

Athens-Clarke County Planning Department**STAFF REPORT****Request for Variance from the Athens-Clarke County Hearings Board****August 30, 2024****VAR-2024-07-1421**

Petitioner	TLC Properties, LLC / Amy Coile – Lamar Advertising
Location	1525 Lexington Rd
Project Number	VAR-2024-07-1421
Zoning	C-G
Tax Parcel Number	172D 011
Present Use	Undeveloped
Proposed Use	Billboard
Staff Recommendation	Denial

SUMMARY:

TLC Properties and Lamar Advertising have requested a variance from Section 7-4-20 of the Code of Athens-Clarke County, Georgia regarding billboard separation from another billboard.

The petitioner has proposed to place a new billboard within 200 feet of an existing billboard on the same side of the road.

Section 7-4-20(a)(3) of the Code of Athens-Clarke County, Georgia, provides:

No billboard base, face or structure shall be located closer than 1,000 feet from any other billboard base, face, or structure located on the same side of the street measured linearly along the right-of-way. Distances shall be measured from the nearest point of any part of the billboard to the nearest point of any other part of a billboard.

The applicant asserts that the loss of the billboard due to the GDOT construction is an extraordinary and exceptional condition, however the applicant did not complete the permitting process allowed by local regulations that would have ensured that the subject billboard would be allowed by-right to be erected. Furthermore, a competitor applied for and received approval from Planning Staff and GDOT to erect a billboard after the time of the expiration of the prior permit, which has since been successfully constructed. This leads Staff to believe that there was ample opportunity for the applicant to remain in compliance with local ordinances and still construct a new billboard that would not have had conflicts with Athens-Clarke County code.

Staff finds that three of the seven criteria for the variance have not been met and therefore the Staff recommendation is for denial of the requested variance.

BACKGROUND:

The applicant had a billboard at the proposed location until 2020, when GDOT's construction in the area resulted in the billboard being taken down. Because the applicant's billboard was taken down for the GDOT construction, the applicant had to comply with the procedures in the Athens-Clarke County Sign Ordinance to put the billboard back up. The applicant correctly applied for the billboard several times between 2020 and 2022, but apparently missed a key deadline that allowed another billboard company to apply for a billboard in the same area. Below is a timeline of those events, which resulted in this variance request.

- September 10, 2020: Lamar submits a Billboard Review Application Form for 1525 Lexington Road to relocate the billboard. Staff marks it received as of "9-10-20," and the Planning Department approves it shortly thereafter.
- October 20, 2021: Lamar reapplies to relocate the billboard at 1525 Lexington Road. Staff marks it received on October 20, 2021, and the box for "approved" is also marked.
- April 27, 2022: Lamar reapplies for a billboard at 1525 Lexington Road. Staff marks the Billboard Review Application Form as received on "4-28-22," and the box for "approved" is also marked. In accordance with the Athens-Clarke County Sign Ordinance, this approval expires on October 27, 2022.
- June 7, 2023: Dunlap Outdoor Advertising submits a billboard application for a location within 1,000 feet of 1525 Lexington, and the Planning Department approves the application.
- November 16, 2023: Lamar submits another application for a billboard at 1525 Lexington Road.
- January 19, 2024: Planning staff deny the Lamar application submitted in November because the requested billboard is within 1,000 feet of another billboard approved for Lamar's competitor, Dunlap.
- February 23, 2024: Lamar submits a new billboard application for 1525 Lexington Road.
- April 29, 2024: Forty-five (45) business days pass since February 23, 2024. Therefore, in accordance with the Athens-Clarke County Sign Ordinance, Lamar's most recent billboard application is deemed denied. The Planning Department does not receive an appeal or variance request between April 30 through May 9, 2024, which is the ten-day period set forth in the Athens-Clarke County Sign Ordinance.
- July 5, 2024: Lamar submits a new billboard application on June 17, 2024. This application is denied because the requested billboard is within 1,000 feet of another billboard approved for Lamar's competitor, Dunlap.

STAFF EVALUATION:

In evaluating the above variance, Staff has reviewed the following standards found in Section 7-4-21 to determine whether the Athens-Clarke County Hearings Board should grant this request:

- 1. Describe the extraordinary and exceptional conditions pertaining to this particular piece of property in question because of its size, shape, character, and/or topography that do not apply generally to other land in the vicinity:**

The subject property did have a billboard removed as a result of a GDOT road project, which has taken multiple years to complete. As for the site itself, the billboard has been in this location for decades and is zoned C-G on a road listed as allowing billboards per Appendix C of Chapter 7-4 of the

sign ordinance. There are no inherent issues with the parcel itself that would stop a new billboard from being erected.

