



City of Cartersville

PLANNING AND DEVELOPMENT

P.O. Box 1390 • 10 North Public Square • Cartersville, Georgia 30120

Telephone: 770-387-5600 • Fax: 770-387-5605 • www.cityofcartersville.org

MEMO

To: BZA
From: Randy Mannino/David Hardegree/Zack Arnold
CC: Keith Lovell
Date: November 1, 2024
Re: File # V24-24 520 S. Tennessee St.

Summary: To reduce the required setback for a billboard.

Section 1: Project Summary

Variance application by owner/applicant Tilley Outdoor, LLC for property located at 520 S. Tennessee St., zoned H-I (Heavy Industrial). Setbacks are Front and Rear- 20ft and Side- 15ft. Said property contains approximately 6.52 acres.

The applicant proposes to install a billboard on the property along the Tennessee Street right-of-way. Due to surrounding natural vegetation and man-made features, the applicant has proposed to erect the billboard approximately 10ft off the Tennessee St. right-of-way. The sign ordinance section pertaining to billboards (Sec. 20-29.) states that all billboards shall be setback at least 50ft from the public right-of-way. The proposed billboard will encroach approximately 40ft into the required setback.

The billboard has already been approved for erection by the City of Cartersville and Georgia Department of Transportation. This variance is only for the placement of the billboard in relation to the public right-of-way.

The variance request is for the following and per the submitted site plan sketch:

1. To reduce the required distance a billboard shall be setback off the public right-of-way from 50ft to 10ft. (Sec. 20-29.).

Section 2. Department Comments

Building Department: No comments received.

Electric Department: Takes no exception.

Fibercom: Takes no exception.

Fire Department: Takes no exception.

Gas Department: Takes no exception.

Public Works Department: Public works has the following comments below the setback variance application:

1. Billboard needs to be in compliance with Article II Section 20-29 of the City of Cartersville Code of Ordinances so that the traveling public on SR 293 are not within the Fall Zone to maintain the existing level of safety on SR 293.
2. The closest side of the cube footing for the proposed billboard needs to be at least 10 feet away from the nearest storm drain line or structure in the area.

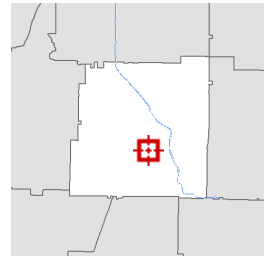


Water Department: Cartersville Water Department takes no exceptions to Variance Request



V24-24 provided that the billboard is located off of the existing sewer easement.



Overview



Legend

-  Parcels
-  Roads

Parcel ID	C018-0002-004	Alternate ID	34539	Owner Address	TILLEY PROPERTIES INC
Sec/Twp/Rng	n/a	Class	Industrial		1 N TENNESSEE ST
Property Address	520 S TENNESSEE ST	Acreage	6.52		CARTERSVILLE, GA 30120
District	Cartersville				
Brief Tax Description	LL 552 - 554 LD 4 Suburban Propane				
	(Note: Not to be used on legal documents)				

Date created: 9/6/2024

Last Data Uploaded: 9/5/2024 10:57:01 PM

Developed by  **Schneider**
GEOSPATIAL

Section 3. Public Comments Received by Staff

No public comments received as of 11-1-2024.

Section 4. Variance Justification:

Please review the following findings, as stated in the Zoning Ordinance, that are to be utilized in determining justification for approval or denial of variance request(s).

Sec. 20-29. Billboards.

- (a) Billboards shall be allowed, in addition to freestanding signs, on nonresidential use properties adjacent to only the following roads:
 - (1) State Route 20.
 - (2) U.S. 41 and corresponding frontage roads.
 - (3) U.S. 411 and corresponding frontage roads.
 - (4) West Ave. (beginning at, and including, the intersection with Henderson Dr. and running southwest).
 - (5) State Route 113 (beginning at the centerline of the I-75 right-of-way intersection with the GA Hwy. 113 centerline and continuing west a distance of two thousand seven hundred (2,700) feet radially; provided however, that this section shall supersede any conditions placed on billboards in this geographic location).
- (b) Billboards require a permit to be erected, and shall comply with the following regulations:
 - (1) *General standards.*
 - a. Shall be allowed a maximum sign area of three hundred (300) square feet.
 - b. Shall not exceed a height of thirty (30) feet. Height shall be measured from the nearest road grade elevation.
 - c. Shall be set back at least fifty (50) feet from the right-of-way of a public street or highway and twenty-five (25) feet from all property lines and buildings on the site.
 - d. Shall be a minimum of five hundred (500) feet from a residential zoning district.
 - e. Shall be a minimum of one thousand five hundred (1,500) feet from all other billboards. Distance shall be measured from one (1) billboard to another on the same road.
 - f. Shall not be visible from or located along Interstate Highway 75.

