

## MINUTES

### **City of Milton Board of Zoning Appeals Regular Meeting October 21, 2008 7:00 PM**

#### **BOARD MEMBERS PRESENT**

Sandy Jones  
Todd Chernik  
Gary Willis  
Scott Kilgore  
Marcia Parsons  
Walt Rekuc  
John McRae

#### **CITY STAFF**

Angela Rambeau, Community Development

#### **AGENDA**

- 1) Call to order and pledge
- 2) Introduction of Board members
- 3) Approval of the September meeting minutes
- 4) V08-022, 2985 Manor Bridge Drive, Elliott Smith for Anthony Pergola
- 5) V08-23, 2570 Mountain Road, William Ellis
- 6) V08-025, 585, Watboro Hill Drive, Jason Jones
- 7) V08-026, Deerfield Place 13045-13099, Highway 9, Brian Snelling
- 8) V08-027 Kohl's 13970 Highway 9 Sara Kaufman
- 9) Adjournment

**CALL TO ORDER** Chair Sandy Jones called meeting to order.

#### **PLEDGE OF ALLEGIANCE**

#### **STATEMENT OF THE BYLAWS OF THE BOARD OF ZONING APPEAL**

Read by the Chair Sandy Jones.

#### **BOARD INTRODUCTIONS**

#### **EXECUTIVE SESSION**

**Motion and Second:** Chair Sandy Jones made motion that the Board go into an executive session.

#### **City Attorney Ken Jarrard**

- Executive Session was for the purpose of discussing litigation.

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**Chair Sandy Jones**

- Stated executive session was for the purpose of discussing litigation

The motion was seconded by Marcia Parsons. There was no discussion. Vote: 7-0.  
The motion unanimously carried.

**Chair Sandy Jones**

- Announced Board would take a short recess to have discussion on a litigation issue

The City Attorney and the Board adjourned into executive session at 7:05 p.m. and returned to the meeting at 7:21 p.m.

**City Attorney Ken Jarrard**

- Need to request a motion to add to the agenda the Baker versus the Milton BZA Settlement Agreement.

**Motion and Second:** Walt Rekuc made a motion to add the Settlement Agreement in the Baker case to the Board of Zoning Appeals Agenda this evening. The motion was seconded by John McRae. There was no discussion. Vote: 7-0. The motion unanimously carried.

**City Attorney Ken Jarrard**

- Settlement Agreement involved Donald and Sue Baker versus the City of Milton Board of Zoning Appeals
- Up for their consideration and possible approval this evening

**Motion and Second:** Walt Rekuc made a motion to approve the Settlement Agreement as present to the Board by the City Attorney and would like for the Chairperson to act and sign this. Seconded by Gary Willis. There was no discussion. Vote: 7-0. The motion unanimously carried.

**City Attorney Ken Jarrard**

- Thanked the Board and left the meeting at 7:23 p.m.

**Chair Sandy Jones**

- Requested Staff to read the first agenda item, **V08-022**.

**Staff Angela Rambeau**

- Next item on the agenda was **V08-022**, 2985 Manor Bridge Drive, Elliott Smith for Anthony Pergola
- To allow an accessory structure (a storage shed) to encroach into the rear yard setback (Article 5.1.3.I)
- Staff requested a thirty (30) day deferral until the next meeting in November.

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**Staff Angela Rambeau**

- Staff working with the applicants on preliminary items that need to be taken care of
- Getting a final plat revised before the variance can be brought before the Board.
- The surveyor brought a survey in yesterday, but she had not seen it yet
- They were making progress
- Not ready to go forward tonight.

**Motion and Second:** Walt Rekuc made a motion to defer V08-022 for thirty (30) days until the next scheduled meeting. Seconded by Marcia Parsons. There was no discussion. Vote: 7-0. Motion unanimously carried.

**APPROVAL OF MEETING MINUTES**

**Motion and Second:** Sandy Jones made a motion to approve the September 16, 2008 Board of Zoning Appeals meeting minutes as presented. Todd Chernik seconded the motion. There was no discussion. Vote: 6-0-1, with Sandy Jones abstaining due to her absence at the September meeting. The motion carried.

**Chair Sandy Jones**

- Requested Staff to read the next agenda item, **V08-23**.

**Staff Angela Rambeau**

- Read the next item on the agenda, V08-23, 2570 Mountain Road, William C. Ellis
- To allow a cul-de-sac to encroach into the 50 ft. stream bank buffer and the 75 ft. impervious setback (Chapter 14, Article 6, Section 5,a,I,ii).

**Staff Angela Rambeau**

- Requested a deferral until the next board meeting in November.
- Staff has been going back and forth with the applicant working on an alternative site plan
- Hoped they would be able to come up with a plan that would not require a variance and perhaps could be withdrawn.

**Motion and Second:** Walt Rekuc made a motion to defer V08-023 for thirty (30) days until the next scheduled meeting. Sandy Jones seconded the motion. There was no discussion. Vote: 7-0. The motion unanimously carried.

