

CITY OF FLORENCE BOARD OF ZONING APPEALS
CITY CENTER – COUNCIL CHAMBERS
324 WEST EVANS STREET, FLORENCE, SC
THURSDAY, APRIL 25, 2024 – 6:00 P.M.
MEETING AGENDA

I. Call to Order

II. Approval of Minutes Regular meeting held on March 28, 2024

III. Executive Session Board members to receive legal advice.

IV. Public Hearing and Matter in Position for Action

BZA-2024-04 Request for variances from the size requirements and number permitted along a street frontage for free standing signs on the parcel located at 124 South Cashua Drive in the CG zoning district; identified as Tax Map Number 90024-04-012.

V. Adjournment The next meeting is scheduled for May 23, 2024.

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF FLORENCE BOARD OF ZONING APPEALS
MARCH 28, 2024**

MEMBERS PRESENT: Larry Chewning, Deborah Moses, Jermaine Nowline, Nathaniel Poston, and Michael Valrie

MEMBER ABSENT: Charlie Ipock and Miriam James-Singley

STAFF PRESENT: Jerry Dudley, Derek Johnston, and Alane Zlotnicki

CALL TO ORDER: Chairman Larry Chewning called the meeting to order at 6:00 p.m.

APPROVAL OF MINUTES: Chairman Chewning introduced the February 22, 2024 minutes and asked if there were any changes that needed to be made. There being none, he called for a motion. Ms. Moses moved that the minutes be approved as submitted; Mr. Valrie seconded the motion, and the motion passed unanimously (5-0).

PUBLIC HEARING AND MATTER IN POSITION FOR ACTION:

BZA-2024-03 Appeal from the ruling of the zoning official regarding the property at 1931 Second Loop Road in the AC zoning district; identified as Tax Map Number 90029-01-022.

Chairman Chewning introduced the request and asked staff for their report.

Mr. Dudley explained that this request differs from the typical Board hearing, which usually involves a variance from the requirements of the code, or a special exception permit, in that it's an appeal from a decision made by staff regarding the zoning code. The application was denied based on staff's interpretation of the ordinance. The motion will need to either uphold the decision of staff or include reasons for overturning it.

Mrs. Zlotnicki gave the staff report as submitted to the Board of Zoning Appeals. Chairman Chewning and Mr. Valrie clarified that the Board's role is to determine whether the business qualifies as being part of a shopping center to allow it to meet the conditions for operating a hookah lounge onsite.

Mr. Poston asked what the City's criteria were to determine that it wasn't a shopping center. Mrs. Zlotnicki said that typically staff considers a strip mall or other building with multiple tenant spaces as a shopping center. The purpose is to blunt the effect of the specialty use by diluting it with other non-specialty uses. She put up the map showing the individual lots with distinct buildings that are only one unit each.

Mrs. Moses asked if a sign was put out; Mrs. Zlotnicki said yes, and she was contacted by a neighboring business owner regarding issues with the clientele. Mr. Poston confirmed that the public has been interested in this request. She said it was mostly concerned about trash and issues like that, not specifically the hookah use.

Mr. Poston asked if this was considered a private club. Mrs. Zlotnicki said it didn't technically meet the definition of a private club. Mr. Dudley said that the zoning code defines it differently than SLED does; the

city sees it as a bar, and for the purposes of smoking indoors, it does meet SLED's definition and requirements for a private club.

Chairman Chewing asked staff for an example of a compliant specialty use. Mrs. Zlotnicki mentioned the plaza across from the Florence Mall with a vape shop, salon, and Why Not Wings restaurant in a strip plaza.

Mr. Jermaine asked about the Leaf Lounge downtown; she said there's three other businesses in the one building, but this request is for a free standing building. She also said the tobacco place next to Harris Teeter went in before the current ordinance was adopted.

There being no other questions for staff, Chairman Chewing opened the public hearing. He swore in Mr. Terrence Trower, the applicant. He said the police talked to them about using tobacco, so they went to tobacco free hookah, but no one was really sure what he needed to ask for. He said they have a lot of different types of hookah to choose from. They've always operated as a private club with waivers from the members regarding being around tobacco. He rented this location because he thought it qualified as a retail center rather than as a plaza. He wants to bring a different culture to Florence.

Mrs. Moses asked him if he mentioned the hookah lounge when he applied for his liquor license; he said they've only been open since November 2023. He's been looking for ways to operate in the boundaries of the ordinance. He offers vapor hookahs, he wanted some knowledge of what he actually can or can't do. She asked if he still had a spot in the County, he said they closed it and moved into the City.

Mr. Poston asked about the private club aspect of it and if that permitted smoking. Mr. Trower clarified that SLED and the City define it differently. Mr. Dudley agreed, that typically members of the club would bring their own smoking materials because there is a City wide smoking ban through the fire code.

