seconds. He added that the requirements for Scenic Corridors 1 and 2 were the same and were the most restrictive; however, the requirements for a Scenic Corridor 3 were a maximum of 100 square feet for static display area, a maximum of 60 square feet for changeable copy display area, a maximum overall height of 10 feet, and an electronic display frequency of every 15 seconds.

Mr. McPherson stated that when scenic corridors were adopted into the Landscape and Open Space Ordinance 4 years ago, it affected sign regulations of the Zoning Ordinance. He added that this was the first variance request dealing with the frequency of changeable copy—for a Scenic Corridor 3 it was 15 seconds and for Scenic Corridors 1 and 2 it was hourly or daily. He added that he realized the intent when it was placed in the Ordinance; however, staff was concerned that there was no purpose of having a sign where the frequency of the changeable copy was once an hour or daily. He added that staff was considering introducing a zoning text amendment in the future to possibly amend all scenic corridors to be uniform.

Mr. McPherson used a site plan, sign diagram, and aerial and ground photography to review the posting of the Zoning Hearing sign, the site of First Baptist Church of Lexington, and the proposed business sign location and design. He reviewed the site plan showing the location of the proposed sign and previously permitted existing signs, and added that the proposed sign met the 500 foot minimum separation distance from other existing business signs. He added that he had been talking with Mr. Jones off and on for about a year in trying to decide what the church wanted to do. He read the applicant's description of the sign:

New sign to replace existing main ID sign. Existing sign will be removed and the new

sign will be installed in the new location indicated on the site plan. The structure will consist of a concrete base and an aluminum "single pole" double-faced sign cabinet installed onto the base. The sign will have an internally illuminated cabinet in the bottom portion with a removable logo sign face. The logo face will be aluminum with cutout letters for push through acrylic letters. The upper portion of the sign will house the recessed digital reader board.

Mr. McPherson added that the sign met square footage requirements; however, it was too tall—it was 8 feet and 6 feet was allowed. He added that there was not a lot of elevation change in correlation with the road.

Tracy Mitchell asked if there was concern with the proposed interval changes of copy being 15 seconds.

Mr. McPherson responded that there were two issues in the request—a height of 8 feet instead of the allowed 6 feet and changeable copy at a rate of 15 seconds instead of hourly or daily. He added that if it were on a Scenic Corridor 3, there would not be a height issue because the allowable overall height there was 10 feet. He added that if someone wanted to spend thousands of dollars for a new sign, it was a large investment to have it change only twenty-four times a day. He added that it didn't have to change every 15 seconds, it could be every few minutes, but staff felt consistency was needed with scenic corridor signs. He added that presently, the Ordinance restricted the frequency to daily or hourly, and any text amendment would need approval.

Carl Sherwood asked if the Board was to consider the two issues separately or together in their decision.

Chairman Spangler responded that the variance request was for two separate items and they could choose to vote on them separately or together.

Chairman Spangler asked if the ability to change copy every 15 seconds, as on a Scenic Corridor 3, created a safety hazard; in other words, was there a reason it was acceptable on a Scenic Corridor 3 but not on a Scenic Corridor 1 or 2, because the difference between 15 seconds and an hour was substantial.

Mr. McPherson responded that he could not answer why 15 seconds versus daily or hourly was chosen for scenic corridors.

Chairman Spangler gave proponents the opportunity to speak.

Evans Jones stated his address as 1351 Hendrix Landing Road, Lexington, SC 29072. Mr. Jones stated that he represented the membership of First Baptist Church as the Volunteer Business Administrator, and he was also a member of the church. He added that with him was Mike Helvie, of Mastarr Signs, to answer technical questions. He stated that he had been working with