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**Chair Sandy Jones**

- Staff to read the next agenda item, V08-025, 585 Watboro Hill Drive, Jason Jones.

**Staff Angela Rambeau**

- Read the petition and stated this variance was to allow a swimming pool and deck to encroach into the 50 ft. stream bank buffer and the 75 ft. impervious setback in accordance with Chapter 14, Article 6, Sec. 5.a.i.ii
- Site is located in the Oak Ridge on the Green Subdivision and is zoned AG-1, and lies within the Norwest Fulton Overlay District, and is a single family home and detached garage is currently located on the property
- Staff read from Chapter 14.6.5.a of the City Code.
- Applicant proposes to use stamped concrete on the pool deck, but has stated that pavers are another option
- Applicant proposes to install a 3 ft. by 15 ft. infiltration trench at the rear of the pool, to further mitigate the encroachment.
- Focus Meeting was held on September 24, 2008
- Read the department comments from the Petition and the Standards for Consideration and Recommended Conditions from the Petition

**Scott Kilgore**

- One of the items in plan was an infiltration trench
- Not included in the recommended conditions.

**Staff Angela Rambeau**

- Staff assumed applicant was going to add infiltration drench.

**Chair Sandy Jones**

- Called for questions for Staff.
- There were none
- Chair asked applicant to come forward.

**Applicant Jason Jones, 585 Watboro Hill Drive, Milton, GA 30004**

- Presented his case to the Board
- Stated he wanted to build a pool and had a difficult lot to work with, including a detention pond, power lines and the unique shape
- Most of the impact had to deal with water encroaching into the setback
- Putting in an infiltration drench to minimize any impact

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**Todd Chernik**

- Impact to project if not allowed to encroach into the 50 ft.?

**Applicant Jason Jones**

- Impact was small

**Walt Rekuc**

- Most of property is undisturbed and natural

**John McRae**

- Type and pricing of materials
- Pervious materials would cost more
- Infiltration trench part of plan?

**Applicant Jason Jones**

- infiltration system would be installed
- Trying to minimize erosion issues since it was built

**Todd Chernik**

- Clearing in disturbed area?

**Applicant Jason Jones**

- Part of construction to build some dirt up around the foundation

**Chair Sandy Jones**

- Called for additional questions
- There were none
- Called for public comment
- There was no public comment

Discussion:

**Walt Rekuc**

- Any letters from HOA or neighbors stating agreement with allowance of variance?

**Applicant Jason Jones**

- Approval from neighbors and Homeowners Association pending Board's approval
- No person behind his property
- Neighborhood common area and then adjoining neighborhood

**Chair Sandy Jones**

- Closed public hearing

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**Motion and Second:** Walt Rekuc made a motion for approval. Due to the configuration of the property and the location of the home on the property and a desire to place the pool directly behind the home to meet the requirements of the city, it has placed a hardship on the applicant to put the pool at a point in which it would be able to be used and in so doing, I recommend approval of the variance for the pool to encroach into the 50 ft. setback and the 75 ft. setback based on the plan prepared by Classic Pools and Spas, and that sixteen 3 gallon shrubs to re-vegetate the area that is disturbed and that the applicant shall obtain all required permits prior to construction. Gary Willis seconded the motion.

Discussion:

**Walt Rekuc**

- Most of property is already natural and will remain that way.
- Additional trees planted would not serve any purpose
- Did not want trees near the pool or lake areas.

Discussion with Scott Kilgore and Walt Rekuc about the 2 inch hardwood trees and 6 ft. high trees and the shrubs.

**John McRae** made a motion for a **friendly amendment** to include the additional replanting requirements to 2 inch caliber hardwood trees and five 6 ft. high under story trees. Seconded by Scott Kilgore.

**John McRae**

- Impact concerns through construction process (i.e., what is there currently versus post-construction)

**Walt Rekuc**

- Plantings should not be in stream buffer area
- Plantings are to re-vegetate the area

**Todd Chernik**

- Planting of trees near pools may have some consequences
- Maintenance (leave, etc.)
- Roots impacting pool structure

**Gary Willis**

- Concerns about piping running from jets out to the motor
- Could have problems with roots too close

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**Chair Sandy Jones**

- Clarification that the location would be for approval of the city arborist
- Not leave up to the arborist
- You would specify rear yard

**John McRae**

- Would state in the rear yard and not leave up to the city arborist

**John McRae**

- Leave to applicant's discretion on how to meet the intent
- Would not impose that condition
- Requirement is plantings be in the rear yard
- Restated friendly amendment:

That the applicant shall plant in the rear yard of the home, two 2 inch caliber hardwood trees and five 6 ft. high under story trees.

**Chair Sandy Jones** called for discussion. There was none. Vote: 3-4, with John McRae, Marcia Parsons and Scott Kilgore voting in favor of the friendly amendment and Sandy Jones, Todd Chernik, Gary Willis and Walt Rekuc voting against the friendly amendment. The motion for a friendly amendment failed.