Mr. Trower said they only allow the hookah smoke because that would deteriorate the experience. It's a vapor that dissipates. Mr. Poston asked Mr. Dudley if vaping was allowed in the Code; he said it was not.

Chairman Chewing asked if there was anyone else to speak for or against the request. He swore in Angela James, who works for the Avanti salon and whose mother owns the salon behind this business. She said they have a lot of problems with the trash and broken glass in the parking lot. One of their clients drove over a broken bottle and got a flat tire. They've been there for over 20 years. She's talked to Terrence about it, but is not happy with the response. There are issues with cars getting broken into. Sanitation and safety are her main concerns. Terrence has been very nice, but she hasn't seen results. She said there's only a small wall between the two parcels. There's all kinds of trash in the parking lot. The dumpster is frequently overflowing because it's too small, the trash bags aren't tied. It makes their business look bad despite their efforts. Past bars had occasional issues, but it's never been as bad as this.

Chairman Chewing swore in Mr. Jimmy Rhodes, the owner of the Avanti salon building, who spoke next. He said he put in the 2-3 foot high brick wall between the two buildings. He said he hears what's happening from his tenants. They are most concerned about the clientele. He said he built that building in 1984 and never had a problem until now.

Mrs. Moses asked if the parking lot in the rear was for the bar and the salon; Mr. Rhodes said that each had its own parking lot on its parcel.

Mr. Trower said that they've been growing, he underestimated how much trash they'd generate with the restaurant. He's trying to keep the lot cleaned. They've spoken to the plasma business about using their parking lot, and they said they could as long as they keep it cleaned. He does try to clean Avanti's parking lot regularly. They do take it seriously and know their relationship with the neighbors is important.

Mr. Poston asked staff how to proceed. Mr. Dudley said they just need to decide if staff interpreted the ordinance and applied it correctly. Chairman Chewning said they don't necessarily need to list findings of fact, it's more cut and dry, but staff does need guidance going forward.

There being no one else to speak either for or against the application, Chairman Chewning closed the public hearing.

There being no further questions from the Board and no one else to speak for or against the request, Chairman Chewning closed the public hearing and asked for a motion to either approve the City's interpretation, or deny it.

Chairman Chewning moved that the Board agree with City staff and the appeal be denied based on the fact that the location does not meet the requirement of a retail center.

Mr. Poston seconded the motion, and voting to deny the appeal was unanimous (5-0).

MATTER OF DISCUSSION: Mr. Dudley announced that the judge's decision regarding the HBS Motorsports freestanding sign has been issued and requires that the Board address the case again. Staff will bring it back to the Board at the April meeting.

ADJOURNMENT: As there was no further business, Chairman Chewning adjourned the meeting at 7:00 p.m. The next regular meeting is scheduled for April 25, 2024.

Respectfully submitted,

Alane Zlotnicki, AICP
Senior Planner

**DEPARTMENT OF PLANNING, RESEARCH & DEVELOPMENT
STAFF REPORT TO THE
CITY OF FLORENCE BOARD OF ZONING APPEALS**

DATE: April 24, 2024

APPEAL NUMBER: BZA-2024-04

VARIANCE REQUEST: Request for variances from the size requirements and number permitted along a street frontage for free-standing signs.

LOCATION: 124 South Cashua Drive

TAX MAP NUMBER: 90024-04-012

OWNER OF RECORD: HBS of Florence LLC

APPLICANT: Gary Langston, Owner

ZONING DISTRICT: Commercial General (CG)

Previous Action Taken

The Board approved the applicant’s request for freestanding sign variances at the January 26, 2023, meeting (Attachment I). The City appealed the Board’s decision to the County of Florence Court of Common Pleas in an attempt to reverse the zoning variance order granted to HBS Motorsports, LLC. A decision to remand the appeal back to the Board of Zoning Appeals was handed down by the Court citing an inconsistency in the findings of the Order. The application for variances from the *Unified Development Ordinance* regarding freestanding signs is before the Board for decision.

Land Use and Zoning

HBS Motorsports is in the process of improving this location to open for business. No business license has been applied for or issued to this address at the time of the writing of this staff report. A Zoning Permit was issued on February 3, 2021 for the sale of ATVs only. Zoning Permits expire one year after issuance; during this interval the expectation is that a City of Florence Business License will be obtained, otherwise a new Zoning Permit will be required.