- g. Shall not be attached to or painted directly on any building or any other natural or manmade structure or object other than the supporting structure specifically built for said sign.

(2) *Electronic billboards.*

- a. Billboards which are directly illuminated, exhibit animation, blink, change copy, display moving pictures or images, flash, contain light emitting diode (LED), and/or contain liquid crystal display (LCD) shall be prohibited except when located adjacent to one (1) of the following roads:
 - 1. State Route 20.
 - 2. U.S. 41 and corresponding frontage roads.
 - 3. U.S. 411 and corresponding frontage roads.
 - 4. West Avenue (beginning at, and including, the intersection with Henderson Drive and running southwest).
 - 5. State Route 113 (beginning at the centerline of the I-75 right-of-way intersection with the Georgia Highway 113 centerline and continuing west a distance of two thousand seven hundred (2,700) feet radially; provided however, that this section shall supersede any conditions placed on billboards in this geographic location).
 - 6. Old Mill Road (beginning at the centerline of the Old Mill Road right-of-way intersection with the Erwin Street center line and continuing west a distance of one thousand (1,000) feet. Applicable to billboard signs existing as of July 26, 2022).
- b. Shall be a minimum of five thousand (5,000) feet from all other electronic billboards and a minimum of one thousand five hundred (1,500) feet from nonelectronic billboards.
- c. Any permit for an electronic billboard shall include a maximum number of displays per cycle for the structure. No more than six (6) displays per minute shall be allowed, and each display shall not change more frequently than once every ten (10) seconds.
- d. Such displays shall contain static messages only, changed instantaneously, through dissolve or fade transitions, or other subtle transitions that do not have the appearance of moving text or images. In any event, such billboards may not have movement, or the appearance of or illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement of any illumination or the flashing, scintillating, or varying of light intensity.
- e. All such billboards shall be programmed to automatically freeze in a single display in the event of a malfunction or computer/system error.
- f. The planning and development department shall be provided with an on-call contact person and phone number for each permitted electronic billboard. The contact person must have the ability and authority to make immediate modifications to the displays and lighting levels should the need arise. In the event the contact person is unobtainable or unresponsive, the permit holder grants to the planning and development department the authority to access and

disable the sign in cases of emergency or when the sign poses a threat to public safety.

- (3) *Nonconforming billboards.* Billboard signs legally existing on the date of adoption of this article may be continued even though such signs do not conform to this provision. Such nonconforming signs shall not be expanded, relocated or replaced by another nonconforming sign, except that the substitution of interchangeable poster panels, painted boards or demountable material on nonconforming signs shall be allowed. No such nonconforming sign shall continue after the discontinuance of the nonconforming use for a period of six (6) months.

(Ord. No. 26-12, 5-3-12; Ord. No. 29-18, § 1, 11-1-18; Ord. No. 20-22, § 1, 10-6-22)

Sec. 21.3. - Powers and duties of the board of zoning appeals.

The board of zoning appeals shall have the following powers and duties:

- 21.3.1. *Appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this chapter. Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department, board, or agency of the City of Cartersville affected by any decision of the zoning administrator. Such appeal shall be taken within thirty (30) days of said decision by filing with the zoning administrator a written notice of appeal specifying the grounds thereof. Decisions on appeals shall be issued in writing within ten (10) business days of the hearing on the appeal.
- 21.3.2. *Continuance of a nonconforming use.* The board of zoning appeals may allow a nonconforming use to be reestablished after discontinuance for twelve (12) consecutive months. The procedure for the request shall be the same as if it was a variance. If it is deemed by the board of zoning appeals that one (1) or more of the following apply, the board may grant said request.
- A. The design, construction, and character of the building is not suitable for uses permitted in the district in which the nonconforming use is situated; and
 - B. Undue hardships to the property owner would result in not allowing the building to be reopened for a nonconforming use; and
 - C. Adjacent property would not be unduly damaged by such use of the building; and
 - D. The use is to be identical or similar to the prior nonconforming use of the building.
- 21.3.3. *Variances.* The board of appeals has the power to hear requests for variances from the provisions of this chapter. Variance may be granted only if the board finds all of the following to exist:
- A. That one (1) of the following is true, through no action or fault of the property owner or predecessor:

1. The property is exceptionally narrow, shallow or unusually shaped;
 2. The property contains exceptional topographic conditions;
 3. The property contains other extraordinary or exceptional conditions; or
 4. There are existing other extraordinary or exceptional circumstances; and
- B. That the strict application of the requirements of this chapter would result in practical difficulties to, or undue hardship upon, the owner of this property; and
- C. That the requested variance relief may be granted without substantially impairing the intent and purpose of this chapter.

Variance decisions shall be issued in writing within ten (10) business days of the hearing.

- 21.3.4. *Conditions.* In granting a variance, the board of appeals may attach such conditions regarding the location, character and other features of the proposed building, structure, property, development standards or use as it may deem advisable so that the purpose of this chapter will be served, public safety and welfare secured and substantial justice done.
- 21.3.5. *Limitations on variances; improper variance requests.* Variances cannot be given to totally remove a requirement or to exempt a property or applicant entirely from a requirement. If a variance is being sought that is, in the judgment of the zoning administrator, a request that would constitute a text amendment, then the application shall not be accepted. The applicant shall instead be directed to file for a text amendment. Furthermore, the board of appeals shall not be authorized to grant a density variance or a use variance to permit a use in a district in which the use is prohibited. A variance application shall not be accepted if the variance seeks something that cannot be varied. A variance application shall not be accepted if the variance is contradictory to the ordinance.
- 21.3.6. *Self-inflicted hardship.* The board shall not grant variances when the hardship was created by the property owner or his predecessor, and shall not grant hardship variances based on shape or topography for lots of record not existing prior to November 7, 1996. Configuring a subdivision to create lots that are difficult to build is an example of a hardship created by the property owner or predecessor, that does not justify a variance.

Sections 21.3.7, *Place of worship*, and 21.3.8, *Group homes*, omitted. *Not applicable.*

STANDARDS FOR EXERCISE OF ZONING POWERS.

1. *The existing land uses and zoning of nearby property.*
The surrounding properties, except to the south, are zoned for industrial and used for that purpose. The property to the south is zoned G-C.
2. *The suitability of the subject property for the zoned purposes.*

The property is suitable for the zoned purposes.


3. *The relative gain to the public, as compared to the hardship imposed upon the individual property owner.*
The public gain would be minimal. The property owner is currently utilizing the property and could continue without a variance being granted.
4. *Whether the subject property has a reasonable economic use as currently zoned.*
The property has a reasonable economic use as currently zoned.
5. *Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.*
The proposed variance would have no effect on the use of the subject or adjacent properties.
6. *Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property.*
The proposed variance will not have an adverse effect on the existing use or usability of adjacent or nearby property.
7. *Whether the zoning proposal is in conformity with the current future development plan and community agenda of the comprehensive land use plan as currently adopted or amended in the future.*
The proposed variance has no impact on the Future Development Plan or Comprehensive Plan.
8. *Whether the zoning proposal will result in a use which will or could adversely affect the environment, including but not limited to drainage, wetlands, groundwater recharge areas, endangered wildlife habitats, soil erosion and sedimentation, floodplain, air quality, and water quality and quantity.*
It is possible that this project could adversely affect access to the City storm system.
9. *Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.*
It is possible this project could cause a burden to the streets since the proposed location includes a public road within the fall zone.
10. *Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.*
There are no known conditions.