Mr. McPherson for about a year as they raised money to build the expensive sign. He added that although going from 1 hour to 15 seconds on the changeable copy seemed like a lot of time difference, they wanted to use the technology to tell their members and others in the area what the church offered. He stated that the property was unique in the way it was situated on Barr Road, and that the church was known as "the church that sits in the middle of the pecan trees." He added that it was a great grove of pecan trees which they hated to take down as they expanded because they added a lot to the scenic drive down Barr Road, and they wanted to protect that scenic corridor. He used a PowerPoint presentation to show photographs that he had taken of the site and Barr Road. He showed views across the street from the proposed sign location of a horse pasture and 2 acres, owned by the church, and stated that the church had always tried to be a good neighbor to the community and the sign would not interfere with anything across the road. In views of Barr Road he pointed out a curve in the road which would keep the sign from being seen from a distance, a hill adjacent to the church property, and a Highway Department curve sign about where their proposed sign was to go. He added that very few people obeyed the 45 mph speed limit on Barr Road. He added that it would be beneficial to have the additional 2 feet in height because the property was unique with the existing pecan trees which they wanted to protect, the Highway Department curve sign, and the curve and hill on Barr Road. He stated that Mastarr Signs brought a mock sign to the site to help them find the optimum position for the sign. He compared a picture of the existing sign that was to be removed, which included a 6-foot tall man standing next to it, with a rendering of the proposed sign, with a 6-foot tall man standing next to it, to illustrate the mass of the existing sign at 11 feet in overall height by 13 feet, 6 inches in width versus the proposed sign at 8 feet in overall height. He compared the existing sign at 124 square feet to the proposed sign at 86 square feet, and added that it would be 31 percent smaller. He added that there would also be a reduction in the amount of sign above the allowed 6-foot height by 50 percent. He stated that the two things he would like the Board to consider were the reductions in the amount of sign and the percentage of sign above the 6-foot height requirement.

J. R. Caughman asked the reason for the 15 seconds.

Mr. Jones responded that they had used a stop watch and if the sign copy changed when a vehicle traveling at 45 mph on Barr Road came around the curve from Lexington or up the hill from the Country Club, the sign would change by the time they got to it in 15 seconds. He added that 15 seconds was their desire and it was also the Scenic Corridor 3 requirement. He asked the Board to graciously give them the ability to change copy more than once an hour if they did not approve of the 15 second frequency, because they felt hourly was not often enough to let the people in the 8,000 plus vehicles that traveled Barr Road know what programs were available at their church.

Tracy Mitchell asked how often copy was changed on their current sign.

Mr. Jones responded that it was changed by a volunteer about twice a week.

Morris Phillips asked how many times an individual would pass by the sign.

Mr. Jones responded that he could not answer; however, there were a lot of subdivisions on the Barr Road corridor and of the 8,000 plus vehicles going by, one could assume that a lot of those were at least twice a day—going to and from work, etc.

Morris Phillips asked if they could also conclude that anybody driving through there at 45 mph could catch two messages in 15 seconds.

Mr. Jones responded that if the sequence was perfect, they could catch two messages in 15 seconds.

Morris Phillips stated that he thought 15 seconds was pretty fast, but it wasn't his request.

Michael Helvie, Mastarr Signs, stated his address as 11801 Anderson Road, Greenville, SC 29611. He stated that he wanted to address a couple of questions about the frequency. He stated that LED boards came preset from the factory with a frequency of 6 seconds; therefore, 6 second intervals was what people typically saw if they looked at LED boards. He added that they did a study with a stop watch and observed traffic from different directions to determine what would be the optimum and not be excessive.

No other proponents spoke and Chairman Spangler gave opponents the opportunity to speak.

Geoff McKenzie stated his address as 136 Wildlife Road, Lexington, SC 29072. Mr. McKenzie stated that he lives in the house next to the church on Wildlife Road. He stated that he did not believe the church had made any effort to inform its neighbors of what was going on, he learned of it by the posted public hearing sign, and it would have been nice if they would have gone to the adjacent neighbors to try to work something out. He stated that his biggest concern was not the sign height, but the brightness and location of the sign. He added that a 15-second copy change from an LED screen would emit enormous amount of light onto adjacent buildings and trees which would ruin the nighttime aesthetics of the drive down Barr Road. He added that although they showed there was nobody within 750 feet of the sign, which he said was true because the lots were large (his was 5 acres), the emission of light would travel a good distance, especially from a projection screen such as that. He illustrated that the church property was surrounded by residential, although they were large lots.

