

BEFORE THE TOWN OF DENTON BOARD OF APPEALS

**IN RE: DENTON RT 404, LLC
APPLICATION FOR VARIANCE
FROM THE DENTON TOWN CODE
§128-181 A, 1 (c) and §128-143
APPENDIX V – TABLE 3.**

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CASE NO. BOA-25-003

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MINUTES, FINDINGS OF FACT, CONCLUSIONS AND DECISION

The Board of Appeals held a Public Hearing on Monday, August 11, 2025, at 6:00 p.m., at the Denton Town Office to consider an application for sign variances for Denton Rt 404, LLC, (the “Applicant”) on property located at 1199 Industrial Parkway, Denton, Maryland (the “Property”).

Board Members present were Chairperson Troy Livingstone, Vice Chairperson Mary Lori Schmidt, and Board Member Florence Doherty. Also, present were Counsel for the Board, Lyndsey Ryan, Town Administrator, Scott Getchell, Chief of Police, George Bacorn, Jr., and Director of Planning and Codes, Donna Todd. The Applicant’s Representative, Victoria Ferris, was present.

PROCEDURAL HISTORY

On July 1, 2025, the Applicant filed an application with the Board of Appeals seeking approval for sign variances requesting approval for the following: one 33.3-square-foot canopy sign; three 32-square-foot, 6-foot-high directional signs; two 4-foot 4-inch-high directional signs; one projected 10.25-inch flat/wall sign; and one combined 87.14-square-foot freestanding/gas price sign, for property located at 1199 Industrial Parkway, Denton, Maryland, Caroline County Tax Map 107, Parcel 2359, Lot 2.

The application was advertised in the Times Record for two consecutive weeks on July 23, 2025, and July 30, 2025. A sign was posted on the Applicant’s Property on July 25, 2025, and all

property owners within 200 feet of the Property received written notification of the Public Hearing. All public notice requirements were satisfied.

SUMMARY OF PROCEEDINGS, TESTIMONY, AND EVIDENCE

On August 11, 2025, Chairperson Livingstone opened the Public Hearing at 6:00 p.m., followed by the Pledge of Allegiance.

Member Doherty read the Public Notice advertised in the Times Record for BOA-25-003 into the record.

Chairperson Livingstone swore in Victoria Ferris and Keith Neal.

The Applicant's Project Manager, Victoria Ferris, KCI Engineers, provided information regarding the application. Ms. Ferris is seeking approval for five (5) sign variances for property located at 1199 Industrial Parkway, Denton, Maryland Tax Map 107, Parcel 2359, Lot 2. The purpose of the request is to provide adequate visibility for the site. The Property owner seeks to develop a 7-Eleven on the Property. The Property is located off Industrial Parkway and adjacent to Route 404, and the Applicant believes that the sign variances are necessary to ensure that the 7-Eleven is visible from the road.

Ms. Ferris explained that the directional signs are internal to the site and that the Applicant is asking for an increase in size for better visibility for truck traffic due to trucks sitting higher than a typical vehicle. The trucks will be exiting the site from Engerman Avenue and entering from Industrial Parkway. The signs would be used to keep the traffic flowing in a safe manner.

Ms. Ferris said that the freestanding gas/price sign needs to be adequately seen from both Route 404 and Industrial Parkway.

The flat wall sign variance is requested due to visibility reasons from all areas that are accessing the site.

The canopy sign located over the gas pumps includes the 7-Eleven logo and the Applicant is seeking a size increase for the best visibility. The sign the Applicant is seeking is also a typical sign for a 7-Eleven.

Ms. Ferris explained that she believes that the request to increase the size of the signs fits in with the neighboring properties and will not negatively impact the adjacent sites due to their similar uses. The Application included a site plan, attached as Exhibit A, and a sign plan, attached as Exhibit B.

1. One 33.3-square-foot Canopy Sign – (Sign Plan F1):

Chairperson Livingstone asked for clarification on how the requested size was calculated for the canopy sign.

