

- I. During the work session, City Attorney Shane Black described the second item on the agenda (Request for a rehearing of Lang Chiropractic’s Type-A buffer variance request). Mr. Black advised that the Chairman of the Board would be within his rights to seek a motion and a second to enter into an executive session. Board Chair Greg Greene then called for a motion to enter into executive session.

Greg Skipworth offered the following resolution and moved its adoption:

“BE IT RESOLVED BY THE BOARD OF ZONING ADJUSTMENTS OF THE CITY OF ATHENS, ALABAMA, that the members of the Board of Zoning Adjustments enter into an executive session.”

Larry Bulingame seconded the motion, and the vote was unanimous of the voting members present.

-
- I. **Call to Order.** The Board of Zoning Adjustments of the City of Athens, Alabama met in Regular session in the City Council Chambers on May 18, 2023 at 5:30 PM, after a short work session and an executive session. A motion to open the meeting was made by Greg Skipworth and seconded by Al Wassum.
 - II. **Roll Call.** Board Members Present: Chair Greg Greene, Al Wassum, Greg Skipworth, Larry Burlingame, Jeff Bass, and Rod Herron. Erin Tidwell, City Planner, along with Paige Parker, Planner and Andrea Colburn, Administrative Coordinator, were also present.
 - III. **Discussion.** Mr. Greene opened the meeting by explaining that the Board takes each case on its own merit. Mr. Greene also explained the format of the meeting.
 - IV. **Minutes.** Greg Skipworth offered the following resolution and moved its adoption:

“BE IT RESOLVED BY THE BOARD OF ZONING ADJUSTMENTS OF THE CITY OF ATHENS, ALABAMA, that the minutes for the April 20, 2023 meeting be approved.”

Jeff Bass seconded the motion, and the vote was unanimous of the voting members present.

Old Business: none

New Business:

- V. **Public Hearing.** Request of Karl Hall, regarding a variance to Zoning Ordinance Table 6-9: *Sign Position, Density, Area, and Height by District* to allow for a business center sign to be placed on

a single lot with a single tenant located at The Shoppes at Lindsay Lane at 1880 US Highway 72 E. Athens, AL 35611, Zoned B-2, General Business District.

City Planner Erin Tidwell described the request. Ms. Tidwell explained that there are currently approved two identical signs for the property; one being a single tenant sign, and the other being a multi-tenant, business center sign. Ms. Tidwell went on to say that the applicant is not wanting to change the size or style of the signs, but rather make the single-tenant sign a multi-tenant one. The applicant's letter stating their hardships was read by Ms. Tidwell to the Board during the Work Session, in addition to a copy being provided to each Board member.

Greg Skipworth clarified that this is a single tenant on a single lot making this request. Ms. Tidwell confirmed that.

Mr. Skipworth then observed that Slim Chickens's footprint covers the entirety of the sign that has already been approved.

Ms. Tidwell stated that both these sites are being developed together as "The Shoppes at Lindsay Lane". Additionally, the tenants on both lots will share access points and circulation. Ms. Tidwell stated staff has already approved the signs as shown (refer to the presentation).

Greg Greene confirmed that the first set of signs shown (referring to the presentation) have already been approved, and the applicant is wanting to change out the panels on one of the signs.

Mr. Skipworth stated that the applicant is the only tenant, and therefore ineligible for a business center sign. Ms. Tidwell answered that as the Zoning Ordinance currently reads, this lot would be eligible for a single-tenant detached sign.

Larry Burlingame asked Ms. Tidwell what Staff's recommendation was for this request. Ms. Tidwell responded that Staff would leave it to the discretion of the Board.

Mr. Greene asked if anyone was present to speak on behalf of the request. TJ Lee (28523 Hwy 431 Grant, AL 35747) with Leeland Ventures came forward and stated that he is the owner of the property.

Mr. Lee stated that the reason for this request is because the property, though it's two separate lots, is being developed corporately as "The Shoppes at Lindsay Lane", with an outparcel (Slim Chickens), similar to other developments. Mr. Lee went on to say that the parcels were separated into two lots for financing purposes, but the development is a singular one.

Mr. Lee stated that two signs have already been approved. Both signs are of the same style and size. Mr. Lee stated that a hardship exists for tenants in the back. Mr. Lee further explained that the entire development shares sewer, underground detention facilities, and through easements.

Mr. Lee is concerned that those driving along US Hwy 72 won't be able to see what businesses are at the rear of the development. Likewise, those driving along Lindsay Lane may not be able to see Slim Chickens at the front of the development.

Mr. Lee believes the signage is necessary, if for no other reason than to assist with traffic flow in and out of, and through, the development.

Mr. Lee pointed to the Publix Plaza across US Hwy 72 from this development. He stated that they have a similar situation, and have two signed entrances as well. Mr. Lee realizes that in Publix's case, the approval for their signage may have preceded the adoption of the newest Zoning Ordinance.

Mr. Lee said he's spoken with the neighbors of the development. He believes the variance in signage is a positive one and will assist in traffic flow and be a benefit to the community. Also, the signage is vital for competitive disadvantage to the businesses in the back.