J. R. Caughman asked to be shown on the screen the location of the McKenzie residence and if the proposed sign was to face more toward traffic than his property.

Mr. McKenzie responded that the sign would not be facing his house. He added that the sign would be less obtrusive if it were positioned at the present sign location. He added that if it faced sideways, the projection screen would bounce off a building and make it go into an opening for the night sky, making it worse. He indicated on the map where he lived [TMS# 005300-02-115]. He illustrated the proposed location for the sign and how it would project light onto buildings and trees and brighten the area if you looked in that direction. He added that the frequency of changing every 15 seconds was not something you would want next to your house.

He illustrated again the location of the houses around the church and added that it was a residential area prior to the church going in.

Morris Phillips asked how far it was from his house to the proposed sign.

Mr. McKenzie responded that he did not know.

Morris Phillips asked if the screen was an LED, LCD, or projector screen, as he had stated.

Mr. McKenzie responded that he believed it was an LED.

Michael Helvie stated that it was an LED display. He added that the church planned to use it to change from one message to another every 15 seconds. He added that the LED sign was manufactured by Watchfire who worked with a lot of municipalities throughout the country to make sure their signs conformed; they helped write ordinances for aesthetically pleasing signs; and they had an engineering department that worked to make sure signs were not deterrent to neighboring properties, traffic, etc. He added that the sign was unlike some LED products made in Asian which gave the LED industry a bad rap because they did not use the more modern techniques to make sure that the displays were aesthetically pleasing. He added that another feature about their LED sign was an automatic dimming feature so the brightness changed during day/night, cloudy days, nighttime—it wasn't bright all the time. He added that it had the ability to change automatically through a dimming feature photocell and also manually.

Mr. McPherson read from Section 26.50 Business Signs of the Zoning Ordinance regarding electronic message boards:

Electronic Message Board. . . . All digital business signs shall have a method for controlling the illumination intensity or brilliance of the sign so that it shall not cause glare or impair the vision of motorists. These signs shall not exceed a maximum illumination of 7500 nits during daylight hours and a maximum illumination of 500 nits between dusk to dawn as measured from the sign face. This illumination can be regulated either by an automatic dimmer and photo cell sensor or through the use of computerized controls that accurately replicates these maximum illumination requirements.

Mr. McPherson stated that, as in the past, if a complaint was received that a digital sign was too bright, the Zoning Office would contact the business and sign company to get it in compliance if there was such a violation. He added that there were some controls in the Ordinance.

Evans Jones stated that he first wanted to apologize to Geoff McKenzie for not going to him, added that it did not cross his mind, and asked how long he had owned the property.

Geoff McKenzie responded since August 7, 2013.

Mr. Jones stated that they had been going through the process for a couple of years, he pointed out the Monts property and stated that he had discussions with him, and he added that he had also discussed it with Mike McMenamin who previously owned the McKenzie property. He stated that, secondly, in an effort to be a good neighbor, there was a 20 to 25-foot high line of Leyland cypress trees that the church planted along their adjoining property lines with the two residences when the church bought those 9 acres and the 2 acres across the street. He added that the property was completely buffered. He stated that, thirdly, most of the sign illumination would be kept away from his property by the pecan trees as well as the worship center building.

Chairman Spangler called for discussion.

Carl Sherwood stated that they had recently addressed the issue of sign height on that same scenic corridor road. He added that even though a 15-second frequency would be great, currently that was not the guideline they had to follow.

Chairman Spangler stated that they got a lot of requests about scenic corridor signs and they not only had to consider the request before them, but also how it would impact every other sign.

Carl Sherwood made a motion to deny Variance Request #14-13 because the applicant failed to meet each of the four criteria required in order to grant a variance for the height and text change issues. Tracy Mitchell seconded the motion.

Morris Phillips stated that except for the height, the church had reduced the overall size of the sign. He added that the church needed the sign; however, he could not agree that the text needed to change every 15 seconds. He added that they could set it for the frequency recommended for that sign type. He added that a lot of churches never changed their sign and you could get a lot of information out to the people with a well regulated sign. He added that he couldn't see changing it to 15 seconds but they had done a good job with the sign.

Carl Sherwood stated that it was very important that as a group they understood and respected that the church was there to benefit the community and the sign was very well prepared. He added that they were chartered to enforce the rules or to see if the criteria warranted them to change those rules. He added that no one was there to do anything destructive against anyone; however, there were more people involved than the church—today it was church and tomorrow it would be another business. He added that he knew people did not like to mix a church with a business, but it was a business regardless.

Chairman Spangler asked for a vote on the motion. There were four votes in favor of the motion (Mitchell, Sherwood, Spangler, and Yates) and three votes opposed to the motion (Caughman, Cook, and Phillips). The motion carried.

**ZONING VARIANCE REQUEST #16-13: THE APPLICANT REQUESTED THE APPROVAL FOR AN INCREASE IN ELECTRONIC DISPLAY FREQUENCY FOR AN**

**EXISTING BUSINESS SIGN FOR A CHURCH ACTIVITY. THE PROPERTY IS TMS# 005300-01-022, ZONED ID (INTENSIVE DEVELOPMENT) AND RD (RESTRICTIVE DEVELOPMENT). BARR ROAD IS CLASSIFIED AS AN A (ARTERIAL) STREET WITH THAT PORTION HAVING A SCENIC CORRIDOR 2 DESIGNATION. THE SITE IS LOCATED IN THE CENTRAL LEXINGTON COUNTY PLANNING AREA ZONED EFFECTIVE DECEMBER 9, 1986.**

Walt McPherson, Zoning Administrator for Lexington County Community Development, presented Zoning Variance Request #16-13. Mr. McPherson used a PowerPoint presentation to explain the request. He identified the applicant as Tyler E. Jackson; the property owner as Lexington Presbyterian Church; the location of the property as 246 Barr Road, Lexington, SC 29072; the Tax Map Number as 005300-01-022; and the explanation of the variance request as, "Applicant requests a change in frequency for electronic display from daily or hourly to every 15 seconds." A Council District Map illustrated the property is within County Council District 3, represented by Council Member Kent Collins, and in the Central Planning Area, zoned in 1986. A Zoning Classification Map showed the property is zoned ID (Intensive Development) and RD (Restrictive Development), and Barr Road is classified as an A (Arterial) street with that portion having a Scenic Corridor 2 designation. The presentation also included the reason for the request using the Standards for Variances; excerpts from the Zoning Ordinance; a site plan and sign diagrams submitted by the applicant, 2013 aerial photography, and ground photographs taken by staff.

Mr. McPherson read the reason for the variance request, submitted by the applicant, addressing Section 122.60 Standards for Variances of the Zoning Ordinance:

*The Board may grant a variance if it makes the following findings:*

- a. *There are extraordinary and exceptional conditions pertaining to the particular piece of property.*

The church is a very tall structure made of brick, located on a lot that fronts Barr Road for 387.62 feet; it is not a commercial business establishment. Our proposed sign is under the allowable sign square footage in area and meets the maximum allowable height requirement of 6 feet (from grade to top).

- b. *These conditions do not generally apply to other property in the vicinity.*

The Lexington County sign ordinance allows for electronic message boards in this scenic corridor, but they must meet certain requirements—the copy cannot be full color, no bright colors are allowed such as red and blue, any scrolling, or flashing off and on. We understand the requirements and have complied with all of those requirements. Currently, there are no other LED signs located on Barr Road.

- c. *Because of these conditions, the application of the Ordinance to the particular piece*

*of property would effectively prohibit or unreasonably restrict the utilization of the property.*

No one at any time during the permit process made me aware of the fact that the sign copy could only be changed once per hour or day; this effectively just about destroys many of the functions of the sign. You obviously cannot use the time and temperature portion of the sign; no one wants to see you hold the same time for one hour. Holding the same copy for an hour or full day is hard on the sign and will shorten the life span of the sign. The church had hoped to be able to advertise the many functions of the church to the community. We are asking the zoning variance committee to consider a reduction of the 1-hour time limit to allow us to change the copy every 15 seconds as per Scenic Corridor 3 restrictions. The speed limit in the area of the church is 45 mph; at that rate, a car driving at or below that limit would only have a very short period of time to actually view the copy.

- d. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.*

I am trying my best to resolve this issue for Lexington Presbyterian Church so the sign can be more functional for the churches intended application. The LED sign has already been installed (see attached picture). The sign met all approvals prior to installation on height, colors, and allowable LED colors; I am hoping that you will consider this request.

By greatly limiting the capabilities of the sign, it is like having a soup kitchen capable of making plenty of soup, with lots of hungry people, but only one bowl.

Description of the signage:

The sign we are proposing for Lexington Presbyterian Church is made up of two components. The top box will have all copy routed out in aluminum faces, backed up with white acrylic, and the background being metal will not be illuminated, this will project a very low profile type of illumination. The lower portion of the sign is an LED board. The board will not be full color, the only color that will be used for all copy is **amber**, and it is the lowest in light intensity. The sign will come with an automatic dimmer; it will be brighter in the full sunlight during the day and will automatically dim itself at night or when the sun starts going down.

Tyler E. Jackson  
Rainbow Sign Company, Inc.

Mr. McPherson explained that the site had been before them in September 2013 on a separate request regarding the overall height of the sign. He added that since then, the sign had been

installed; however, they were looking at the frequency of the changeable copy on a Scenic Corridor 2.

Mr. McPherson read excerpts from the following applicable section of the Zoning Ordinance: Article 2 – Application of Regulations, Chapter 5. Signs, Section 26.50 Business Signs, 26.55 Business Signs on Scenic Corridors; and Article 12 – Administration, Chapter 2. The Board of Zoning Appeals, Section 122.60 Standards for Variances.

Mr. McPherson used a site plan, sign diagram, and aerial and ground photography to review the posting of the Zoning Hearing sign, the site and location of the new Lexington Presbyterian Church sign, and the sign design. He showed photography of the installed 6-foot tall monument sign showing the LED portion and static copy, and views of Barr Road.

Chairman Spangler gave proponents the opportunity to speak.

Roy Ferrell stated his address as 716 Bethany Church Road, Lexington, SC 29073. Mr. Ferrell stated that with him were Tyler Jackson, the sign representative, and Tom Roach, who served with him on the deaconate and the sign committee. He stated that it was really good to finally see the sign there, it was really nice, and he presented photographs on PowerPoint to show the finished sign with the brick around it. He presented the Board with a listing of various functions and church activities that they wanted to utilize their LED sign for to get information out to the community. He added that there was a time and temperature module that would need to be current if used. He added that they would not be advertising anything; just making the public aware of what they were doing.

Carl Sherwood asked how often they changed their previous sign.

Mr. Ferrell responded that their other sign was in dire need of replacing and they had to make signs and manually put them out.

Carl Sherwood stated that they were currently allowed to change the text hourly and they changed their previous sign twice a week.

Mr. Ferrell responded that it was a vast improvement.

Tyler Jackson stated his address as 135 Saint David Drive, West Columbia, SC. Mr. Jackson stated that he had worked on the project and had previously requested a variance for a 7-foot height sign, and added that they were presently in compliance with the 6-foot height and with the colors. He added that all the copy was routed out and the only thing that lit up was the copy—it was amber and had an automatic dimmer. He added that Daktronics and Watchfire both had dimmers automatically. He stated that the biggest issue with the sign was that the time and temp function had no purpose anymore if the time had to be held for an hour. He stated that he timed the traffic at about 6.5 seconds to go by the site at 45 mph. He added that the same person would not see the same message unless he happened to go by again, and a different message would give

a different exposure. He stated that he had about 70 pages of research on LED signs and at no point had federal, state, or college research proved that an LED sign caused accidents. He added that this was an ordinance to correct a problem that didn't really exist. He added that even though the Town of Lexington didn't want LED signs, they used a mobile LED sign every time they had an event. He added that if there was an accident on the interstate, they used an LED sign to tell you of the danger ahead. He added that there was a purpose for it. He added that billboards changed every 6 seconds. He added that 15 seconds (or even a little longer) would be great; however, 1 hour locked in a specific message for a whole hour and it would be nice to be allowed to come down some on the time.

