

BOARD OF ZONING APPEALS

Minutes

August 27, 2012

Eron Moore, Chairman	Present
Ronnie Allen	Present
Mark Burson	Present
John Pentecost	Present
Sandra Futch	Present

Chairman Moore called the meeting to order at 6:00 pm and declared a quorum present.

Mr. Moore asked for the approval of the agenda. A motion was made by Mr. Pentecost to approve the agenda. The motion was seconded by Mr. Allen. The motion carried. 4-0

Mr. Moore asked for the approval of the prior meeting minutes. A motion was made by Mr. Allen to approve the prior meeting minutes of July 23, 2012. The motion was seconded by Mr. Burson. The motion carried. 4-0

OLD BUSINESS

- V-12-03
QuikTrip Corporation
200 & 511 S. Clayton St.
Lawrenceville, GA 30046
5-147-197 & 5-147-122**

To allow the following:

- 1) Off-premise sign**
- 2) Three (3) freestanding signs on a single property (One pole and two monument)**
- 3) Maximum area of 276.95 sq. ft. increased to 359 sq. ft.**
- 4) Increase in the maximum sign height from fifteen (15) feet to twenty-four and two tenths (24.2) feet on pole sign along S. Clayton St.**
- 5) Reduction of minimum setback requirement from ten (10) feet to one (1) foot along Scenic Highway.**

Mr. Moore asked for a presentation from the Planning Department. Mr. Ferguson stated that the applicant had requested the item be tabled until the October meeting of the Board of Appeals. Mr. Moore then asked for a motion from the Board. Mrs. Futch made a motion to Table the item until the October meeting. Mr. Allen seconded the motion. The motion carried. 4-0

- 2. Tanner Advertising Group
Represented by G. Franklin Lemond, Jr.
Webb, Klase and Lemond, LLC
1900 The Exchange, SE**

Appeal of an administrative decision -Denial of five (5) off-premise billboard applications

Ste. 480
Atlanta, GA 30339

Mr. Moore asked the Planning Department for the staff report. Mr. Ferguson presented findings that were a result of the July Board of Appeals meeting request. Mr. Ferguson stated that the applicant had made the claim that the sign ordinance that Mr. Ferguson based his decision on to deny the applications was invalid because it did not meet State of Georgia Zoning Law because it had not been properly advertised. Mr. Ferguson found that although some of the amendments to the sign ordinance had not been properly advertised, the language that he used to base his decision had not changed since the adoption of the 2005 Zoning Ordinance. Mr. Ferguson then presented proof of an advertisement of the 2005 Zoning Ordinance which met State of Georgia notification requirements.

Mr. Moore asked if the applicant was present. Mr. Lemond gave the presentation on behalf of the applicant. Mr. Lemond stated that although the 2005 Zoning Ordinance had been properly advertised, an amendment that was made on October 5, 2009 was not advertised according to State of Georgia Zoning Law. Mr. Lemond's argument was that Zoning Procedural Law (ZPL) states there are five specific "zoning decisions" that must meet notification requirements and a repeal of an ordinance is not one of those. The City's action to repeal the ordinance on October 5, 2009 but failure to replace the ordinance according to ZPL rendering the ordinance invalid.

Mr. Moore asked if there were any questions from the Board. Mr. Pentecost made a motion to go into executive session with the city attorney Lee Thompson to discuss this matter of pending litigation. Mr. Allen seconded the motion. Mr. Lemond stated he wanted the record to show that he objected to the executive session. Mr. Moore called for a vote. The motion carried. 4-0

After some time Chairman Moore reconvened into regular session. Mr. Moore asked if there was any discussion from the Board. Mrs. Futch stated that the applicant's claim was that the repeal of the ordinance did not have to meet ZPL because it was not listed as one of the 5 "zoning decisions" that require notice. Mrs. Futch asked the applicant if a repeal of an ordinance is not the same as an "adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance", which is one of the "zoning decisions" listed as requiring notice? Mr. Lemond stated that his position is that it is not the same.

Mr. Moore entertained a motion from the Board. Mr. Burson made a motion that the Board of Appeals should base its decision to approve or deny the appeal on the September 12, 2005 Zoning Ordinance. Mr. Allen seconded the motion. The motion carried. 4-0

Mr. Moore entertained a motion from the Board. Mrs. Futch made a motion that the Board of Appeals should hear and decide on each billboard application independently. Mr. Pentecost seconded the motion. The motion carried. 4-0

Mr. Moore then asked Mr. Ferguson to introduce each application independently for the Board to act. Mr. Ferguson introduced the application at 774 Buford Drive. Mr. Moore entertained a motion. Mr. Burson made a motion to deny the appeal of the administrative

decision which denied acceptance of this application. Mrs. Futch seconded the motion. The motion carried. 4-0

Mr. Ferguson introduced the application at 751 Duluth Highway. Mr. Moore entertained a motion. Mr. Pentecost made a motion to deny the appeal of the administrative decision which denied acceptance of this application. Mr. Allen seconded the motion. The motion carried. 4-0

Mr. Ferguson introduced the application at 606 West Crogan Street. Mr. Moore entertained a motion. Mr. Burson made a motion to deny the appeal of the administrative decision which denied acceptance of this application. Mr. Pentecost seconded the motion. The motion carried. 4-0

Mr. Ferguson introduced the first application at 865 Scenic Highway. Mr. Moore entertained a motion. Mrs. Futch made a motion to deny the appeal of the administrative decision which denied acceptance of this application. Mr. Allen seconded the motion. The motion carried. 4-0

Mr. Ferguson introduced the second application at 865 Scenic Highway. Mr. Moore entertained a motion. Mr. Pentecost made a motion to deny the appeal of the administrative decision which denied acceptance of this application. Mr. Allen seconded the motion. The motion carried. 4-0

NEW BUSINESS

None

Mr. Moore then called for a motion for adjournment. Mr. Burson made a motion to adjourn. Mr. Allen seconded the motion. The motion carried 4-0

Eron Moore, Chairman

Joshua M. Ferguson, Director
Planning and Zoning Department