**Todd Chernik**

- Made a **friendly amendment** to the original motion regarding to the infiltration trench so there is no uncertainty regarding the Board's intent and the applicant's intent. Would like this noted as an impact, as it could have negative impact if it was not installed. I would like to require the 3 ft. by 15 ft. infiltration drench as depicted on the plan by Classic Pool & Spa.

Discussion about being clear on what the Board's conditions are.

The motion for a **friendly amendment** was seconded by Scott Kilgore. There was no discussion. Vote: 7-0. The motion for the friendly amendment unanimously carried.

**Scott Kilgore**

- Made a motion for a friendly amendment that the Board includes a condition that the buffer balance clause that is on the plan of 17,054 sq. ft. of the property being pledged to remain undeveloped be undeveloped as stated in the plan. The motion was seconded by Sandy Jones. There was no discussion. Vote: 7-0. The motion for the friendly amendment unanimously carried.

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Discussion on the original motion continued.

**Scott Kilgore**

- Recommendation to remove the 43 sq. ft. of encroachment into the 50 ft.
- Question if Mr. Rekuc had addressed that issue

**Walt Rekuc**

- Applicant is only encroaching 43 ft. in the 50 ft. Not sure how much of that is wall and how much is deck
- Felt he understood applicant's intent to get the pool directly behind house

**Scott Kilgore**

- 43 sq. ft. is into the 50 ft.
- Carries a higher level of concern in his view

Additional discussion about the 43 ft. in the 50 ft.

**Scott Kilgore**

- Made a **friendly amendment** that Staff's Condition #2 that the 43 sq. ft. of encroachment into the 50 ft. undisturbed buffer be removed from the plan. The motion was seconded by Sandy Jones.

Discussion:

**Marcia Parsons**

- Question about diagonal lines on their site plan
- Deck or concrete?

**Staff Angela Rambeau**

- Blue is pool and diagonal is deck

**Scott Kilgore**

- Added to his motion the remainder of Staff's Condition #2, that no part of the pool shall encroach into the stream buffer and that final approval shall be per the Community Development Department.

Additional Discussion:

**Todd Chernik**

- Before voting want clarity regarding hatched area shown on the plan regarding the pool.
- Deck or not?

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**Staff Angela Rambeau**

- Hatched area and gray area is deck section
- It is hatched because that is the part encroaching into the impervious setback
- All concrete

**Chair Sandy Jones**

- Called for any other discussion
- There was no discussion
- Called for vote

Vote on inclusion of Staff's Condition #2: 4-3, with Scott Kilgore, Sandy Jones, Marcia Parsons and John McRae voting in favor and Walt Rekuc, Gary Willis and Todd Chernik voting in opposition. The motion carried.

**Chair Sandy Jones**

- Stated original motion was on the table
- Asked Mr. Rekuc to restate the motion

**Walt Rekuc** restated his motion:

I recommend approval on V08-025 to allow encroachment into the 50 ft. stream buffer and the 75 ft. impervious setback as delineated on the plans prepared by Classic Pools & Spas, Inc. for Jason and Sara Jones, with the condition that sixteen 3 gallon shrubs to re-vegetate the area that is disturbed and that the applicant shall obtain all required permits prior to construction.

**Chair Sandy Jones**

- Stated motion had previously been seconded.
- Called for discussion
- There was no discussion

Vote: 7-0. The motion unanimously carried.

Summary of all motion and friendly amendments voted on:

- i. Applicant shall obtain all applicable permits,
- ii. Applicant shall install the 3'x15' infiltration trench as shown on the site plan drawn by Classic Pools,
- iii. The 1,753 sq feet shown on the site plan as buffer balance shall be permanently protected,
- iv. Redesign the pool to remove the 43 sq foot of encroachment out of the 50 foot buffer
- v. The applicant shall plant the following behind the pool area:
  - *sixteen (16) 3 gallon shrubs*

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**Chair Sandy Jones**

- Made a motion to modify the agenda
- Items # 7 and #8 will be switched
- V08-27 will be heard first

The motion was seconded by John McRae. There was no discussion. Vote: 7-0. The motion to modify the agenda was unanimously carried.

**Chair Sandy Jones**

- Call the next agenda item, **V08-027**, 13970 Highway 9, Sara Kaufman for Kohl's

**Staff Angela Rambeau**

- Variance is to increase the maximum allowed square footage of two wall signs (Article 33, Section 26.1.J)
- Read petition to Board
- Focus meeting was held on September 24, 2008
- Stated no issues from Building Plan Review, Site Plan Review, Arborist or DOT/Stormwater Review
- Staff read Standards for Consideration
- Staff's recommended conditions: Applicant shall obtain required sign permits prior to installing any signs

**Chair Sandy Jones**

- Called for questions for Staff
- Called Applicant to present case

**Applicant Jackie Miller, N56, 1700 Ridgewood Drive, Menomonee Falls, WI**

- Presented case to Board
- Stated she was presenting instead of Sara Kaufman
- Manages national sign program for Kohl's out of their corporate office in Wisconsin
- Feels code did not take into consideration signs for large retailers
- Store is approximately 93,000 sq. ft.
- Gave building measurement from all sides of building
- Requested signage occupies much less than 5% of the facade allowed for smaller retailers
- Expressed concerns over visibility from street and where located in Target shopping center
- Other retailers will be coming in and landscaping will block views
- Would like sign to be same as others used across the country
- Provided Board with handouts

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Discussion with Applicant and Board from handout

**John McRae**

- Addressed Staff Robyn McDonald's concerns in letter dated September 2, 2008 from Sara Kaufman of Kohl's
- Hardship questions
- Kohl's building process with City of Milton?
- Kohl's signage and traffic safety question

**Brian Snelling, 1450 Johnson Ferry Road, Atlanta, GA**

- With the developer of shopping center, Sembler
- Talked about the topography
- Kohl's is approximately 13-15 below the finished grade of where driveway comes in front of store
- State Route 9 requirements require a 20 ft. landscape strip along entire length of Highway 9, Webb Road and Deerfield Parkway
- County/City requirement
- City in rezoning required that the bank be heavily landscaped along that side of the building
- Kohl's was required to add green screens and add ivy
- Some of the other buildings in shopping center will partially block line of site for Kohl's
- Required to put in a 10 ft. wide landscape island every 5 parking spaces throughout the parking area
- Field of trees internal to the site as well
- Dictated by the State Route 9 Overlay, Fulton Ordinances, etc.

**Applicant Jackie Miller**

- Safety issue from taking eyes off from watching road looking for a retailer store sign

**Chair Sandy Jones**

- Monument signs location?

**Brian Snelling**

- Monument sign at main entrance to both phases of development
- Small monument sign on Deerfield - 4 ft. sign

**Walt Rekuc**

- Location of signs on building
- Trees can grow larger and obstruct views

Discussion about sign location with applicant referencing the site plan

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**Todd Chernik**

- Timeframe of light being installed at Deerfield and Hwy. 9?

**Brian Snelling**

- Designed and submitted
- Waiting for GDOT's approval
- Kohl's is only building in shopping center they are asking for a sign increase
- Construction trailer also sits on property

**Marcia Parsons**

- Confirmed with applicant that could be more visibility issues as property is developed more

**Chair Sandy Jones**

- Called for additional questions or comments
- Called for opposition

**Russell Olsen, 13228 Marrywood Court, Milton, GA**

- Spoke in opposition to larger sign
- Building is large
- Traffic will slow when lights are installed

**Lisa Litchfield, 13417 Marrywood Court, Milton, GA**

- Spoke for her and her husband who is the president of The Regency at Windward Square.
- Spoke in opposition to larger sign
- Hugh store as is Wal-Mart
- Do not believe will have difficulty seeing Kohl's
- Neighbor has concerns looking at it everyday

**John McRae**

- If official position of HOA at the Regency at Windward Square that this would be an eyesore

**Lisa Litchfield**

- Not discussed at meetings
- Has been discussed among members of the Board

**Chair Sandy Jones**

- Called for any further discussion, questions or comments
- There were none
- Closed public hearing
- Called for a motion

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**Scott Kilgore**

- Stated he would like to make a motion

**Motion and Second:** Scott Kilgore made a motion to deny the requested variance V08-027 to increase the maximum allowed square footage of two wall signs based on lack of hardship, lack of harmony with the intent of the ordinance and lack of preexisting foliage. The motion was seconded by Todd Chernik.

Discussion:

**Scott Kilgore**

- Applicant has two monument signs
- Would be a total of four
- Nothing extraordinary or exceptional about development
- Building being below grade may provide better visibility because sign closer to eye level and below foliage
- Ordinance in question is comprehensive and abundantly clear
- 100 sq. ft. is the maximum size Milton wanted for all signs
- Ordinance was drafted with large buildings and landscaping in mind
- Traffic signal light will be installed in immediate future
- Kohl's building is large and dominates the area
- Need to uphold the Ordinance

**Walt Rekuc**

- Stated he appreciated Kohl's coming into the community
- Understood as business owner wanting a larger sign
- Try to work with entire community to make best decision
- Trees can be a factor in visibility as they grow
- Other buildings and street trees can be a factor in obscuring site
- There will be other stores and signs in front of their building
- Believes a variance could be granted due to the visibility issues

**John McRae**

- With material provided to the Board did not see a hardship had been demonstrated
- Did not feel City should bend their rules
- Kohl's should present a product meeting their needs and Milton's code and standards

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**Chair Sandy Jones**

- Called for further discussion
- There was none
- Called for a vote

Vote: 5-2, with Todd Chernik, Gary Willis, Sandy Jones, Scott Kilgore and John McRae voting for denial of the motion and Walt Rekuc and Marcia Parsons voting for approval of the variance. The motion carried for denial of the variance.

**Chair Sandy Jones**

- Called the next agenda item, variance for V08-026, 13045-13099 Highway 9, Brian Snelling
- Called for Staff to present case

**Staff Angela Rambeau**

- Read Petition V08-026
- To allow Phase 2 primary monument sign to exceed maximum allowable height and square footage
- To allow Phase 2 primary and secondary monument signs to be internally illuminated
- To allow temporary accessory signs to be placed at the entrances for traffic control
- To allow tenants to install window signs (graphics on opaque window film) those exceed the 5% allowance, on areas that will be blocked by internal walls or racking. (Article 33, Section 26.1.B,K,S; Section 25.A.2)
- Property site is located at 13045-13099 Highway 9 and zoned C-1
- Consists of 47 acres in the State Route 9 Overlay District
- Building Plan Review, Site Plan Review, Arborist and DOT/Stormwater Review had no issues
- Read Standards for Consideration
- Read Staff's Recommended Conditions

**Chair Sandy Jones**

- Called for questions for Staff
- There were none
- Called for applicant to present

**Brian Snelling, 1450 S. Johnson Ferry Road, Atlanta, GA**

- Representing Sembler, the developer
- Presented the first item, primary monument sign
- Sign ordinance was changed after first phase was completed
- Requesting primary monument sign on Highway 9 be allowed to be the same size as the Phase I sign and being in harmony with Phase I of the property
- This is only variance relating to size

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Board decided to hear and vote on each variance request separately

Discussion with Board and applicant regarding location and distance from road of monument signs referencing diagram

**Todd Chernik**

- Question for applicant about the hardship

**Applicant Jackie Miller**

- It is all subjective
- When you have something that is appropriately signed you're taking your eyes off of the road for a shorter period of time
- If you cannot see retailer and are blocked by everything else there are chances of running into someone and not being able to exit, etc.
- This is a big issue
- Site elevation is right on top of the road
- Want people to be able to easily see Kohl's

**Todd Chernik**

- Asked Staff when new sign ordinance was adopted
- When did Sembler break ground and get LDP for Phase I
- When Sembler broke ground the awareness then was there that the sign ordinance had been changed

**Staff Angela Rambeau**

- April 2007

**Brian Snelling**

- Broke ground in June of 2007

**Todd Chernik**

- Discussed with applicant that Board had certain guidelines to make decisions in
- Making the project in harmony with Phase I would not be in the Board's purview
- Our decision is whether in harmony with the purpose and intent of the Ordinance
- Phase would not be part of the Board's consideration

**Walt Rekuc**

- It may not be in Mr. Chernik's viewpoint, but it was in his

**Scott Kilgore**

- When rezoning was done in Phase II were larger monument signs requested from Council?

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**Brian Snelling**

- It was considered
- Issues with buildings having to be built in a single structure
- Rezoning was done later because of this matter
- Property was zoned commercial in 1983
- Trying to get a national tenant
- Did not have enough time then to add another variance to address this
- Thought there was some language in ordinance about property owner's rights for harmony with his buildings

**Chair Sandy Jones**

- Called for public comment

**Lisa Litchfield, 13417 Marrywood Court, Milton, GA**

- Spoke in opposition
- Spoke as an individual

**Russell Olsen, 13228 Marrywood Court, Milton, GA**

- Spoke in opposition
- Thinks Sembler did a great job
- Ordinances are in place to protect the homeowners and the community

**Gary Willis**

- Size of each square on the monument sign?

**Brian Snelling**

- If variance is allowed, each sq. will be 23 in. by 37 in.
- If denied, they will be 21 in. by 24 in.

**Marcia Parsons**

- Phase I and Phase II elevation questions

**Brian Snelling**

- Phase I elevation at Target the driveway fairly level with grade
- Phase II start heading down grad

Part 1: To allow Phase 2 primary monument sign to exceed maximum allowable height and square footage

**Walt Rekuc**

- Can dirt be added around base of retaining wall around a sign so measurement could be within base of the retaining wall for measuring

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**Staff Angela Rambeau**

- Had a case like that and remembers it being said they could not make it look like it had been done on purpose
- Did not believe intent is to allow grade to be built up just to get sign up higher

**Gary Willis**

- If individual was to start business in a free-standing building, what is maximum allowable signed Milton would allow?

**Staff Angela Rambeau**

- On Highway 9, 48 sq. ft. and 12 feet tall for multi-tenant

**Brian Snelling**

- Single tenant sites and out-parcels are limited to one monument not to exceed a maximum surface area of 32 sq. ft. and maximum height of 6 feet
- One tenant if subdivided would be allowed 32 sq. ft.
- Asking for 7 tenants to have 64 sq. ft.
- Struggling with getting and keeping tenants with existing market
- Need a competitive advantage

**Chair Sandy Jones**

- Called for additional questions or comments
- There were none
- Closed public hearing

**Motion and Second:** Scott Kilgore made a motion to deny the variance based on lack of harmony and lack of hardship. The motion was seconded by Sandy Jones.

Discussion

**John McRae**

- No fault of applicant that Milton became incorporated
- Would be malicious obedience to follow own ordinance and deny variance
- Already another sign a few feet down the road in a similar look and dimension
- Would look odd and detract from aesthetics of development to have them have a new look

**Gary Willis**

- Hardship for Kohl's as well as 6 other business
- 390 ft. off of the road
- Visibility is huge issue
- Business owner cannot survive if customer cannot read sign and find you

Additional discussion about whether or not a hardship

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**Walt Rekuc**

- Monument sign size is critical to business
- Talking about 16 sq. ft.
- Did not know how city came up with requiring such a small amount of signage for such a large project

Lengthy Board discussion about size of signs

**Chair Sandy Jones**

- This is matter for Council and the lawmaking body of the City of Milton
- Not in purview of the Board of Zoning Appeals

**Marcia Parsons**

- Hardship appears to be the elevation more than anything

Vote on motion to deny: 4-3, with Todd Chernik, Sandy Jones and Scott Kilgore voting in favor of the denial and Walt Rekuc, Gary Willis, Marcia Parsons and John McRae voting against the motion to deny. The motion to deny failed.

**Motion and Second:** Walt Rekuc made a motion for approval of the variance to allow the sign to exceed the maximum allowable height and square footage under Article 33, Section 26.1.B to be the 64 sq. ft. of the sign face and the height to be no taller than 15 ft. The motion was seconded by Gary Willis.

Discussion:

**Todd Chernik**

- No basis in the motion as to what hardship there is
- Second variance to be heard is regarding lighting
- Phase I versus Phase II and what the hardship really is

**Walt Rekuc**

- Hardship is the topography where sign would be placed
- Also regarding the trees and shrubs planted in the location of the sign making visibility less

**Brian Snelling**

- From right-of-way starting at the base of the sign it is probably 3 ft. below grade
- Slopes from right-of-way near the corner of the building about 13-15 feet

There was no other discussion. Vote to approve variance: 4-3, with Walt Rekuc, Gary Willis, Marcia Parsons and John McRae, voting to approve and Todd Chernik, Sandy Jones and Scott Kilgore voting in opposition. The motion carried.

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**Chair Sandy Jones**

- Read next variance request to allow Phase 2 primary and secondary monument signs to be internally illuminated

**Brian Snelling**

- Partially same reasons
- Phase I is internally illuminated
- External need to be placed in ground or at grade level to shine down on
- Will not properly illuminate the signs and make for less visibility
- Have to comply with dark sky ordinance
- Will not get any light spray coming from lights
- Hardship is do not feel can put enough lights to illuminate signs and still comply with dark sky ordinance and allow for customers to find business at night
- Competitive disadvantage for the other tenants who have internally illuminated signage

**John McRae**

- Discussed extent of electrical in area.
- At this time could it go either way or internal or external lighting?
- Proposed hours of operation for the committed stores in development?

**Brian Snelling**

- May have to upsize voltage and transformer to power the lights
- Hours are somewhat different (i.e., restaurants)
- Most retailers are between 9 or 10 p.m.

**Gary Willis**

- Time lights in Phase I turn off?

**Brian Snelling**

- Run off of a timer
- Usually 2 hours after last tenant closes

**Walt Rekuc**

- What type of lights would be used for external?
- Would probably need more external lights than for internal.

**Brian Snelling**

- Internal probably a fluorescent strip or LED type illuminated for energy conservation
- Externally probably up to a 400 watt or high pressure sodium
- Could use 3-4 goosenecks and also at bottom to get same amount of light from the internal illuminated lighting

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**Chair Sandy Jones**

- Called for public comment

**Russell Olsen, 13228 Marrywood Court, Milton, GA**

- Spoke in support so the lighting for the signs would be consistent for what is there

**Chair Sandy Jones**

- Called for additional questions or comments
- There were none
- Closed public hearing

**Motion and Second:** Walt Rekuc made a motion to allow the Phase 2 primary and secondary monument signs to be internally illuminated to kept the same look within the whole shopping center and also because I believe the lighting that would be necessary in this area due to the commercial aspects would be much better if it were internally lit than external from just the amount of light necessary to illuminate the signs. The motion was seconded by Sandy Jones.