City of Cartersville
Application for Variance
Board of Zoning Appeals

Hearing Date: 11-14-24 5:30pm

Application Number: V 24-24

Date Received: 9-4-24

Applicant <u>Tilley Outdoor, LLC</u> <small>(printed name)</small>	Office Phone <u>770 386-0040</u>
Address <u>1 N. Tenn Street</u>	Mobile/ Other Phone _____
City <u>Cartersville</u> State <u>GA</u> Zip <u>30120</u>	Email <u>bethtilley@bellsouth.net</u>
Representative's printed name (if other than applicant) <u>Robert L. Walker</u>	Phone (Rep) <u>770 387-1373</u>
 Representative Signature	 Applicant Signature
Signed, sealed and delivered in presence of: <u>Rebecca D. Pruitt</u> Notary Public	My commission expires: _____ 

* Titleholder <u>Tilley Properties, Inc.</u> <small>(titleholder's printed name)</small>	Phone <u>770 386-0040</u>
Address <u>1 N. Tenn Street</u>	Email <u>bethtilley@bellsouth.net</u>
Signature 	
Signed, sealed, delivered in presence of: <u>Rebecca D. Pruitt</u> Notary Public	My commission expires: _____ 

Present Zoning District <u>H-I (Heavy Ind.)</u>	Parcel ID No. <u>C018-0002-004</u>
Acreage <u>6.804</u> Land Lot(s) <u>552 & 553</u> District(s) <u>4</u> Section(s) <u>3</u>	
Location of Property: <u>520 S. Tenn Street, Cartersville, 30120</u> <small>(street address, nearest intersections, etc.)</small>	
Zoning Section(s) for which a variance is being requested: <u>Ch. 20, Art. II, Sect. 20-29</u>	
Summary Description of Variance Request: <u>To reduce the required setback from a public right-of-way for a billboard from 50 feet to 10 feet.</u>	
<small>(Additional detail can be provided on Justification Letter)</small>	

* Attach additional notarized signatures as needed on separate application pages.

CONDITIONS VERIFICATION

List the Article(s), Section(s) and Subsection(s) of the Zoning Ordinance for which a variance is requested.

Article II Section 20-29 Subsection (b)(1)c
Article _____ Section _____ Subsection _____
Article _____ Section _____ Subsection _____

The Board of Zoning Appeals was established to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of the zoning ordinance. The Board has the power to hear requests for variances from the provisions of the zoning ordinance, Article XXI APPEALS. See Section 21.3 for additional information pertaining to conditions.

To assist staff and the Board of Zoning Appeals in the analysis of the variance application, please check all of the following conditions that apply to your variance request:

1. _____ The property is exceptionally narrow, shallow or unusually shaped,
2. _____ The property contains exceptional topographic conditions,
3. _____ The property contains other extraordinary or exceptional conditions; and
4. ☒ There are other existing extraordinary or exceptional circumstances; and
5. ☒ The strict application of the requirements of this ordinance would result in practical difficulties to, or undue hardship upon, the owner of this property;
6. ☒ The requested variance relief may be granted without substantially impairing the intent and purpose of this ordinance

Additional Comments by Applicant: The following shall also apply:
Chapter 20 - Signs and Outdoor Advertising
-- Article II, Section 20-39 - Variance.
Subsection (c)(1)

August 27, 2024

City of Cartersville

Board of Zoning Appeals

Justification Letter

We are asking for a variance to Chapter 20 - Signs and Outdoor Advertising Article II, Section 20-29, Subsection (b), (1.), c.

The city granted us approval to erect a new billboard sign at 520 S. Tennessee Street, and we also have approval from the Georgia Department of Transportation to erect said sign.

The reason for our variance request is because existing foliage and structures are creating a hardship whereby the proposed billboard will be obstructed from view by north bound vehicles traveling on S. Tennessee Street.

The obstruction is located at 600 S. Tennessee Street at the intersection of Peachtree Street and S. Tennessee Street. There is a building, and a large tree located close to the right-of-way of S. Tennessee Street that will block the visibility of the proposed billboard sign.

Therefore, we respectfully ask for a reduction in the required 50- foot setback from the right-of-way of S. Tennessee Street. We are seeking a reduction from 50 feet to 10 feet to improve the visibility of the proposed billboard sign.

Thank you for your consideration.



Beth Tilley

Tilley Outdoor, LLC



Overview



Legend

-  Parcels
-  Roads

Date created: 8/26/2024
Last Data Uploaded: 8/23/2024 11:14:43 PM

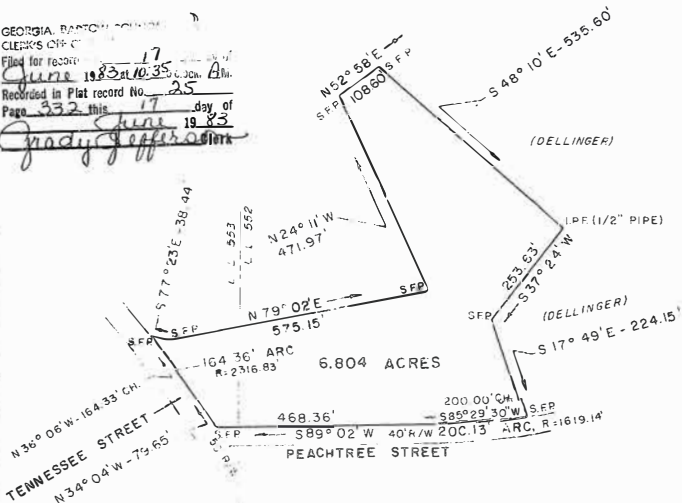
Developed by  **Schneider**
GEOSPATIAL



Proposed Sign

**SURVEY FOR
MARIE JOSE LUTJENS, KARL P. LUTJENS & HANS F. LUTJENS
PROPERTY IN THE CITY OF CARTERSVILLE
IN LAND LOTS 552 & 553
4TH DISTRICT, 3RD SECTION
BARTOW COUNTY, GEORGIA**

GEORGIA, BARTOW COUNTY
CLERK'S OFFICE
Filed for record June 1983 at 10:35 A.M.
Recorded in Plat record No. 25
Page 332 this 17 day of June 1983
Judy Jefferson Clerk



S.F.P. — STEEL FENCE POST PLACED

"FIA FLOOD HAZARD MAP" NOT AVAILABLE.

FIELD TRAVERSE:

CLOSURE; ONE FOOT IN 9500 FEET
USING A 100' STEEL TAPE.
ANGULAR ERROR; 0° 00' 05" PER ANGLE
POINT USING A 20' TRANSIT.
ADJUSTED; USING THE COMPASS RULE.
SMITH & SMITH LAND SURVEYORS, P.C.
CARTERSVILLE, GEORGIA

William C. Smith

REGISTERED LAND SURVEYOR No. 1803

R/W — RIGHT OF WAY ——— LAND LOT LINE
I.P.P. — IRON PIN PLACED ——— CENTER LINE
C.M. — CONCRETE MARKER ——— FENCE



PLAT:
CLOSURE; ONE FOOT
IN 720,000 FEET.
MARCH 11, 1983

0 50 100 200 300
SCALE 1" = 200'
FILE 2450

MAG. NORTH

David Hardegree

From: Robert L. Walker <rwalker@jbwpc.com>
Sent: Friday, November 8, 2024 11:32 AM
To: David Hardegree
Subject: [EXTERNAL] RE: V24-24. 520 S. Tennessee St. Billboard setback variance- PW comments
Attachments: 240234 - EXHIBIT - 1 - DRAFT - 11072405.pdf
Follow Up Flag: Follow up
Flag Status: Flagged



David:

As we discussed, we went ahead and had the property surveyed to show the proposed location of the billboard in conjunction with the roadway, etc. A copy of that is attached. As we discussed, it appears that based on the center pole structure of the billboard and its location from the roadway/pavement, that it should be set back far enough to not pose any danger to the motoring public driving on S. Tennessee St. in the event of some sort of act of God. Please let me know if you have any questions or would like to discuss before the meeting next week.

Thanks,
Bobby

Robert L. Walker | Managing Partner

Jenkins, Bowen & Walker, P.C.

15 South Public Square

Cartersville, Georgia 30120

(770) 387-1373 – Tel

(770) 387-2396 – Fax

Email: rwalker@jbwpc.com

From: David Hardegree <dhardegree@cityofcartersville.org>
Sent: Wednesday, October 30, 2024 5:05 PM
To: Robert L. Walker <rwalker@jbwpc.com>
Subject: RE: V24-24. 520 S. Tennessee St. Billboard setback variance- PW comments

Yes. Tomorrow or Friday. Mid-morning tomorrow?

From: Robert L. Walker <rwalker@jbwpc.com>
Sent: Wednesday, October 30, 2024 1:56 PM
To: David Hardegree <dhardegree@cityofcartersville.org>
Subject: [EXTERNAL] RE: V24-24. 520 S. Tennessee St. Billboard setback variance- PW comments

David:

Do you have some time in the next few days that we might be able to discuss this?