According to the HBS Motorsports website, they sell new and used vehicles at their current location of 2112 South Irby Street. Those vehicles consist of “lifted trucks, SUVs, luxury cars, ATVs, UTVs, trailers, and motorcycles.” Their South Irby Street location includes a Service Department. The Commercial General (CG) zoning district does permit light vehicle repair, which the *Unified Development Ordinance* (UDO) defines as repairs typically taking less than two hours with automobiles kept overnight requiring indoor storage. Repairs beyond these restrictions would be considered “heavy”. Heavy automobile repair conditionally requires a masonry wall for outdoor vehicle storage and a 25-foot wide vegetative bufferyard to screen the use from adjacent residential uses.

Site and Building Characteristics

The 7.32 acre parcel is the future site of HBS Motorsports. The parcel has street frontages on South Cashua Drive, West Evans Street, and King Avenue. The approximately 64,000 square foot building was formerly

a Winn-Dixie grocery store. HBS Motorsports currently has a wall sign and two freestanding signs permitted and in compliance with the *Unified Development Ordinance* (UDO) identifying the use. The two freestanding signs are located along the South Cashua Drive and West Evans Street frontages. They are 120 square feet in area each, and 35 feet high. Attachment F compares the size of the existing signs to the proposed sign. Attachment H shows site photos of the current signage.

Unified Development Ordinance Requirements

Table 5-17.2.1B, Table Note E of the *Unified Development Ordinance*, “Regulation of Signs by Type, Characteristics, and Zoning Districts”, does permit a third freestanding sign in the CG zoning district because of the parcel’s multiple street frontages. The additional sign must be located on the respective street frontage. Multiple freestanding signs cannot be combined onto one street frontage, and their permitted areas cannot be combined into one sign.

The maximum freestanding sign area permitted in the CG district is 160 square feet. The maximum freestanding height limit in the CG district is 40 feet.

Variance Request

The applicant is requesting a variance from height and area limits in order to erect a third freestanding sign that is 46 feet high (a height variance of 6 feet) and with a square footage of 535 square feet (a size variance of 375 square feet). The digital portion alone of the proposed sign is 224 square feet. This request is approximately 330% over the maximum allowed square footage. The applicant wishes to repurpose the old Swamp Fox Entertainment Complex sign previously displayed on Highway 501 in Marion, South Carolina (Attachments E and G).

The following information was submitted by the applicant:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows: **We have invested a lot of money into this sign without prior knowledge of the sign restrictions.**
- b. These conditions do not generally apply to other property in the vicinity as shown by: **N/A**
- 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 follows: **The sign is 535 square feet and only 160 square feet is permitted. Height is 46’ and only 40’ is permitted.**
- d. The authorization of the 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 for the following reasons: **We have improved a rundown abandoned building that was an eye sore to the community. It also promoted criminal activity on the premises before we purchased it.**

Issues to be Considered:

Applications for a variance shall be evaluated by the Board of Zoning Appeals on the basis of the following conditions:

1. That a variance from the terms of this Ordinance will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will in an individual case, result in an unnecessary hardship.

Staff Comment: The height and square footage of the sign proposed will far exceed existing adjacent signage and the size permitted by the *Unified Development Ordinance*. The property is currently

allowed three free standing signs, and direct enforcement of the permitted signage will not limit the property owner's ability to fully utilize the allowable number, size, and location of signage.

2. That the spirit of the Ordinance will be observed, public safety and welfare secured, and substantial justice done.

Staff Comment: The proposed signage exceeds the allowable square footage of a billboard in the CG district, 378 square feet, unless within 600 feet of an interstate Right-of-Way. The ordinance permits a sign of this size directly adjacent to I-20 & I-95.

3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property.

Staff Comment: This property is a large single-use parcel with street frontages along South Cashua Drive, West Evans Street and King Avenue. The property is generally flat in its terrain, with no known characteristics that limit the applicant's ability to utilize the allowable signage as determined within the *Unified Development Ordinance*.

4. That these conditions do not generally apply to other property in the vicinity.

Staff Comment: The parcel is large, but comparable to adjacent commercial development with compliant signage.

5. That 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 follows.

Staff Comment: Applying the current height and square footage requirements of the *Unified Development Ordinance* to the applicant's property would not limit or restrict the applicant's ability to fully utilize the allowable signs within the code.

