



**Board of Adjustment  
Zoning Variance  
Staff Report & Findings**

**TO:** City of Asheville Board of Adjustment

**DATE:** January 8, 2016

**FROM:** Shannon Tuch, RLA  
Zoning Administrator

**PREPARED BY:** Ricky L Hurley, AICP  
Plans Review Coordinator

**SITE INFO:** Tax Description (PIN#): 9638-18-7112-00000  
Street Address: 1053 Patton Avenue  
Zoning: HB (Highway Business)  
Property Owner: Realty Income Corporation

Summary Statement:

The petitioner, Cosco Signs is filing a variance on behalf of AutoBell Car Wash, requesting relief from Section 7-13-4(b)2(b) *On-Premise signs: Single Tenant Development* of the Unified Development Ordinance (UDO) in order to facilitate the relocation of an existing 178 square foot, freestanding sign for a new AutoBell Car Wash currently under construction. UDO Section 7-13-4(b)2(b) *On-Premise signs: Single Tenant Development* limits the maximum sign area for single tenant signage within the Highway Business zoning classification to 125 square feet in area and 25 feet tall. The current sign structure is a grandfathered non-conforming sign. As such, the sign may be maintained, or re-faced but no other alteration is allowed until the sign is brought into compliance with the UDO. The intent of this section of the UDO is to allow the existing signs to continue in use “as is” until such a time that the property is redeveloped and the sign is incrementally or wholly brought into compliance.

Variance Request(s):

Freestanding sign area	UDO Max. Allowance	Applicant Request	Variance
Highway Business	125 sq ft	178 sq ft	142.4%

Background:

The UDO regulates the number, size, height, and setbacks for on premise signs per the zoning classification of each parcel and whether the development is a single tenant or multiple tenant development. Section 7-13-8 of the UDO states:

**Nonconforming signs.**

- (a) *General.* After the effective date of this chapter, it shall be unlawful for any person to erect any sign which does not conform to the requirements set forth in this article. This requirement shall not be construed so as to prohibit the painting, repainting or changing of the face of a sign, including changing the message, where the resulting sign is the same size, shape and height as the preceding sign and no other alteration and no expansion is made to the sign or sign structure.

The petitioner wishes to relocate the existing, non-conforming sign structure approximately eight feet closer towards Patton Avenue but is prohibited from doing so unless the size of the sign is made conforming and reduced to no more than 125 square feet in area, or a variance is granted. As a non-conforming sign, the sign may continue in use “as is” until such a time that the property is redeveloped when it is expected that the sign will be brought into compliance. Specifically, the purpose of the expectations for non-conformities are detailed in UDO Sec. 7-17-1(a) which is as

follows:

- (a) *Purpose.* It is recognized that, over time, lawful nonconformities may develop as a result of amendments to the zoning map or unified development ordinance which change the application of city development regulations to particular properties. It is important that such properties, while nonconforming, be adequately maintained and permitted to continue, but not expanded or enlarged in any fashion that increases the extent of the nonconformity. Where possible, such nonconformities should be made, wholly or incrementally, conforming.

Review, Analysis & Considerations:

- The subject property is zoned HB (Highway Business) and is bounded by Highway Business zoned properties on the south, west, and east with CB-I (Community Business-One) adjacent to the north.
- The property is accessed from Patton Avenue which abuts the subject property to the south.
- A permit was issued on October 23, 2015 to re-face the existing sign structure. Keeping the sign in its current condition and location remains an option.
- The subject property is 1.28 acres and has very good visibility from Patton Ave. The proposed car wash is approximately 100 feet from the road and attached signage is also visible from the thoroughfare.
- Property and sign were initially developed and constructed in 1987 as a Ryan's Steakhouse under Commercial Highway zoning classification which allowed up to 300 square feet of sign area for free-standing signs prior to 1990.

Driving Directions:

From downtown, proceed west on Patton Avenue. Once crossing the Jeff Bowen Bridge, travel through three traffic lights in which the subject property is on the right.

**FINDINGS:**

In order for the Board of Adjustment to grant this variance request, the following findings of fact must be made:

- 1) Unnecessary hardship would result from the strict application of the ordinance.
- 2) The hardship results from the conditions that are peculiar to the property, such as location, size, or topography.
- 3) The hardship did not result from actions taken by the applicant or the property owner.
- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

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Date Petition Filed: December 21, 2015

Date Reviewed by Board of Adjustment: January 25, 2016