



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

TO: City of Asheville Board of Adjustment **DATE:** March 11, 2016

FROM: Shannon Tuch, RLA
Zoning Administrator

PREPARED BY: Ricky L Hurley, AICP
Plans Review Coordinator

SITE INFO: Tax Description (PIN#): 9654.20.6145
Street Address: 35 Airport Rd.
Zoning: HB (Highway Business)
Property Owner: Carolina Conference of SDA

Summary Statement:

The petitioner, Eric Bates/Carolina Conference of Seventh Day Adventist, Inc. has filed two variances, requesting relief from Section 7-13-4(b)(2)(c) *On-Premise signs: Single Tenant Development and* Section 7-13-4(a)(14)(l) *Light Emitting Diode (LED) Signs* of the Unified Development Ordinance (UDO) in order to allow: 1) two existing freestanding signs to remain once the amortization period has expired and, 2) continue to utilize the one current LED changeable copy board in a manner that allows for message changes to occur every four seconds.

Variance Request(s):

Freestanding signs	UDO Max. Allowance	Applicant Request	Variance
Highway Business	1 per parcel	2 on same road	100% increase
Changeable Copy	Once per 4 hrs	Once per 4 seconds	N/A

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. The applicant currently has two on-premise freestanding signs, one of which incorporates a LED changeable copy, along a single road frontage abutting Airport Road. The applicant has stated that the older, traditional sign, which is adjacent to the eastern most entrance at the Old Shoals Road intersection, was erected many years ago prior to any zoning regulations. This sign appears to meet UDO standards in the Highway Business district for height, size, and static changeable copy area limit. The newer sign is located approximately halfway along the lot frontage at the crest of a hill abutting Airport Road and, per applicant, was permitted and erected in 2005 when the property was under Buncombe County's zoning jurisdiction. A LED changeable copy was part of the second sign and has remained in continuous operation with various messages displayed and alternating every few seconds. This second sign also appears to comply with UDO standards in the Highway Business district for height, size, and LED changeable copy area limits, but does not comply with continuous message changing more than once in a four hour period.

This property along with others in the area were included in the 2009 Airport Rd. annexation and once in the city's jurisdiction, were subsequently mailed notices identifying all non-conforming signs on the property along with an explanation that the signs would need to be made conforming within the designated time periods.

UDO Section 7-13-8(b)(4) Nonconforming signs – explains that a lawfully established non-conforming sign, when made non-conforming by a change in jurisdiction, is given a period of time to correct the non-conformity. This period of time is commonly referred to as the “amortization period” during which it is expected that the property owner will have ample time to correct the non-conformity. Specifically, this section states:

4. All on-premises signs (and their sign structures) which are made nonconforming by a subsequent amendment to this article, or by amendment to the official zoning maps or by extension of the city's territorial jurisdiction (annexation), and which do not conform with the requirements of the sign regulations adopted in Article 9 of Appendix - A Zoning Code of the Code of Ordinances of the City of Asheville on October 21, 1977, shall be made conforming or removed according to the following schedule:

- *Signs (and sign structures) erected within three years before the annexation, shall be made conforming or removed within ten years after the effective date of the annexation.*
- *All other signs (and sign structures) shall be made conformed or removed within seven years after the effective date of the annexation.”*

The property at 35 Airport Rd. is approaching the end of its seven year amortization period and is attempting to achieve compliance through obtaining the variances described in this report.

Review, Analysis & Considerations:

- The original church building was constructed in 1974.
- The subject property is zoned HB (Highway Business) and is bounded by Highway Business zoned properties on the north, west, and east, and is bounded by Buncombe County zoning (Conference-Resort) to the south.
- The HB zoning allows a 25-foot tall, 125 square foot free-standing sign.
- The subject property is 6.1 acres and typical of other larger lots on the corridor.
- The property is accessed from Airport Road which abuts the subject property to the northwest.
- The subject property enjoys very good visibility from Airport Rd. with approximately 900-feet of road frontage.
- The property is accessed via one of two driveway entrances located approximately 600 feet apart from one another.
- Both signs are located on Airport Rd. and are approximately 340-feet from one another.
- The older, traditional sign has a lower profile and sits closer to the road and road grade.
- The newer, electronic sign is taller and sits higher on the property with very good visibility from either direction.
- Standards regulating LED signs were adopted in 2008 and are designed, in part, to help control for driver distraction (limiting brightness, movement, size, etc.). To date, no variances for duration of message have been granted.
- The standards regulating changeable copy messages were amended after 2008 to allow the message to change from once in a 24 hour period to once in a four hour period, in order to allow a different message to be seen at different parts of the day (i.e. morning commute v. evening commute).

Driving Directions:

From downtown, proceed south on Biltmore Avenue/Hendersonville Road. Turn right onto Airport Road, subject property is on left at the intersection of Old Shoals Road and Airport Road.

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.

Attachments:

Exhibit A – Aerial Map

Exhibit B – Street view images of signs

Date Petition Filed: February 25, 2016

Date Reviewed by Board of Adjustment: March 28, 2016