

PLANNING STAFF REPORT

Variance Request

SUMMARY:

Hearing Date: October 15, 2014

Applicant: Lindsey Hess

Property Owner: Hampstead Medpro Partners, LLC

Case Number: 11249

Property Location and Description: The subject property (Map Book 3274, Pages 339-351 [Exhibit 1]) is located at 14057 US HWY 17 in Hampstead. There is one tract associated with this request totaling 2.79 acres. The property may be identified by Pender County PIN 3282-64-5881-0000.

Zoning District of Property: The property is zoned GB, General Business district.

Variance Requested: Lindsey Hess, applicant, on behalf of Hampstead Medpro Partners, LLC, owner, is requesting a variance for relief from the requirement of *Pender County Unified Development Ordinance Section 9.9.1.A (3)*. Specifically, the applicant is requesting a ten foot variance from the requirement that a pylon/free-standing sign for a multi-unit commercial office be no closer than twenty feet to any property line or road right-of-way.

BACKGROUND AND DESCRIPTION OF VARIANCE:

The subject property currently hosts the Beacon Building, a multi-unit commercial office. On August 19, 2014, Pender County Planning staff received an email from Lindsey Hess, applicant and Asset Manager for the subject property, stating that she would like to start the process of applying for a sign variance for the property located at 14057 US HWY 17 in Hampstead. On August 27, 2014, Pender County Planning staff received a completed variance application for the property.

As noted in the Narrative/Applicant Letter, the applicant describes the building on the subject property as having “zero visibility from HWY 17 both North and South bound as you are approaching the property.” The Applicant Map (Exhibit 2) demonstrates this lack of visibility. The applicant has included photographs showing northbound and southbound views from the property (Exhibit 3) and a photograph showing the view of US HWY 17 southbound looking toward the subject property (Exhibit 4).

ZONING ADMINISTRATOR’S CONCLUSION:

Lindsey Hess, applicant, on behalf of Hampstead Medpro Partners, LLC, owner, is requesting a variance for relief from the requirement of *Pender County Unified Development Ordinance Section 9.9.1.A (3)*. Specifically, the applicant is requesting a ten foot variance from the requirement that a pylon/free-standing sign for a multi-unit commercial office be no closer than twenty feet to any property line or road right-of-way. The subject property is located at 14057 US HWY 17 in Hampstead, and is zoned GB, General Business district, and may be identified by Pender County PIN 3282-64-5881-0000.

RELEVANT UDO PROVISIONS:

3.14 VARIANCE

3.14.1 Applicability

A. The Board of Adjustment may vary certain requirements of this Ordinance, in harmony with the general purpose of these regulations, where special conditions applicable to the property in question would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property.

- B. The Board of Adjustment may waive certain requirements when authorized to do so by provisions adopted as a part of this Ordinance.
- C. No variance shall be permitted that would have the effect of allowing a use not permitted in the use table of Section 5.2.3.
- D. No variance shall be permitted that would allow a project to exceed the maximum density as to number of dwelling units to the acre in a Zoning District. This maximum density shall be inclusive of any density bonus allowance or additional units in a planned unit development.
- E. The need for the variance cannot be a result of the owner's own actions and cannot be for strictly economic reasons.
- F. The Board of Adjustment may grant variances in the following special circumstances, as indicated elsewhere in this Ordinance.

3.14.7 Findings

In granting any variance, the Board of Adjustment shall make the following findings:

- A. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts;
 - 1) 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.
 - 2) The hardship results from conditions that are peculiar to the property, such as location, size, 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.
 - 3) 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 of a variance shall not be regarded as a self-created hardship.
 - 4) 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.

9.9 SHOPPING CENTER SIGNS, MALLS, STRIP MALLS AND OFFICE, BUSINESS & INDUSTRIAL PARKS/BUILDINGS

9.9.1 Pylon/free Standing Sign

For multi-unit commercial, office & industrial developments under single ownership or under unified control, one (1) pylon or free standing sign shall be allowed for each street frontage not to exceed two signs per development and the total sign area does not exceed 200 sq. ft. When a single frontage development has 400 or more of road frontage, a second sign will be allowed as long as both signs do not exceed 200 sq. ft.

- A. Such signs shall be subject to the following:
 - 1) Content: Such sign shall advertise only the name and location of such center and/or name and type of business of each occupant of the center, or other activities on the site.
 - 2) Area: The gross area in square feet allowed for the pylon/free standing signs shall be one (1) square foot per lineal foot of development frontage; however such signs shall not exceed a total of two hundred (200) square feet.
 - 3) Location: The sign shall not be closer than twenty (20) feet to any property line or road right-of-way and shall not project higher than twenty five (25') feet above ground level.
- B. When a single frontage development has 400 or more feet of road frontage, the following standards shall apply for increased square footage.
 - 1) For each additional foot of road frontage exceeding 400', the square footage of the Pylon/free standing sign may be increased by 0.25.

- 2) The total allowable square footage based on road frontage shall not exceed 350 sq. ft. or 1000' of lineal road frontage and may be divided between two signs following Section 10.9.1.A.3.

Board of Adjustment: Finding of Facts

1. It is the Board's CONCLUSION that the hardship of which the applicant complains (**results/does not 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. This conclusion is based on the following FINDINGS OF FACT:

2. It is the Board's CONCLUSION that, the hardship (**results/does not result**) from conditions that are peculiar to the property, such as location, size, 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. This conclusion is based on the following FINDINGS OF FACT:

3. It is the Board's CONCLUSION that the hardship (**results/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 of a variance shall not be regarded as a self-created hardship. This conclusion is based on the following FINDINGS OF FACT:

4. It is the Board's CONCLUSION that, the requested variance is (**consistent/ not consistent**) with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved. This conclusion is based on all of the FINDINGS OF FACT:

Board Action:

Motion: _____ **Seconded:** _____

Approved: _____ **Denied:** _____ **Unanimous:** _____

Ferrante: _____ **Pullen:** _____ **Newton:** _____ **Thompson:** _____ **Walton:** _____

Alternates:

Godridge: _____ **Peters:** _____