Ms. Ferris stated the 30” x 160” inch sign is standard to ensure visibility from the roadway and noted that the Property is permitted to install two signs, but the Applicant is only requesting one.

Member Doherty asked if the sign would be considered a wall sign. Ms. Ferris stated that the Town determined that it is not considered a wall sign.

Member Doherty commented that the application did not meet the criteria required by the Town Code as the request for the variances seemed to be necessitated by a desire for visibility, rather than a need due to site conditions or circumstances.

Member Doherty asked what direction the pylon sign would be directed. Ms. Ferris explained the sign would face north and south.

Member Doherty mentioned that in the application, it states other signage in the area might block the view of the Applicant’s pylon sign. She commented that the Board was not provided with pictures of evidence for these claims. Ms. Ferris acknowledged the lack of supporting evidence.

Member Doherty noted that she is unaware of any adjacent signs that would obstruct the view of the Applicant’s sign. She also stated that the entrance to 7-Eleven is a direct shot from Route 404.

Chairperson Livingstone pointed out that the speed limit on Industrial Parkway is 25-35mph and that traffic is slow enough to notice the location of the 7-Eleven.

Vice Chairperson Schmidt asked for the reason for the request for the twenty-five feet that is allowed for the canopy sign.

Ms. Ferris stated it is based on the desired size wanted and standard for 7-Elevens.

2. Three 32-square-foot Directional Signs – Sign Plan D2, D3, and D4:

Chairperson Livingstone questioned the reason for placing the truck entrance sign, depicted as D2 on the sign plan, at the odd spot to the right of the Property. Ms. Ferris explained that after entering 7-Eleven, the trucks will be directed to stay to the right to follow the lanes for the tractor

trailer trucks for the CFL pumps. The signs will also direct the trucks to exit through Engerman Avenue.

Lyndsey Ryan, Town Attorney, explained that the Applicant is asking to exceed the permitted size for both the height and width of the directional signs.

Vice Chairperson Schmidt questioned the reason for the height of six feet. Ms. Ferris stated that it is for visibility for truck drivers due to sitting higher than an average vehicle.

Chairperson Livingstone asked if that height was based on a particular standard.

Ms. Ferris stated it is not. The main goal is to make sure that the trucks do not miss the sign as they enter the site. Vice Chairperson Schmidt asked if it was because the lettering must be larger for the drivers to see. Ms. Ferris agreed.

The Vice Chairperson questioned the location of the sign depicted at D3 on the sign plan. Ms. Ferris stated that it is to keep the traffic flowing in the right direction and keep the truck traffic flow separate from the car traffic and delivery area. Chairperson Livingstone questioned the location for the exit sign. Ms. Ferris stated it was added per the Planning Commission's request.

Chairperson Livingstone questioned how drivers would know to exit from that location only.

Ms. Ferris agreed that there could be an issue with the location of the sign.

Chairperson Livingstone suggested the Applicant change or add a sign that says no left turn or do not enter.

3. Two 4-foot 4-inch-high Directional Sign – Sign Plan D1:

Vice Chairperson Schmidt questioned if there would be landscaping on the perimeter of the Property that necessitated the increase in height of directional signs to 4 feet. Ms. Ferris stated that the Applicant plans to landscape the interior island, but there is no proposed planting around the signs.

Chairperson Livingstone asked if the signs were meant for passenger cars. Ms. Ferris stated they were. Chairperson Livingstone asked if there is any reason for them to be larger than what is permitted by the Town Zoning Ordinance. Ms. Ferris stated that the request to vary from the permitted size restrictions is to ensure visibility.

Vice Chairperson Schmidt questioned what the potential obstructions are. Ms. Ferris stated that it could be from other properties' landscape or overgrowth from vegetation from the SHA roadway.

4. One combined 87.14-square-foot Freestanding Gas Price Sign – Sign Plan P:

Member Doherty questioned why the sign depicted as sign plan P was not considered as one piece but was divided into two. Ms. Ferris explained that the Town Zoning Ordinance dictates the calculation and size requirements of signage within the Town. Per the Zoning Ordinance, the sign depicting the gas prices is calculated as a separate sign despite the fact that it is on the same pylon as another sign. The reason for the request for the increased gas sign is for visibility.

