



Agenda

**Board of Zoning Adjustment Meeting
June 15, 2016 at 5:30 PM
C. Michael Haney Community Room
Southern Pines Police Department
450 West Pennsylvania Avenue**

- I. Call to Order
- II. Approval of Minutes – July 8, 2015
- III. Administer Oath of Testimony
- IV. Hearing:

A-01-16 Request for Variance from Signage Standards; 160 Pinehurst Avenue; Petitioner, Olive Branch Properties, LLC

On behalf of the petitioner Olive Branch Properties, LLC, owner/manager Mr. Chris Davis has submitted an application requesting a variance from the Unified Development Ordinance sign ordinance for the following sections: UDO Section 4.6.7, UDO Section 4.6.10 (A), UDO Section 4.6.10 (B), and UDO Section 4.6.7 (K) to allow the sign as proposed (see attachments) to be permitted. The property is zoned GB (General Business). The property is identified by the following: PIN: 857115539055 (PARID: 00048571). Per the Moore County Tax records, the property owner is listed as Olive Branch Properties, LLC.

- V. Adjournment

Agenda Item

To: Board of Zoning Adjustment

Via: Bart Nuckols, Planning Director

From: Chris Kennedy, Senior Planner

Subject: A-01-16 Request for Variance from Signage Standards;
160 Pinehurst Avenue; Petitioner, Olive Branch
Properties, LLC

Date: June 15, 2016

A-01-16 Request for Variance from Signage Standards; 160 Pinehurst Avenue; Petitioner, Olive Branch Properties, LLC

On behalf of the petitioner Olive Branch Properties, LLC, owner/manager Mr. Chris Davis has submitted an application requesting a variance from the Unified Development Ordinance sign ordinance for the following sections: UDO Section 4.6.10 (B) and UDO Section 4.6.17 (K) to allow the sign as seen in the attachments to be permitted. The property is zoned GB (General Business). The property is identified by the following: PIN: 857115539055 (PARID: 00048571). Per the Moore County Tax records, the property owner is listed as Olive Branch Properties, LLC.

Staff Comments:

- The subject property is 3.23 acre tract in the GB (General Business) zoning classification.
- The establishment is currently in non-compliance as the petitioner installed the sign without obtaining the proper Town approval of a sign permit. Staff cannot comment to the permissibility of the sign or necessarily state which sections of the UDO is compliant with until specific dimensions are provided.
- The subject sign is currently installed on the structure. The petitioner seeks the approval of a variance to allow the sign to remain in place.
- The petitioner is seeking a variance due to the proximity of the establishment to the adjacent properties. The petitioner is claiming that the setback of the adjacent apartments and the required vegetation presents a hardship for the storage facility with respect to its signage and visibility. Additionally the petitioner is purporting that the adjacent land use and claimed “spot zoning” of the neighboring property creates a hardship for the storage facility.
- The petitioner is seeking a variance from the following UDO Sections:
 - A. 4.6.17 (K) – Awning signs shall be located on the awning valance and shall not exceed twelve (12) square feet in area or cover more than twenty (20) percent of the awning area.
 - The sign extends above the valance and therefore does not comply with this regulation.

- C. In granting variances, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.
 - D. A motion to deny a variance may be made on the basis that any one or more of the four criteria are not satisfied or that the application is incomplete. In so far as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion shall be adopted as the Board of Adjustment's decision if supported by more than one-fifth (1/5) of the Board's membership (excluding vacant seats).
- Per Section 2.22.6 *Criteria* of the Town of Southern Pines Unified Development Ordinance:
 A variance may be granted by the Board of Adjustment if it concludes that strict enforcement of the ordinance would result in practical difficulties or unnecessary hardships for the Applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it finds that:
 - A. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
 - B. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public may not be the basis for granting a variance.
 - C. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting a variance shall not be regarded as a self-created hardship.
 - D. 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.

In granting variances, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

- ***Should the Board of Adjustment wish to grant the variance request, in full and as applied for, the Board would grant a variance from Section 4.6.10 (B) and Section 4.6.17 (K).***

Attachments:

- GIS Aerial Vicinity Map
- Board of Adjustment Application
- Proposed Sign
- Existing Conditions

Board of Adjustment Actions:

To either approve or deny the *Variance* request, the Board of Adjustment must make findings of fact and conclusions to the applicable standards. The Board of Adjustment shall first vote on whether the application is complete and whether the facts presented are relevant to the case. The Board of Adjustment shall then vote on whether the application complies with the criteria as set forth in Section 2.22.6 Criteria for a Variance. The Board of Adjustment may choose one of the following motions or any alternative they wish:

Finding of Fact #1

- 1) I move that as a finding of fact that the application is complete and that the facts submitted are relevant to the case, in that....

Or

- 2) I move that as a finding of fact the application is incomplete and/or that the facts submitted are not relevant to the case, in that.....

Finding of Fact #2

- 1) I move that as a finding of fact the application complies with Section 2.22.6(A) Criteria for a variance, in that.....

Or

- 2) I move that as a finding of fact the application does not comply with Section 2.22.6(A) Criteria for a variance, in that.....

Finding of Fact #3

- 1) I move that as a finding of fact the application complies with Section 2.22.6(B) Criteria for a variance, in that.....

Or

- 2) I move that as a finding of fact the application does not comply with Section 2.22.6(B) Criteria for a variance, in that.....

Finding of Fact #4

- 1) I move that as a finding of fact the application complies with Section 2.22.6(C) Criteria for a variance, in that.....

Or

- 2) I move that as a finding of fact the application does not comply with Section 2.22.6(C) Criteria for a variance, in that.....

Finding of Fact #5

- 1) I move that as a finding of fact the application complies with Section 2.22.6(D) Criteria for a variance, in that.....

Or

- 2) I move that as a finding of fact the application does not comply with Section 2.22.6(D) Criteria for a variance, in that.....

Once the Board of Adjustment votes on whether the proposed *Variance* request meets the specified criteria set forth in Section 2.22.6 the Board of Adjustment shall then vote to approve, deny, or approve with conditions the *Variance* request. The Board of Adjustment may impose such reasonable conditions to ensure the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties. The Board of Adjustment could make one of the following motions for any alternative they wish:

I move to:

1. Approve the Variance request under the application A-01-16;
2. Deny the Variance request under the application A-01-16; OR
3. Approve the Variance request under the application A-01-16 with the following additional conditions...

IN ADDITION TO THE *Variance from Board of Zoning Adjustment*, THE APPLICANT SHOULD BE REMINDED THAT ALL APPLICABLE PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION AND/OR DEMOLITION CAN BEGIN. When the applicant applies for the required permits such as zoning, grading, soil erosion control, building, sign, etc., a set of detailed plans (including a site plan in compliance with various Sections of the Town of Southern Pines UDO) will be necessary. Planning staff recommend a staff consultation of the applicant's preliminary plans to provide comprehensive remarks by all appropriate Town departments/divisions. Such staff consultation should minimize development costs, avoid misunderstanding or misinterpretation and ensure compliance with the requirements in the UDO.

A-01-16 Request for Variance from Signage Standards 160 Pinehurst Avenue

This map was created by the Town of Southern Pines Planning Department. The Town of Southern Pines, its agents and employees make NO warranty as to the correctness or accuracy of the information set forth on this media whether expressed or implied, in fact or in law, including without limitation the implied warranties of merchantability and fitness for a particular use. Any resale of this data is strictly prohibited in accordance with North Carolina General Statute 132-10. Grid is based on North Carolina State Plane Coordinate System NAD83 (feet).



APPLICATION FOR HEARING BEFORE THE
BOARD OF ADJUSTMENT
Town of Southern Pines, North Carolina

Date: 4-28-2016

Case Number A-01-16

TO THE TOWN OF SOUTHERN PINES
BOARD OF ADJUSTMENT

I, the undersigned, do hereby make application for your consideration of my request as hereinafter described:

1. Which of the following do you seek from the Southern Pines Board of Adjustment?
- Variance** (if checked, complete Section A) (Fee: \$85.00)
 - Appeal of an order of determination made by an administrative official** (if checked, complete Section B) (Fee: \$85.00)
 - Interpretation of a Zoning Map** (if checked, complete Section C) (Fee: \$85.00)

2. The property that is the subject of this application is located on the SOUTH side of PINEHURST Street/Avenue/Road between US #1 HWY Street/Avenue/Road and 15-501 HWY Street/Avenue/Road. The address is 1606 PINEHURST AVE, SOUTHERN PINES and is known as PIN Number 857115539055 and Parcel ID (LRK) 00048571. It has a frontage of 12? feet and a of 325' depth of 60 feet, containing _____ acres.

3. Please list all of the individuals, firms or corporations owning each parcel adjacent to the property that is the subject of the hearing requested. Notice shall be mailed to the owners of all properties involved in the permit request as well as to the owners of all properties or any portion of which within two hundred (200) feet of the outermost boundaries of the property owned by the applicant. Not fewer than ten (10) closest property owners shall be notified by mail. It is required to furnish PIN and Parcel ID (LRK) Numbers for each property along with the property owner's name and address. Attach an additional sheet if needed.

Please note that if you have more than (10) ten adjacent property owners, use another sheet for additional names, if necessary. Please include a stamped envelope addressed to each adjacent property owner with the following return address: Town of Southern Pines, Attn: Planning Department, 180 SW Broad Street, Southern Pines, NC 28387

PETITIONERS SIGNATURE IS REQUIRED BEFORE APPLICATION IS ACCEPTED.

NOTE: If a corporation makes the request, the names and addresses of all officers in the corporation must be provided.

The application or a representative of the applicant is expected to attend all meetings to answer questions concerning the request. The absence of the applicant is sufficient ground to warrant a deferral of action by the Board of Adjustment.

POSSIBLE SUMMARY DISPOSITION OF APPLICATION

If the zoning administrator concludes that the application fails to allege a matter that the Board of Adjustment may hear or that the applicant lacks standing to seek the hearing, the zoning administrator will so notify the Chairman of the Board of Adjustment, who may poll individually the members of the Board of Adjustment and, if a majority confirm the zoning administrator's conclusion, the applicant shall be notified that the Board will not hear the matter. The applicant may appeal any such decision to Superior Court.

SECTION A - VARIANCE

1. The requirement of the Town's Unified Development Ordinance from which I seek a variance is the provision of Section _____ of the Unified Development Ordinance that provides:

SIGN ORDINANCE FOR 160 - PINEHURST AVE, SP

2. The property that is the subject of this application fails to meet this requirement in the following way:

8' TO LOW -
? DOES

3. I believe that I will be able to demonstrate the following:

- (1) The hardship of which I complain is one suffered by me rather than by the neighbors or the general public;
- (2) The hardship relates to my land, rather than personal circumstances;
- (3) The hardship is unique, or nearly so, rather than one shared by many surrounding properties;
- (4) The hardships is not a result of my own actions; and,
- (5) The variance will neither result in the extension of a nonconforming situation in violation of the UDO nor authorize the initiation of a nonconforming use of land.

A variance may be granted by the Board of Adjustment only if the Board concludes that each of the circumstances listed above, exists and that strict enforcement of the ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety and welfare secured and substantial justice done. In granting variances, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties. A variance may be issued for an indefinite duration or for a specified duration only.

Section A -Variance {REQUEST}

Town Of Southern Pines, NC
Board of Adjustment
April 28th, 2016

RE:#3- I believe that I will be able to demonstrate the following responses to the items {1} - {5} as follows.

Chris Davis ,Owner / Manager
Olive Branch Properties, LLC
DBA , Pinehurst Self Storage 24/7
160-M Pinehurst Avenue
Southern Pines, NC 28387

{1} The hardship of which i complain is one suffered by me rather than by the neighbors or the general public : The signage in question is at the far East end of 160- Pinehurst Avenue building and is obscured by adjacent , forward sitting apartments with less set back than i was required to abide by in acquiring my building permit. As a result of this fact and the required plantings , we have limited visibility for our 500plus tenants to find our office location.

{2} The hardship relates to my land , rather than personal circumstances:

This hardship is related to the land zoning as I was permitted to build next to what i feel is a "SPOT ZONING" of apartments done earlier in the town's history and is of no fault of the business district which we comply with. There are no personal circumstances involved in a visibility issue of a sign.

{3} The hardship is unique , or nearly so, rather than one shared by many surrounding properties:Although there are very few other "spot zoning" circumstances adjacent to commercial shopping and professional office buildings to my knowledge, this is a prime example of how that miss match causes the obscurity of signage on the East side of 160 Pinehurst Avenue. Our signage is unable to be seen by clients traveling East to West on Pinehurst Avenue. Perry Brothers Tire Service has a similar problem but not to the same degree that our STORAGE24/7 sign does .

{4} The hardship is not a result of my own actions:My request is to be permitted to mount the small STORAGE 24/7 in a manner that it can be seen by our clients as they drive along Pinehurst Avenue . This storage facility pays real estate taxes in excess of \$27,000 in city and county taxes each year and we are asking for permission to mount the sign lower than the ridge of our roof with 7'3' of clearance to the finished floor accessing a double door storefront 6' wide and 6'8" high door to our office.

{5}The variance will neither result in the extension of a conforming situation in violation of the UDO nor authorize the initiation of a nonconforming use of the land

This request is for a sign variance to allow our clients to locate our office. We are a permitted use in our zoning and we are conforming in land usage . Our hardship exists because of a forward sitting , residential apartment building which obscures our business signage and we request that the signage be mounted as it currently is , so that it can be seen by our customers.

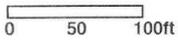
Signed J. Chris Davis , Owner /Manager of Olive Branch Properties, LLC

Please note:

all adjacent property owner have been informed by me personally with no one objecting to the sign as is.



Map Contents



* SIGN IS ON
 * SUBJECT PROPERTY ALSO, TAX IDS

* OLIVE BRANCH PROPERTIES, LLC
 ACROSS STREET # 00048521
 NEXT TO NEAL SMITH & BILL RUSSELL

1. Property owners' name: CHRIS DAVIS MGR OLIVE BRANCH PROP. LLC

Mailing Address: P.O. Box 1100

ID# 00048571

SOU. PINES, N.C. 28388

Parcel ID/LRK #: 00048521 - 160 - PINELAKE AVE, S.P., N.C.

Adjacent Property Address: 120 PINELAKE AVE
 SOUTHERN PINES, N.C. 28387

2. Property owners' name: DON AND MARY HILL

Mailing Address: 15 WEST LAKE POINT DR.

ID# 00090324

PINELAKE, N.C. 28374
 (910 - 295 - 2002)

Parcel ID/LRK #: (00050324)

Adjacent Property Address: 150 PINELAKE AVE, S.P., N.C. 28387

3. Property owners' name: DANNY D. DORTON

Mailing Address: 480 E. HEDGE LANE WAY

ID# 20050756

SOUTHERN PINES, N.C. 28387

Parcel ID/LRK #: # 20050756

Adjacent Property Address: NIMMIE & DORIS HONSUCKER
 125 PINELAKE AVE

4. Property owners' name:

Mailing Address: 125 PINELAKE AVE

ID# 00050807

SOUTHERN PINES, N.C. 28387

Parcel ID/LRK #: 00050807

Adjacent Property Address: 135 PINELAKE AVE
 135 PINELAKE AVE

5. Property owners' name: NEAL SMITH ENGINEERING CORP

NEXT PAGE

ADJACENT PROPERTY ADDRESS
135 PINEHURST AVE - NOW - GROTTO GRILL

5. PROP OWNER'S NAME NEAL SMITH ENGINEERING CORP

Mailing Address: C/O NEAL SMITH
139 PINEHURST AVE SUITE "C"
SOUTHERN PINES, N.C. 28387

Parcel ID/LRK #: 00047654

910
692-4775

Adjacent Property Address: 195 PINEHURST AVE, SP, NC.
SOUTHERN PINES, NC. 28387

6. Property owners' name: MR. BILL RUSSELL

Mailing Address: C/O WKR PROPERTIES, INC.
PO BOX 12137
NEWPORT BEACH, CA. 92658-5063

Parcel ID/LRK #: 00055077

Adjacent Property Address: DANNY & TEDDY OVERTON
110 SANDY LANE
SP, NC

7. Property owners' name:

Mailing Address: DANNY & TEDDY OVERTON
50 OVERTON'S BODY SHOP
110 SANDY LANE
SOU. PINES, N.C. 28387

(2) Parcel ID/LRK #: 00053847
00053849

Adjacent Property Address: 112 SANDY AVE
SP, NC.

695-0802

8. Property owners' name: BOBBY OVERTON 910

Mailing Address: 450 N. BENNETT ST.
SOU. PINES, N.C. 28387

Parcel ID/LRK #: 10001599

Adjacent Property Address: 195 SANDY LANE
SP, NC.

9. Property owners' name: SAM SHELBY

Mailing Address: C/O SANDY LANE, LLC
70 E MCKENZIE ROAD
PINEHURST, N.C. 28374
X910 295 5165

ADJ PROP PARCEL ID # 00049004

Parcel ID/LRK #: _____

Adjacent Property Address: _____

10. Property owners' name: _____

Mailing Address: _____

Parcel ID/LRK #: _____

Adjacent Property Address: _____

4. I certify that all information furnished in this petition is accurate to the best of my knowledge.

Petitioner's Name (Please Print or Type) J. CHRIS DAVIS MGR/OWNER OF
Petitioner's Signature [Signature] OLIVE BRANCH PROPERTIES, LLC
Mailing Address P.O. Box 1100, Southern Pines, NC.

Phone Number (910) 690 3778 Email comfortstudio@gmail.com

(SALE)
Property Owner (Please Print or Type) OLIVE BRANCH PROPERTIES, LLC
JON CHRISTOPHER DAVIS OWNER/MGR

Mailing Address P.O. Box 1100
SOU. PINES, N.C. 28388

Phone Number (910) 690 3778 Email comfortstudio@gmail.com



PIN:857115539055
PARID:00048571
NAME:OLIVE BRANCH
PROPERTIES, LLC
ADDRESS:PO BOX 1100
CITY:SOUTHERN PINES
STATE:NC
ZIP:28388

PIN:857115622948
PARID:00050324
NAME:DKJB, LLC
ADDRESS:15 WEST LAKE POINTE
DRIVE
CITY:PINEHURST
STATE:NC
ZIP:28374

PIN:857115621707
PARID:20050756
NAME:DORTON, DANNY D
ADDRESS:480 E HEDGELAWN
WAY
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387

PIN:857100528767
PARID:00049004
NAME:SANDY LANE, LLC
ADDRESS:70 E MCKENZIE RD
CITY:PINEHURST
STATE:NC
ZIP:28374

PIN:857100526872
PARID:20100071
NAME:OVERTON BODY SHOP
ADDRESS:140 SANDY AVE
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387-7032

PIN:857115537340
PARID:00053847
NAME:OVERTON, T T & E D
OVERTON
NAME2:OVERTON'S BODY SHOP
ADDRESS:110 SANDY LANE
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387-7516

PIN:857115537204
PARID:10001599
NAME:OVERTON, ROBERT TERRY
ADDRESS:450 N BENNETT ST
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387

PIN:857115535188
PARID:00053849
NAME:OVERTON, TYLER
THEODORE
ADDRESS:9307 CALLOWAY RD
CITY:ABERDEEN
STATE:NC
ZIP:28315

PIN:857115536324
PARID:00053848
NAME:OVERTON, TYLER
THEODORE &
NAME2:OVERTON, ERNEST
DANIEL
ADDRESS:9307 CALLOWAY RD
CITY:ABERDEEN
STATE:NC
ZIP:28315

PIN:857115524998
PARID:00053844
NAME:OVERTON BODY SHOP
ADDRESS:140 SANDY AVE
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387-7032

PIN:857115539605
PARID:00048521
NAME:OLIVE BRANCH
PROPERTIES, LLC
ADDRESS:PO BOX 1100
CITY:SOUTHERN PINES
STATE:NC
ZIP:28388

PIN:857115535698
PARID:00051211
NAME:W K R PROPERTIES, INC
ADDRESS:PO BOX 12137
CITY:NEWPORT BEACH
STATE:CA
ZIP:92658-5053

PIN:857115549165
PARID:00053338
NAME:MOORE HOUSING
PARTNERSHIP
ADDRESS:PO BOX 26405
CITY:GREENSBORO
STATE:NC
ZIP:27404-6405

PIN:857115631828
PARID:00053963
NAME:PARKS, JUANITA M HRS
NAME2:C/O O TRACY PARKS, III
ADDRESS:PO BOX 4077
CITY:PINEHURST
STATE:NC
ZIP:28374

PIN:857115632822
PARID:00047508
NAME:U-STOR IT MINI
WAREHOUSES, LLC
ADDRESS:112 BRIDGEWATER DR
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387

PIN:857115634602
PARID:00047654
NAME:NEAL SMITH
DEVELOPMENT CORP
ADDRESS:139 PINEHURST AVE
STE C
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387

PIN:857115633302
PARID:00050807
NAME:HUNSUCKER, JIMMIE R &
DORIS M&
NAME2:HUNSUCKER FAMILY
TRUST, THE
ADDRESS:125 PINEHURST AVE
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387

PIN:857115633260
PARID:00050805
NAME:HUNSUCKER FAMILY TRUST, THE
ADDRESS:125 PINEHURST AVE
CITY:SOUTHERN PINES
STATE:NC
ZIP:28387

PIN:857115635055
PARID:00052888
NAME:R A SOUTHERN PINES, LLC
NAME2:C/O SIG
ADDRESS:150 E 58TH ST STE 2400
CITY:NEW YORK
STATE:NY
ZIP:10155

PIN:857115623848
PARID:20040358
NAME:PERRY BROTHERS PARTNERSHIP
ADDRESS:PO BOX 968
CITY:SANFORD
STATE:NC
ZIP:27331-0968

PIN:857115622750
PARID:00056396
NAME:DAWSON, JAMES M & ELIZABETH A
ADDRESS:10 VILLAGE GREEN EAST
CITY:PINEHURST
STATE:NC
ZIP:28374





Existing Conditions