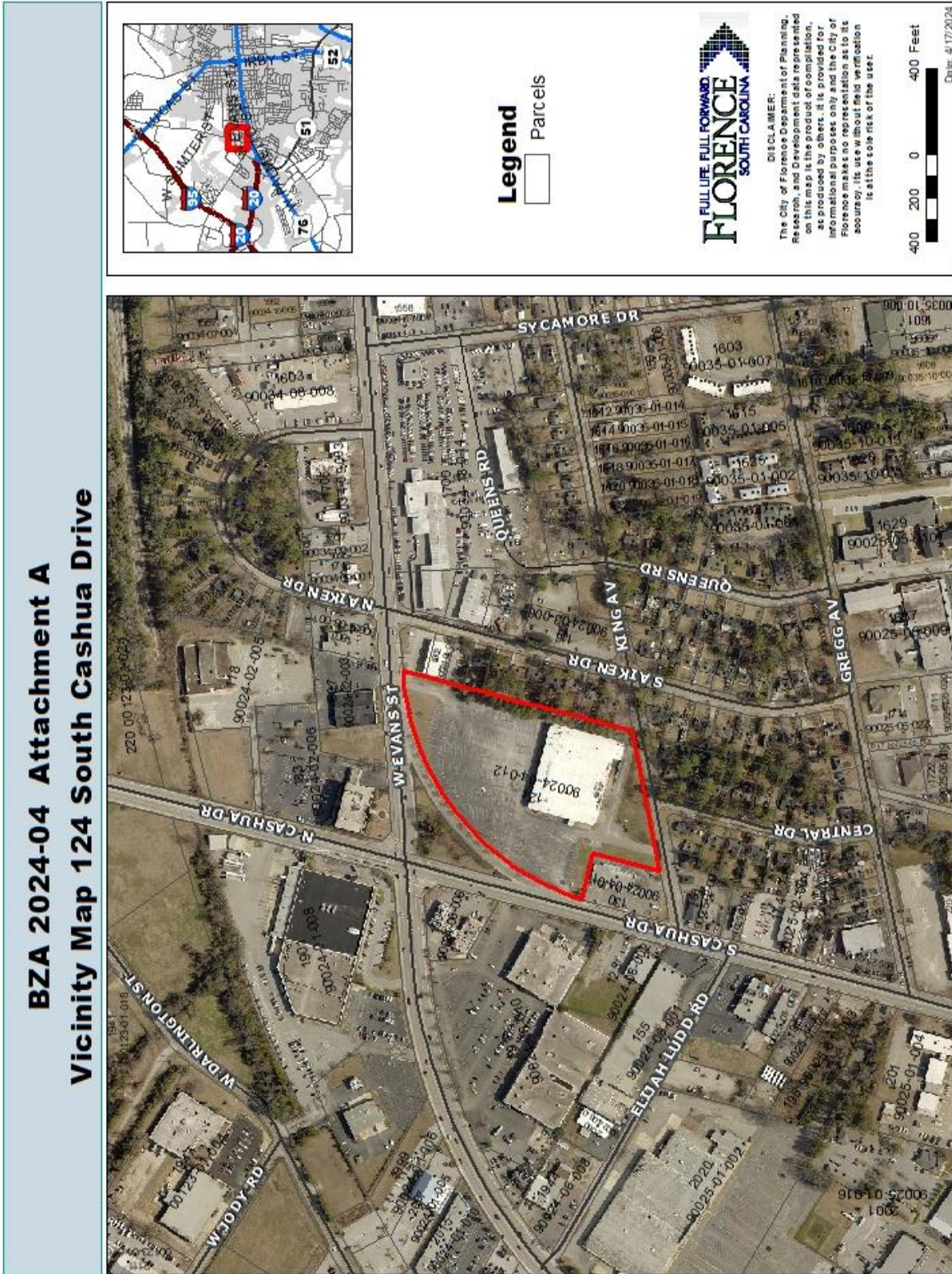
6. That the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

Staff Comment: The height and square footage of the requested sign would be a significant contrast to the existing built environment and would affect future signs permitted in the City of Florence. Depending on the proposed location, adjacent residential property to the east and south may be affected by its size and the digital portion of the sign that is approximately 224 square feet located on both sides of the proposed sign.

Attachments

- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Future Land Use Map
- E. Requested Sign Rendering
- F. Comparison of Existing Signs to Requested Sign
- G. Sign Proposed to be Repurposed
- H. Site Photos
- I. Signed BZA Orders - January 26, 2023 Meeting