Member Doherty commented that she does not see any evidence that the sign will not be visible to traffic.

Chairperson Livingstone asked if the Applicant was aware of the difference in height of the freestanding sign in the packet that the Applicant provided as opposed to the information provided by the Town Staff.

Ms. Ferris suggested that the Board use the information provided in the narrative as opposed to what was provided in the packet as she explained that the Applicant's request changed as a result of the updated Zoning Ordinance.

Vice Chairperson Schmidt questioned why the Applicant is seeking a twenty percent larger sign than is allowed per the Zoning Ordinance. Ms. Ferris explained that the Applicant wanted to make sure the sign was visible from Route 404 and in all other directions.

Chairperson Livingstone questioned why they need a bigger sign to showcase two fuel prices as opposed to other locations in the same area displaying more than two prices and staying in compliance with the Zoning Ordinance. Ms. Ferris was unable to provide a response.

Vice Chairperson Schmidt questioned if 7-Eleven has a standard size sign that they typically use. Ms. Ferris responded that the sign package the Applicant provided is the typical sign standard for a 7-Eleven. She said that meeting the sign size restrictions in the Zoning Ordinance would not be typical for a 7-Eleven and would require custom sign design from their vendors.

5. One projected 10.25-inch Flat/Wall Sign – A1:

Chairperson Livingstone asked if the variance for the wall sign is for the depth of the sign. Ms. Ferris responded that it was due to the brackets that secure the sign to the wall, which protrude further from the wall than the Zoning Ordinance permits.

Chairperson Livingstone asked if they needed a variance due to the actual sign itself, or just because of the bracket.

Member Doherty states she does not see any cost associated with the project.

Ms. Ferris stated that they were not focused on the cost and were only looking for safety for the public.

Mrs. Ryan explained that the Board needs to base their decision on whether a special condition or circumstance exists on the Property or building to warrant a variance for the sign and height and while traffic and safety could be a consideration there has to be proof that the increased sign area for height resolves the property and safety issues from property obstruction.

Member Doherty expressed concern regarding no evidence shown for the variance request.

Chairperson Livingstone asked if the depth of the sign is needed. Ms. Ferris stated it is necessary for internal lights.

Keith Neal, the adjacent property owner, expressed his approval of the Applicant's project. He believes that establishing comparisons for safety purposes and enabling the recognition of signs from Route 404 and Industrial Parkway would be beneficial. He is a neighboring property owner. He said that during his request for a variance, he was only permitted to relocate his sign closer to the road in accordance with the alignment of other businesses. Mr. Neal expressed concerns regarding the quality of the evidence provided by Ms. Ferris. He said he does not have any objections to the presence of the 7-Eleven, but that its signage, unless there is a compelling reason, should not exceed the permitted limits outlined in the Zoning Ordinance.

Vice Chairperson Schmidt asked Ms. Ferris what the degree was of the curve in the road that she referred to in the narrative. Ms. Ferris was unaware of the degree of the roads curve.

DELIBERATIONS

During and following the receipt of all testimony and evidence, the Board deliberated in Open Session.

Chairperson Livingstone said he would have liked the size request to be based on speed of traffic that would justify the reason behind the variance requests and not based on improved visibility alone.

Mrs. Ryan noted that pursuant to the new Zoning Ordinance, the Board has nine criteria to consider versus the two from the prior Zoning Ordinance. Ms. Ryan provided an overview of the nine criteria.

Member Doherty stated that the Board did not receive enough evidence for the variance requests. She believes truckers have an idea of where they need to be when entering a gas station and is not concerned with any safety issues as a result of meeting the sign size requirements in the Zoning Ordinance.

Vice Chairperson Schmidt stated that the truck traffic signs the Applicant proposed are taller than her.

Chairperson Livingstone expressed his concerns with the signs blocking some vehicles' views if they are six feet tall.