Mr. Skipworth stated that if the Board were to grant the variance, they would be granting a variance for applicants that haven't asked for one. Mr. Skipworth stated that the signage that the applicant already has approved was granted based on his being a single tenant on a single lot, even though the development is collectively known as "The Shoppes".

Mr. Skipworth stated that the approved signs already say "The Shoppes". Mr. Skipworth stated that he understands, but the Board must apply the Zoning Ordinance based on what the reality is, and the reality is that the applicant is a single tenant.

Mr. Lee said that he has already started the pre-leasing process on the development center at the back of the site, and inevitably the first question potential tenants will want to know is "how will customers know I'm back here?". The signage, or lack thereof, is impacting his ability to lease.

Mr. Skipworth stated that the Board can't interpret the Zoning Ordinance that way. Mr. Skipworth stated that Mr. Lee made a business decision to purchase and develop that particular lot with its restrictions in place.

Mr. Skipworth also said that the Board cannot take cost, potential or lost, of the applicant into consideration. If one of the future tenants of the development center wants more signage on that side, they would have to pay the \$20 application fee and ask for a variance, which would be addressed separately.

Mr. Lee asked the Board if this property hadn't been divided, and was all one parcel, would he still be allowed to have two signs?

Ms. Tidwell came forward and stated that the Board of Zoning Adjustments has addressed similar cases in the past, for example Publix on US Hwy 72 and US Hwy 31, both of which have more

than one business center signs though they are on a single lot. Ms. Tidwell stated that leniency has been granted in some cases in the past.

Mr. Skipworth clarified that Slim Chickens will be on both signs. Ms. Tidwell answered by describing the signage already approved. Mr. Skipworth stated that Slim Chickens is getting two signs.

Ms. Tidwell explained that Staff doesn't approve the tenant on the sign, only the structure of the sign itself.

Mr. Skipworth stated that they can only address how the request would affect the single applicant. In this case, the single applicant has a large Slim Chickens sign which alleviates the issue of their last variance request in which the Board didn't approve all the external signage requested for the building.

Mr. Lee stated that the request Mr. Skipworth is referring to wasn't made by him, but rather the tenant (Slim Chickens). Mr. Skipworth said that it still tells everyone where Slim Chickens is.

Mr. Lee stated that they requested the signage this way was precisely per code and easier for him to ask the Board for a variance for the face of the panel once the two signs were approved. Mr. Lee reiterated that the granting of this request would benefit the City and help with traffic flow.

Mr. Greene asked if anyone else wished to speak for or against the request, with no response.

- VI. **Resolution.** Board Chair Greg Greene called for a motion on the request. No such motion was made. Mr. Greene again called for a motion, with no response. Mr. Greene asked a third and final time if a member of the Board sought to make a motion on the request. Again, no response. The request therefore failed due to a lack of a motion.

THEREFORE, BE IT RESOLVED that the Board of Zoning Adjustments for the City of Athens, Alabama, at its regular meeting on May 18, 2023, that the board does not hereby grant a variance from the sign requirements of the Zoning Ordinance.

- VII. **Resolution.** Request for Rehearing – Lang Chiropractic Variance

Ms. Tidwell described the request and the previous decision reached by the Board on April 20, 2023.

Ms. Tidwell stated that after the decision made on April 20, 2023, Staff was made aware of an error in notice that was provided to an adjacent property owner. The problem was not that the notice wasn't received by adjacent property owners, but that it was not addressed to the owners. Furthermore, an error in notification is one of the criteria for a rehearing per the Zoning Ordinance.

Ms. Tidwell further stated that the applicant and the individuals who made Staff aware of the error in notification have all agreed to a rehearing. Per Zoning Ordinance Section 2.3.3.B(2), a rehearing may take place if the decision resulted from an error in procedures as required by the Zoning Ordinance.

Ms. Tidwell stated that if the BZA finds that an error did occur, the applicant can submit a new application to the Board, which would essentially vacate the Board's previous ruling. If the Board finds that an error was made, and the applicant submits a new application, that application shall be subject to all regular advertising and procedural requirements laid forth in the Zoning Ordinance.


VIII. **Resolution.** Greg Skipworth offered the following resolution and moved its adoption:

THEREFORE, BE IT RESOLVED that the Board of Zoning Adjustments for the City of Athens, Alabama, at its regular meeting on May 18, 2023, moved to conduct a rehearing of Lang Chiropractic's application for a variance at its June 2023 meeting because the prior decision on April 20, 2023 resulted from an error in the procedures required by the Zoning Ordinance, inasmuch as written notice was not directed to the adjacent owners of the property. As part of this motion, the previously-granted variance will be vacated and will be considered anew.

Al Wassum seconded the motion, and the motion passed unanimously of the voting members present.

Before closing the meeting, Mr. Greene stated that for the June meeting, he, as Chair, and Mr. Wassum will not be present. Mr. Greene asked for volunteers to chair that meeting. Mr. Skipworth volunteered, and no objections were made.

Meeting adjourned at 5:54pm with a motion by Greg Skipworth and a second by Jeff Bass.


Chairman

Attest: 
Secretary