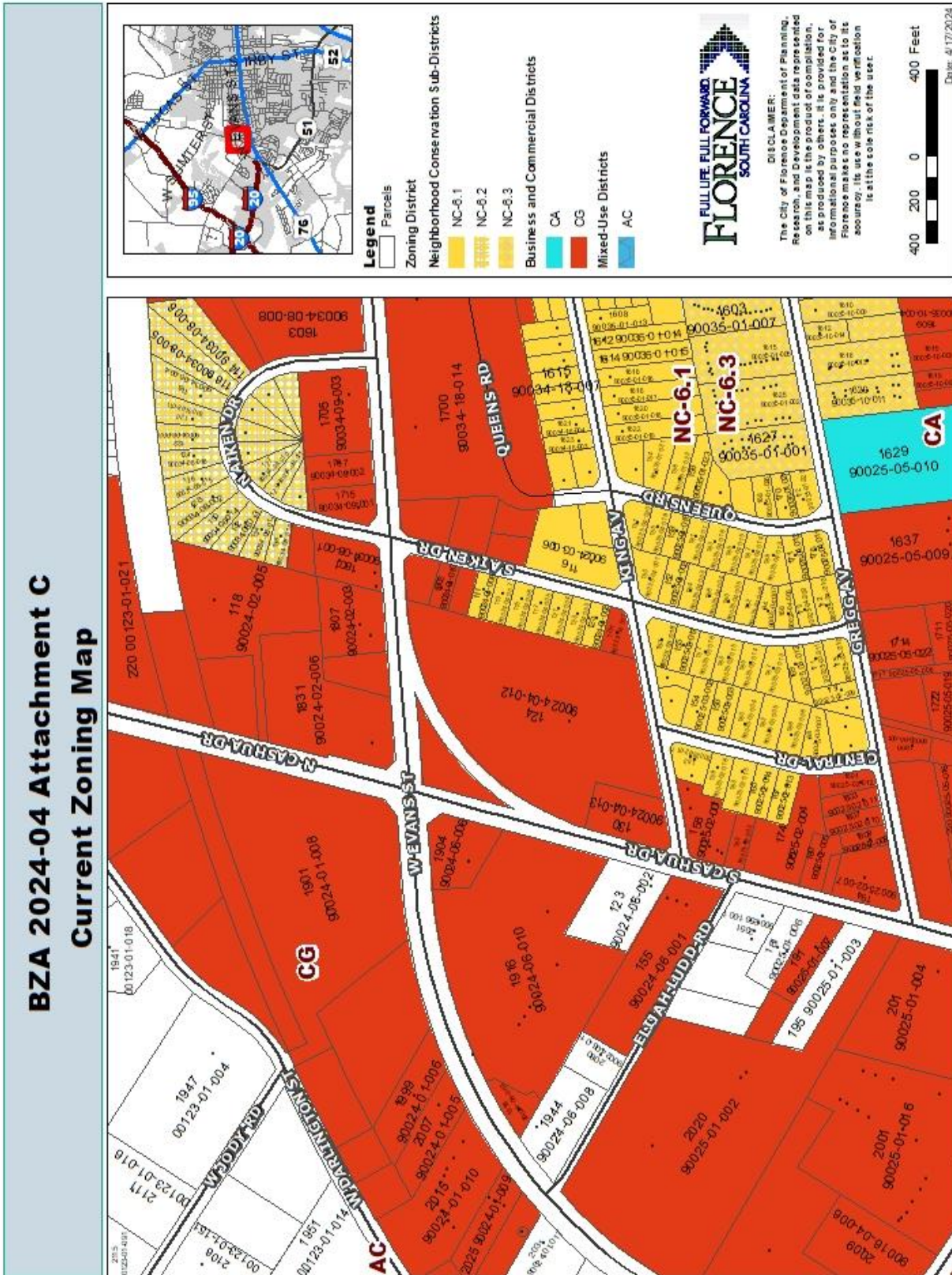
Attachment A: Vicinity Map

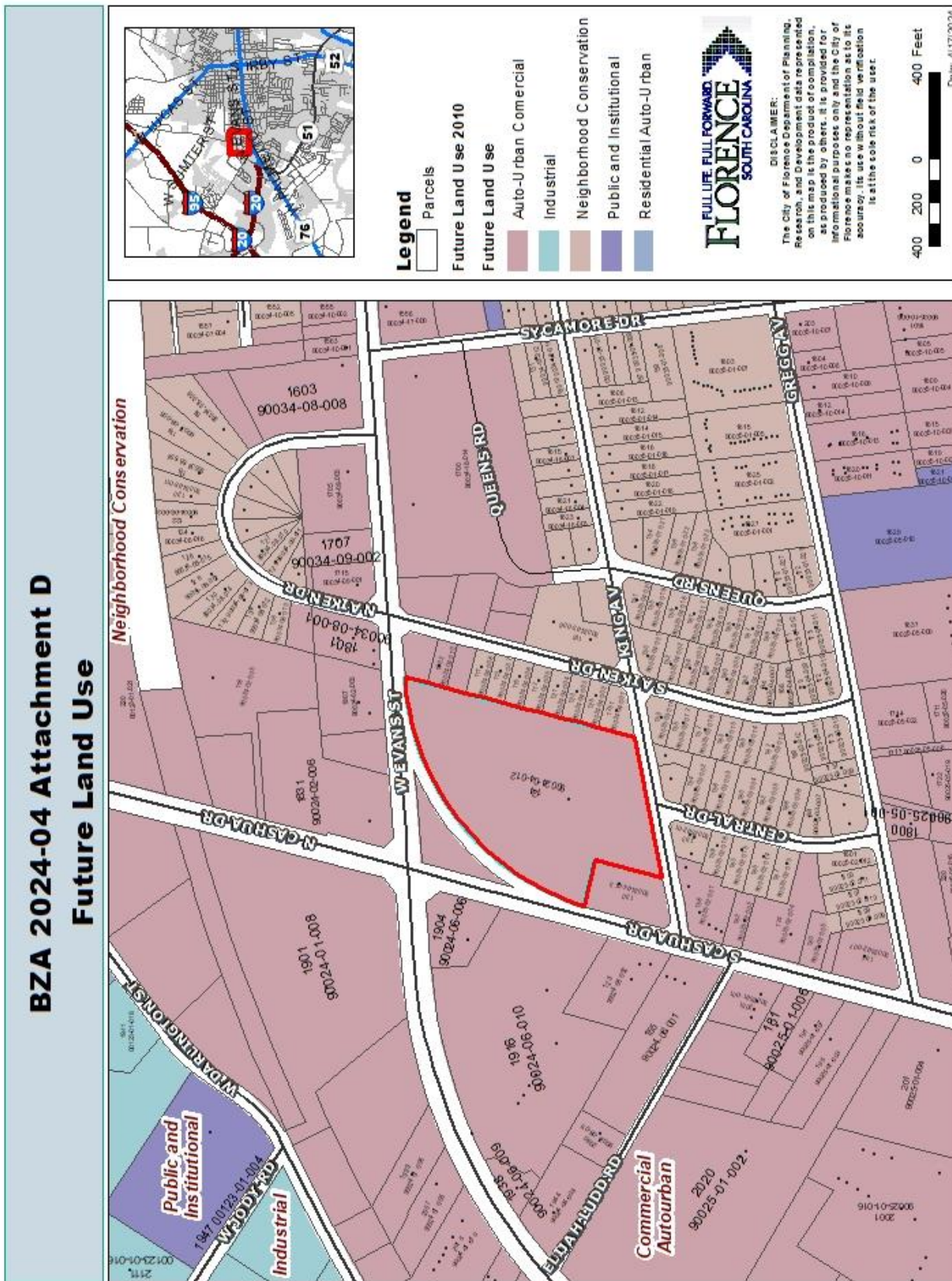


Attachment B: Location Map