Chairperson Livingstone stated that the Applicant did not present enough evidence to support the justification for a variance for the freestanding sign.

Member Doherty stated that she understands that there is an illuminated wall sign from all sides of the building, but from the application it seems they are asking for variances for more than one of the wall signs.

Chairperson Livingstone asked Mrs. Todd if the Applicant needs a variance for more than the wall sign depicted as A1 in the sign plan. Mrs. Todd responded that the Applicant did not request a variance for the other wall signs, so the Board is only to consider the request for the sign depicted as A1 in the sign plan. Ms. Ferris stated that the sign package was based off the old Zoning Ordinance and was not updated to reflect the new Zoning Ordinance regulations.

Mrs. Ryan stated that the Applicant did not request a variance request for the A2 & A3 signs so the Board cannot consider a variance for those signs.

Vice Chairperson Schmidt asked if the wall sign is internally lit. Ms. Ferris stated it is lit with internal LED lights.

STANDARDS FOR GRANTING A VARIANCE

- A. Strict enforcement of this chapter would produce unnecessary and undue hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice.**
- 7-Eleven created their own hardship by picking out the layout of the signs despite the applicable requirements in the Zoning Ordinance.
- B. Such hardship is the result of special conditions and/or circumstances not generally shared by other properties in the same zoning district or vicinity and which are peculiar to the land, structure, or building involved. Such conditions and/or circumstances may include but are not limited to the following: exceptional narrowness or shallowness, or both, or irregular shape or topography of the property; unusual and limiting features of the building; or the effective frustration or prevention of reception of satellite programming due to the presence of a physical object or objects which obscure the line of sight when such object or objects cannot be easily removed.**
- The Applicant's Property is easily accessible with an entrance that is right across Route 404 that has a light and access way. There are no obstructions surrounding the Property that impede the view of the signs necessitating a variance from the permitted size requirements.
- C. Such special conditions or circumstances must not be the result of any action or actions of the applicant.**
- The Applicant did not present any special conditions or circumstances necessitating the granting of the variances.
- D. Granting of the variance must be in harmony with the general purpose and intent of this chapter and must not be harmful to adjacent property, the character of the neighborhood, or the public welfare.**
- The variance would be in harmony with the general area and intent with the Chapter.

E. Granting the variance shall not allow a use expressly or by implication prohibited in the zoning district involved.

- The variance would not by itself do that since signs are allowed in the RHC District.

F. The condition, situation, or intended use of the property concerned is not of so general or recurring a nature as to make practicable a general amendment to this chapter.

- The Applicant is seeking to exceed the size and height requirements of various signs per the Zoning Ordinance to increase and enhance visibility but provided no evidence that the signs, in meeting the permitted size requirements, would not be visible.

G. The variance granted must be the minimum necessary to afford relief.

- The variance would not be the minimum necessary to provide relief if the request were to be granted, as it is based on 7-Elevens standards only.

H. In granting a variance, the Board of Appeals may prescribe appropriate conditions in conformity with this chapter. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

- The Applicant did not provide enough evidence to support the requests.

I. The applicant for a variance shall have the burden of proof on all points material to the application, which shall include the burden of presenting credible evidence as to each material issue and the burden of persuasion on each material issue. The Board of Appeals may disregard evidence, even if uncontroverted by an opposing party if the Board finds such evidence not to be credible.

- The Applicant failed to meet the burden of proof.

FINDINGS AND DECISIONS

Variance Request – Member Doherty made a motion to deny the five sign variance requests in the application filed by Denton Rt 404, LLC, BOA-25-003. The motion was based on the testimony, evidence, and deliberations for the variance criteria.

Vice Chairperson Schmidt seconded the motion. The motion passed 3:0.

Staff Item –

The meeting on August 11, 2025, adjourned at 7:40 p.m.

ATTEST:

Donna R. Todd

Date

DENTON BOARD OF APPEALS:

Troy Livingstone, Chairperson

Mary “Lori” Schmidt, Vice Chairperson

Florence Doherty, Board Member