No other proponents spoke and there were no opponents. Chairman Spangler called for discussion.

Chairman Spangler stated that as Mr. McPherson mentioned earlier, staff was considering asking County Council to change the frequency in the Ordinance.

J. R. Caughman asked if an Ordinance change would automatically allow them to change the frequency or would they have to come back for a variance.

Mr. McPherson responded that if the Ordinance was amended, they could automatically change the frequency.

Carl Sherwood stated that the Ordinance needed to be re-evaluated, but it didn't change what they currently had to operate under. He added that no one was trying to suppress their message, and added that the sign looked great. He added that it didn't mean they did not want to do it, but they still had guidelines to operate under.

Carl Sherwood made a motion to deny Variance Request #16-13 because the applicant failed to meet each of the four criteria required in order to grant the variance. Tracy Mitchell seconded the motion. There were six votes in favor of the motion (Caughman, Cook, Mitchell, Sherwood, Spangler, and Yates) and one vote opposed to the motion (Phillips). The motion carried.

## **STAFF REPORT**

Walt McPherson, Zoning Administrator, advised the Board that one variance request had been scheduled for the February 18, 2014, meeting for possible buffer, setback, and screening requirements on a project in Chapin. He added that it was possible it could get resolved with consent forms before the meeting.

Synithia Williams, Development Administrator, advised the Board that they were working to have a presentation from either the Planning Director or County Attorney on the memo that went out about approving and denying variance requests.

**APPROVAL OF MINUTES**

J. R. Caughman made a motion to approve the Minutes of the November 19, 2013, meeting. Carl Sherwood seconded the motion. There were seven votes in favor of the motion (Caughman, Cook, Mitchell, Phillips, Sherwood, Spangler, and Yates). The motion carried unanimously.

**ELECTION OF OFFICERS**

Chairman Spangler accepted nominations for Chairman, Vice Chairman, and Secretary.

J. R. Caughman made a motion to nominate James Spangler as Chairman. Carl Sherwood seconded the motion. The vote for approval of the motion was unanimous with seven votes (Caughman, Cook, Mitchell, Phillips, Sherwood, Spangler, and Yates).

J. R. Caughman made a motion to nominate Carl Sherwood as Vice Chairman. Carl Sherwood did not accept the nomination because he did not feel he had enough experience. J. R. Caughman withdrew the nomination.

J. R. Caughman made a motion to nominate Tracy Mitchell as Vice Chair. Ed Yates seconded the motion. The vote for approval was unanimous with seven votes (Caughman, Cook, Mitchell, Phillips, Sherwood, Spangler, and Yates).

Morris Phillips expressed his concern over the election of officers by stating that he thought members who had been on the Board for a number of years should have the opportunity to serve.

Carl Sherwood suggested that members be asked if they were willing to accept a nomination before the nomination was made to allow those that wanted to serve that opportunity.

Ed Yates made the motion to reappoint Walt McPherson as Secretary. J. R. Caughman seconded the motion. The vote for approval was unanimous with seven votes (Caughman, Cook, Mitchell, Phillips, Sherwood, Spangler, and Yates.)

**ADJOURNMENT**

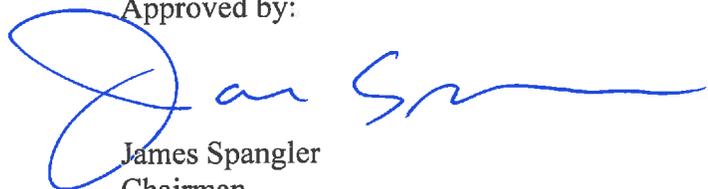
There being no further business, Chairman Spangler called the meeting adjourned at 8:30 p.m.

Approved by:



Walt McPherson  
Zoning Administrator

Approved by:



James Spangler  
Chairman