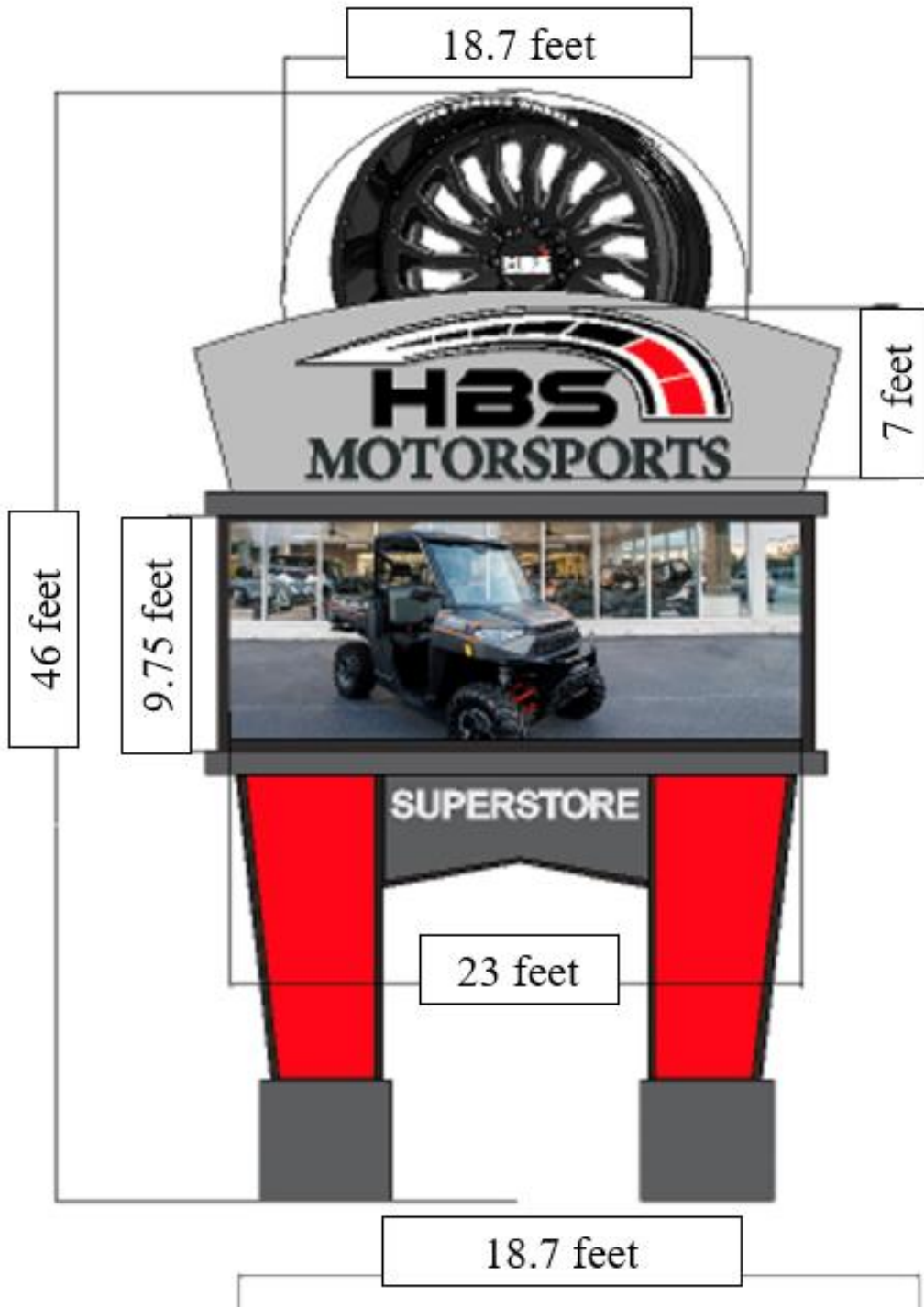


Attachment C: Zoning Map

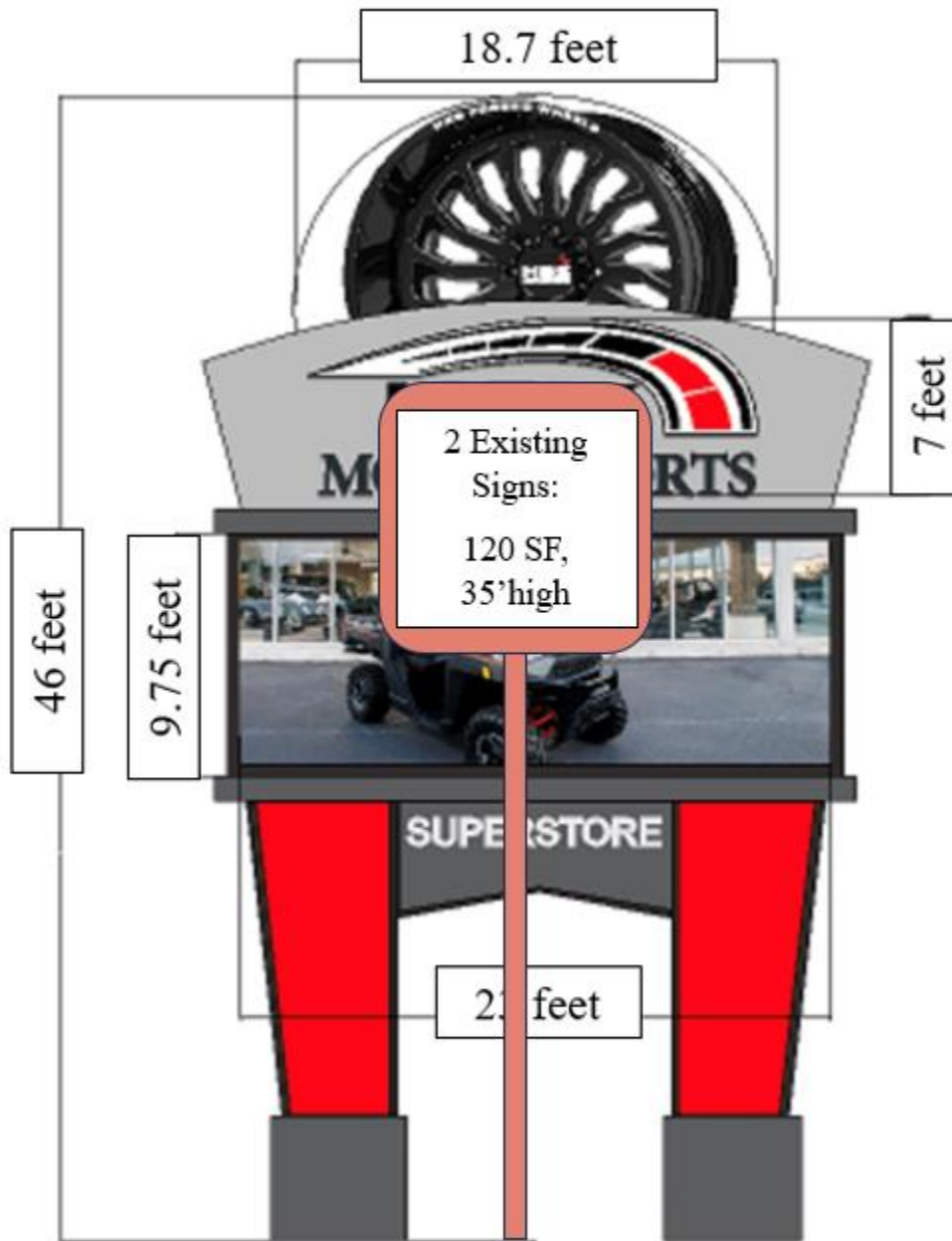




Attachment E: Requested Sign Rendering



Attachment F: Comparison of Existing Signs to Requested Sign



For scale: existing signs compared to requested sign.