Staff finds that the circumstances involving the GDOT construction project are an extraordinary condition that was placed on the property.

2. A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other similar properties:

These sign standards for billboards are applied to all properties in the C-G zone that are listed in Appendix C of Chapter 7-4, regardless of the type of use. The applicant states that the billboard was removed outside of their control due to a GDOT road project. While they received relocation compensation, the literal interpretation of the code does not allow them to place a new billboard on the subject property.

Staff finds that adhering to the standards of the sign ordinance would deprive the applicant of rights enjoyed by other properties.

3. Granting the variance requested will not confer upon the property of the applicant any significant privileges which are denied to other similar properties;

The applicant did not provide sufficient information for staff to analyze this criteria. Granting the variance requested would allow for the applicant to have a billboard not only within 1000 feet of another billboard, but within 200 feet of another billboard. There are billboards that are within 1000 feet of another billboard in ACC, but those are considered legal non-conforming and are a carryover from before the current code's adoption. These legal non-conforming billboards must follow the strict guidelines outline in Sec. 7-4-8. The applicant also does not show that the new billboard would be following the spirit of the legal non-conforming code by having essentially the same billboard they had before, just put back into place. They are proposing a modern billboard that is following the maximum allowances the code allows. Lastly, there is no information on why the subject parcel of land is needed versus a parcel of land that would allow compliance. The applicant states that this will mitigate the harm caused by GDOT, however Staff does not see this as an adequate reason for why significant privileges wouldn't be given.

The request for the placement of a new billboard within 1000 feet of another billboard is seeking a privilege normally denied to other similar properties under the current ordinance.

4. The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare and safety;

This section of Lexington Road has multiple billboards already on it and the property in question had a billboard for decades until 2020. While the request may not meet the intent of the chapter as it is a community goal to limit where billboards are, Staff finds that this corridor is one such area that

billboards are intended to be located and therefore is not injurious to the neighborhood or have an adverse effect on general welfare and safety.

5. The special circumstances are not the result of actions of the applicant;

The billboard being taken down is not the result of the applicant, as it was necessary for the GDOT road project along this corridor. However, because the applicant missed a key deadline explicitly set forth in the local code, Staff believes that the applicant's actions contributed to the special circumstances present for this variance request. Staff finds that the applicant's failure to follow ACC code does not afford them special dispensation.

6. The variance, if granted, will represent the minimum variance that will afford relief from the identified hardship and will represent the least deviation possible from the zoning regulation and from the comprehensive plan; and

The applicant has not provided sufficient information to Staff to show why this is the minimum variance needed to address the hardship. The site plan and new billboard specifications provided by the applicant show that the new billboard would be as close to the other existing billboard as the other parameters of the code allow.

7. The variance is not a request to increase the allowable square footage of sign area, to increase the total number of signs allowed, or to increase the maximum allowable total sign square footage allowed per site.

The applicant is proposing to build a by-right billboard in terms of allowable square footage, total number of faces, and height.

RECOMMENDATION SUMMARY:

The Hearings Board is authorized to grant such variance from the strict application of the requirements of this chapter when literal enforcement of the provisions of this chapter will result in unusual hardship. Meeting all seven of the criteria is necessary for the Hearings Board to approve a variance. Staff analysis of this proposal found that all of the criteria have not been fully met, therefore, Staff recommendation is to deny the requested variance.

A. Variance to place a billboard within 1000 feet of another billboard on the same side of the road.

Upon staff review, 4 of the 7 following criteria have been fully met:

1. The extraordinary conditions do not pertain to the site itself, but rather the GDOT road project that forced the billboard to be taken down.
2. Due to the GDOT road project, the billboard was forcibly taken down. As this is a corridor that allows billboards by-right, the property did, for a time, not have the same rights enjoyed by other properties as GDOT needed the property for their project.

4. This is a corridor that is intended to have billboards and currently has billboards. With this property having a billboard previously as well, there is no adverse effect on the neighborhood or general welfare of the area.

7. The billboard itself would be by-right in terms of height, number of faces, and size of faces.

Upon staff review, 3 of the 7 following criteria have **NOT** been fully met:

3. The new proposed location of the sign shown on the submitted documents shows the new billboard being placed as close to the existing billboard as possible. Furthermore, this billboard will be located within 200 feet of another billboard, well below the 1000 feet distances required by code.

5. The original reason for why the billboard was taken down was not the result of the actions of the applicant, but the result of a GDOT road project. However, because the applicant missed a key deadline explicitly set forth in the local code, Staff believes that the applicant's actions contributed to the special circumstances present for this variance.

6. The request does not specify that the billboard would be placed as far as reasonably possible on this parcel and the site plan submitted shows that the billboard would be as close as possible to the other existing billboard.