Discussion:

**Scott Kilgore**

- Do not like internally lit signs
- Ordinance specifically addressed the lighting
- Would like as a citizen to see the ordinance upheld
- Did not see harmony with the intent of the ordinance
- Do not see hardship
- Not Board's job to decide if they like something better or if ordinance is out of line

**Gary Willis**

- Am a business owner
- Have both types of signs
- Alpharetta had more complaints about the external lighting
- Things are always hitting the external lighting and light spills out

**Todd Chernik**

- Asked that hardship be stated in the motion for the record
- With larger sign internal lighting would probably now be better

**Walt Rekuc**

- Reason is that believe the sign would be in keeping with the general neighborhood
- Externally lit signs would be harder to read and make it hardship for the business owners for customers to see going down road

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**Todd Chernik**

- Made a motion for a **friendly amendment** that would stipulate that the internally illuminated sign would be set to a timer to turn off no later than two hours past the last business closing. The motion was seconded by Sandy Jones.

Board discussion about when lighting for signs would be turned off

**Todd Chernik stated** that his friendly amendment would be that should the Board approve the internally illuminated sign, that it be extinguished two hours after the last tenant closure.

**John McRae**

- Asked Mr. Chernik if he was saying all signs on Phase II would be turned off.

**Todd Chernik**

- Was thinking of primary and not even considering secondary.

**Chair Sandy Jones**

- For clarification asked Walt Rekuc if his amendment was for both.

**Walt Rekuc**

- Stated for both

**Todd Chernik**

- Matter of Board to write the ordinance or interpret it
- Will leave friendly amendment as it stands to apply to primary and secondary signs
- Trying to mitigate any impact
- Make harmonious with intent of ordinance

**Marcia Parsons**

- Have a problem with Milton telling these businesses how to run their operation with lighting, parking, etc.
- Have a problem with us interfering with that

**Brian Snelling**

- Signage lighting is separate and on different timers than parking lot lighting
- Either run on time clocks or photo cells

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**Chair Sandy Jones**

- Do have the ability and right to look at things from the Milton perspective
- Each community is unique with unique characteristics
- Called for additional discussion
- There was none
- Called for a vote on the friendly amendment to allow sign illumination on both the primary and secondary monument signs up to two hours past the close of the last tenant

Vote on friendly amendment: 4-3, with Sandy Jones, Todd Chernik, Scott Kilgore and Gary Willis voting for the friendly amendment and Walt Rekuc, Marcia Parsons and John McRae voting against the friendly amendment. The motion for a friendly amendment carried.

**Chair Sandy Jones**

- There is an original amendment on the floor to allow Phase 2 primary and secondary monument signs to be internally illuminated
- Called for further discussion
- There was none

Vote on original amendment to allow Phase 2 primary and secondary monument signs to be internally illuminated: 6-1, with Walt Rekuc, Gary Willis, Todd Chernik, Sandy Jones, Marcia Parsons and John McRae voting for the amendment and Scott Kilgore voting in opposition. The motion carried.

**Chair Sandy Jones**

- Called the third variance to allow temporary accessory signs to be placed at the entrances for traffic control

**Brian Snelling**

- Need to have way to direct traffic through construction, stores opening, deliveries, etc.
- Current sign ordinance does not allow temporary informational signs or more than one sign during construction
- Primarily at various entrances
- Ability to move around as other entrances become open
- Discussion with Board members referencing type of signs in Board's package
- Primarily for public safety issues

**John McRae**

- OSHA requirement or something you are doing on your own?

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**Brian Snelling**

- Doing this on our own
- Do not know if there is an OSHA requirement
- Explained type and size of signs to Board
- Will stay until construction is complete

**Chair Sandy Jones**

- Clarification from Staff on temporary signage

**Staff Angela Rambeau**

- Commercial establishments are one 2 x 2 sq. ft. signs
- Allowed to have one 12 sq. ft. sign during construction
- Nothing in Ordinance for accessory signs or traffic control signs

**Todd Chernik**

- Expected completion date from today?

**Brian Snelling**

- February or March of 2009

**Marcia Parsons**

- Does construction company name have to be on sign?

**Brian Snelling**

- Clarified purpose was so people know where they are going

**Walt Rekuc**

- Size of physical signs?

**Brian Snelling**

- 2 x 3
- Referenced Section 25, Item A-1

**Chair Sandy Jones**

- Called for questions
- Called for public hearing
- Opened floor for a motion

**Motion and Second:** John McRae moved to approve the requested variance by virtue of the following: Move to allow temporary accessory signs to be placed at the entrances in the dimensions shown up until one calendar week following the issuance of a Certificate of Occupancy of all Phase 2 buildings for traffic control purposes due to the fact that it would not cause substantial detriment to the public good or impair the purpose and intent of the zoning ordinance. The motion was seconded by Todd Chernik.

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Discussion:

**Walt Rekuc**

- Would tenant finish be included?

**John McRae**

- Would be needed for interior purposes as well?

**Brian Snelling**

- Restaurants that may have deliveries for kitchen exhausts and other deliveries
- Construction traffic as needed

**Chair Sandy Jones**

- Called for further discussion
- There was none
- Called for a vote

Vote: 6-1, with 6 board members voting for the motion and Gary Willis voting in opposition. The motion carried.

**Chair Sandy Jones**

- Called the last variance request to allow tenants to install window signs (graphics on opaque window film) those exceed the 5% allowance, on areas that will be blocked by internal walls or racking. (Article 33, Section 26.1.B,K,S; Section 25.A.2

**Brian Snelling**

- They are display windows
- Way to get fenestration on wall
- Have to pretty much design a building almost on all four sides
- Makes it difficult for tenants to do an interior build-out
- Have to build walls in front of windows because of space they need inside
- These are called "lifestyle" type graphic
- Does not have tenant's name on it
- Can use a graphic design or gray film on it to black it out

Discussion with Board viewing various samples of some of the tenants

**John McRae**

- Percentage we could expect to see of these graphic based on your experience?
- 10%, 30%?

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**Brian Snelling**

- Hard to estimate
- Some buildings have more glass than others
- Number of windows they have to block
- Request from the tenants
- Look better than just gray film or just studs and installation through the glass
- It is a judgment call

**Todd Chernik**

- What is being brought before this Board tonight is ambiguous
- Would Staff prefer the Board defer this matter and have applicant bring back specific samples for approval or denial on a case-by-case basis
- Alternatively, would Staff prefer the Board deny this and the applicants could come back on a case-by-case basis?

**Staff Angela Rambeau**

- What is being present are the examples of what is being proposed to put up

**Brian Snelling**

- Clarified these are the first two tenants

**Staff Angela Rambeau**

- Rather do it all here
- Like sign ordinance do not have control of what it says
- Do not know how much control we have over the graphic image on the glass

**Todd Chernik**

- What to avoid us having to write a sign ordinance with Mr. Snelling as a case
- If a tenant brings in a sample and say they want to put on specific window, Board would be in a better position to make a decision
- The ambiguity is of concern
- Not saying that the Board is in opposition to this

**Marcia Parsons**

- Had questions about handling on a case-by-case decision
- If they want to change their "lifestyle" graphic, would it require a variance?

**Staff Angela Rambeau**

- If that is how you wanted to handle it, they would have to bring it back for approval
- Tried to write the conditions to limit it to the specific areas of where the studs were

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Discussion on whether to defer or deny the variance

**Todd Chernik**

- Not comfortable amending the ordinance and allowing the developer to be the judge and jury for each of his subsequent tenants

**Staff Angela Rambeau**

- What needs clarification? The amount of the graphics or the graphics themselves or where they can put them?

**Chair Sandy Jones**

- All of these reasons
- Should be handled same way Sembler has handled the sign issues
- Each tenant comes before us and a decision is made
- Not opposed to this from a conceptual standpoint
- Need to look at on a case-by-case basis

**Marcia Parsons**

- If do not move forward with graphics, do they have to come back to do the gray or black film?

**Staff Angela Rambeau**

- That would not be considered a window sign

**Brian Snelling**

- Is the BZA charged with also coming up with the definition of a sign
- Angela and I have had conversations about this
- Disagree with her interpretation that the "lifestyle" graphic is a sign
- From his interpretation in the ordinance, is not a sign or window sign

**Staff Angela Rambeau**

- The Community Development Director would make that decision

**Brian Snelling**

- Do not want to come back before the Board each time someone wants to use the graphics
- Believe it looks better than gray film
- Have mixed feelings about it
- Probably will not get too many of these before you

Board feels that they should handle on a case-by-case basis to be able to address the individual styles and it would be important what windows it would be placed on.

**Chair Sandy Jones**

- Called for public comment

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**Russell Olsen**

- Asked the Board to carefully consider the graphic signs that would face the road

**Chair Sandy Jones**

- There was no further discussion
- Closed public hearing

**Motion and Second:** Walt Rekuc made a motion to defer this variance to the Board's next meeting to get more information from both the applicant and their tenants to see exactly the type of sign and the location of the sign being contemplated on the windows. The motion was seconded by Gary Willis. There was no discussion. Vote: 7-0. The motion to defer unanimously carried.

**Chair Sandy Jones**

- Called for any new or old business
- There was none

**ADJOURNMENT**

**Motion and Second:** Gary Willis moved to adjourn the Board of Zoning Appeals meeting. The motion was seconded by Marcia Parsons. There was no discussion. Vote: 7-0. Motion unanimously carried.

Meeting adjourned at 10:34 p.m.

Date Approved: \_\_\_\_\_

Approved By:

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Francesca Ivie  
City Clerk's Office

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Sandy Jones, Chair  
Board of Zoning Appeals

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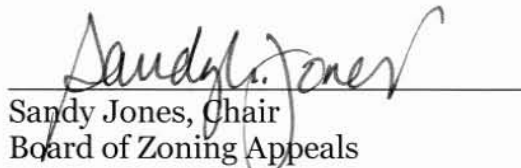
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Date Approved: 11/18/08

Approved By:

  
\_\_\_\_\_  
Francesca Ivie  
City Clerk's Office

  
\_\_\_\_\_  
Sandy Jones, Chair  
Board of Zoning Appeals