Attachment G: Sign Proposed to be Repurposed



Attachment H: Site Photos



Future Site of HBS Motorsports – 124 South Cashua Drive



Existing Freestanding Sign – South Cashua Drive Entrance



Existing Freestanding Sign – West Evans Street Entrance



**ORDER ON VARIANCE APPLICATION
BOARD OF ZONING APPEALS**

Date Filed: 11/30/2022 Permit Application No.: 18397 Appeal No.: BZA-2023-01

The Board of Zoning Appeals held a public hearing on January 26, 2023 to consider the appeal of HBS Motorsports for a variance from the strict application of the *Unified Development Ordinance* regarding freestanding sign height and square footage, affecting the property at 124 South Cashua Drive. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions:


1. That a variance from the terms of the *Unified Development Ordinance* will not be contrary to the public interest when, because of special conditions, a literal enforcement of the provision will, in this individual case, will not result in an unnecessary hardship, in that: **The height and square footage of the sign proposed will far exceed existing adjacent signage and the size permitted by the Unified Development Ordinance. The property is currently allowed three free standing signs, and direct enforcement of the permitted signage will not limit the property owner's ability to fully utilize the allowable number, size, and location of signage.**
2. That the spirit of the *Unified Development Ordinance* will be observed, public safety and welfare secured, and substantial justice done because: **The proposed signage exceeds the allowable square footage of a billboard in the CG district, 378 square feet, unless within 600 feet of an interstate Right-of-Way. The ordinance permits a sign of this size directly adjacent to I-20 & I-95.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property, namely: **This property is a large single-use parcel with street frontages along South Cashua Drive, West Evans Street and King Avenue. The property is generally flat in its terrain, with no known characteristics that limit the applicant's ability to utilize the allowable signage as determined within the Unified Development Ordinance.**
4. That these conditions do not generally apply to other property in the vicinity, in that: **The parcel is large, but comparable to adjacent commercial development with compliant signage.**
5. That because of these conditions, the application of the *Unified Development Ordinance* to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property by: **Applying the current height and square footage requirements of the Unified Development Ordinance to the applicant's property would not limit or restrict the applicant's ability to fully utilize the allowable signs within the code.**
6. That 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, because: **The height and square footage of the requested sign would be a significant contrast to the existing built environment and would affect future signs permitted in the City of Florence. Depending on the proposed location, adjacent residential property to the east and south may be affected by its size and the digital portion of the sign that is approximately 224 square feet located on both sides of the proposed sign.**

The Board, therefore, orders that the variance be granted, subject to the following conditions: N/A

Date Issued: 01/27/2023

Date Mailed to Parties of Interest: 1/28/23

Approved by the Board by majority vote:



Chairman



Secretary

Notice of appeal to circuit court must be filed within 30 days after date this Order was mailed.

Board of Zoning Appeals Motion Worksheet

Case Number: BZA 2024-04 Nature of Request: Sign Height and Area Variance

I move that we grant / deny the request for a variance based upon the following findings of fact:

1. That a variance from the terms of the *Unified Development Ordinance* will not / will be contrary to the public interest when, because of special conditions, a literal enforcement of the provision will, in this individual case, result in an unnecessary hardship, in that:

2. That the spirit of the *Unified Development Ordinance* will / will not be observed, public safety and welfare secured, and substantial justice done because:

3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property, namely:

4. That these conditions do not generally apply to other property in the vicinity, in that:

5. That because of these conditions, the application of the *Unified Development Ordinance* to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property by:

6. That the authorization of a variance will not / will be of substantial detriment to adjacent property or to the public good, and the character of the district will not / will be harmed by the granting of the variance, because:

Guidelines applicable to the granting of a variance:

1. Profitability: the fact that a property may be used more profitably if the variance is granted may not be used as the basis for granting the variance.
2. Conditions: the BZA can put conditions on the granting of the variance.
3. Use Variance: the BZA cannot grant a variance that would allow a use not permitted in the zoning district.
4. Hardship: the hardship cannot be based on conditions created by the owner/applicant.

Notes: