

**CITY OF GASTONIA**  
**ZONING BOARD OF ADJUSTMENT**  
October 24th, 2024 Minutes

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The regular meeting of the Zoning Board of Adjustment was held on Thursday, October 24th, 2024, at 9:00 a.m. in the Council Chamber at City Hall, 181 S South Street, Gastonia, NC.

Board Members present: Chair J. Lee Taylor, Jr, Vice-Chair Bill Marino, James Nebo, Shaun Jones, and Jenna Jourdet.

Board Members absent: Michael Dickson.

Staff present: Jason Putnam, Charles Graham, Chrystal Howard, Jalen Nash, Maddy Gates, and Rebeca Mintz.

Chair J. Lee Taylor called the Board of Adjustment meeting to order.

**Roll Call**

Five Board Members were recognized, and no one received calls or contacts.

**Item I: Approval of July 25th, 2024 Minutes**

Vice-Chair Bill Marino moved to approve the July 25, 2024, minutes as presented, and James Nebo seconded the motion. The motion was unanimously approved (5-0).

Because of the quasi-judicial format of these hearings, North Carolina law requires persons who speak before the board and offer evidence to swear in. Mrs. Mintz administered the oath to the speakers.

**Item II: Public Hearing PLCA202400378 – Karen Panceyk – 832 S Chester St**

The applicant has applied to appeal the Historic District Commission decision.

Chair J. Lee Taylor recognized Zoning Administrator Jason Putnam for a staff presentation.

The applicant, Karen Panceyk, has filed an appeal against the City of Gastonia's Historic District Commission (HDC) decision to deny an application for the replacement of wall signage on three elevations. On August 22, 2024, the HDC subcommittee voted to deny an application for a Certificate of Appropriateness to replace wall signage on three elevations of the Pizza Hut restaurant. The applicant proposed internally illuminated wall signage to replace the current one since Pizza Hut's branding and logo have changed. The new signs are generally the same size and location as the previous signs. The application was denied based on the Historic District Principles and Design standards under signs, which state that pole signs and internally lit signs are prohibited.

Mr. Putnam shared the zoning district C-1 (light commercial) history of this property located in the Historic District. A sign permit was issued on December 19th, 2000; the zoning department did not have guidelines or standards at that time, and the zoning ordinance was different. There was a Certificate of Occupancy issued on March 29th, 2001; the signs would have been installed during that time, as well as in compliance at that time. He stated that those signs are considered a legal non-conformation on our UDO section 12.8 (C), and a nonconforming sign may not be moved or the sign structure replaced except to bring the sign into complete conformity with the Ordinance.

Chair J. Lee Taylor inquired if there was any leeway in the Historic District Principal and Design standards. Mr. Putnam replied that, in the Historic District or not, a non-conforming sign will not be allowed to go back into non-conformity. Once the non-conforming internally lit sign is taken down, they must bring the sign into complete conformity with this Ordinance.

Chair J. Lee Taylor recognized Jalen Nash, Planner, for the staff presentation. Mr. Nash stated that two factors determined the Historic District Commission (HDC) decision. The first factor was that the HDC subcommittee denied the request based on a previous application for installation of signs at the Allstate building located at 311 S South Street within the York-Chester Historic District, which was denied at the April 20<sup>th</sup>, 2024, meeting. The Allstate application set the precedent for this one. The second factor is that, according to the Historic District Principal and Design Standards, Section B on signs, pole signs, and internally lit signs are prohibited (page 29). Mr. Nash displayed the photos of the current and proposed new signs. Mr. Jones asked if replacing a light was allowed and considered a legal non-conforming, but a major repair is non-conforming. Mr. Nash responded, "Correct".

Jenna Jourdet stated that she understood why the company would want to make the sign more visible and asked whether any standards allowed or prohibited the installation of lights, whether they were

hung down or hung upright? Such as the type of lighting that would be fashionable and appealing. Mr. Nash responded yes, they do have options, but the sign just can't be internally illuminated.

Mr. Jones asked Mr. Nash if the HDC currently has any buildings with non-internal illuminated signs with lights shining on them (spot lighting). Mr. Nash responded that there was currently one approved application for the Allstate Office that returned with a new proposed non-illuminated sign (lights shining on), but it hasn't been installed yet. A brief discussion ensued on internal illuminated wall signs and a wall sign with lights shining in the direction of lighting. Mr. Chair asked if the building had been here longer than the historic district, and Mr. Nash responded that it was initially a national historic district in York County in 1988. Then the local jurisdiction in 2007.

Mr. Jones stated that he could see why the internally lit sign could be a problem; he stated as an example, an internally lit sign on Betty Rd was so bright they could barely see the entrance at 6 am before the sun came up, it was extremely bright, and they had a lot of people complaining to turn the light down a little bit. He also expressed that 60 or 70 years ago, they did not have a lit sign, so they are trying to conform to what you might expect from that period. He knows it is hard to understand why they cannot continue doing what they have done before, but it is considered not conforming.

Mr. Nebo asked Mr. Nash whether the only way to keep the lit signs lit would be to keep the original brand. Mr. Nash responded, "Correct".

Chair J. Lee Taylor stated that it is easy to understand why the company would want the new branding, and their intent is not to create a problem for a commercial neighbor.

Mr. Marino inquired about controlling illumination as a possible solution. A brief discussion ensued among board members about whether there was a standard for staff monitoring the illumination. Mr. Putnam stated that if they have to decide on the brightness in the permitting stages, they can implement conditions to set a standard for the lighting. However, it would be difficult to monitor. Mr. Marino commented that he did not see that the light on the building would interfere with any traffic, which would hinder people's ability to see, because it is a tiny sign unless it is highly bright.

Chair J. Lee Taylor asked the staff if neighbors had complained about the light being too bright. Staff replied that they were unaware of any complaints.

Chair J. Lee Taylor recognized Omar Dawkin, 2024 Turnberry Ln, Monroe, NC, the Director of Operations for ADT P in Charlotte and the surrounding areas, and LaDonna Roberts, 1700 N Second Ln, Charlotte, NC, who works for the sign company. Mr. Dawkins continued explaining the project, stating that this is part of a quarter-million-dollar investment into the property, it is a full-scale, internal and external remodel. Ms. Roberts commented that they are trying to replace the existing signs with more energy-efficient, less colorful signs to align with the brand standard. They can look into something outside the brand standard, but their goal is to make an update that keeps the brand standard across the board. They can adjust the amount of lights going into the sign because they use LED lights, not old Neon lights.

Mr. Nebo asked whether they had installed other signs in other areas where adjustments were needed, because they want to keep the historic district standard. Ms. Roberts stated that their company can adapt to the board's expectations, but they also must meet their clients' standards and expectations. Mr. Jones asked if the applicant, Karen Panceyk, was not present. Ms. Roberts stated that Anna made the application, and Mr. Dawkins stated that Karen Panceyk is the Director of Support for ADT Pizza LLC's corporate office and is based in Texas.

Chair J. Lee Taylor asked whether the internally lit signs were not allowed and whether they would still proceed with the rest of the renovations. Mr. Dawkins stated that "yes," the upgrades would continue; however, they want to keep the brand's integrity.

Mr. Marino asked whether they could adjust the illumination to whatever the people wanted, and Ms. Roberts said she could use fewer lights and briefly explained the process.

Jenna Jourdet asked when ADT P acquired the property. Mr. Dawkins stated that it was acquired in 2019.

Mr. Dawkins stated that what they are requesting is like-for-like, and all they are trying to do is provide a decent place for all people to eat and a safe place for their employees. They can adjust the lighting on the sign.

Board member Mr. Jones moved to close the public hearing, and board member Mr. Marino seconded it. The motion was approved (5-0).

Mr. Jones stated that the point was that this was not conforming, and if an exception was made to this one, then they are opening the doors for every other petition in the future, the rules and standards are there for a reason, and he commented that the applicant needs to come back with a sign that was conforming with the standards (an externally lit sign). The Historic District Principals and Design Standards are there, and it was not their job to tell them that they disagree with them, and it was not in their best interest to do that. This was an opportunity for the group to be creative in this area. Mr. Jones would like to see that.

The Board of Adjustment received legal counsel on what the board had heard from staff and among the board, and it was noted that the case was complicated. Assistant Attorney Graham reminded the board of the requirement to find specific facts to vary from the zoning ordinance, the zoning ordinance is the law as it is written, and the board can establish allowance for the variance which they have the power to grant variances. Assistant Attorney Graham continued that this is not a variance petition but a petition for a Certificate of Appropriateness under the Historic District Principals and Design Standards. He explained how the state statutes, Chapter 160D, changed the Historic District guidelines to set standards. The board should not vary from the standards unless they go through an analysis for a variance, finding something unique to this property that makes strict application of the standard rise to the level of an undue hardship. Assistant Attorney Graham complimented the board on having done a great job with previous cases, finding something very appropriate in variance applications and not creating an arbitrary and capricious nature of interpretation, and he recommended that the board take a similar approach under the design standards in the historic district.

Chair J. Lee Taylor asked the board if there is anything unique about this property, the location, or the situation that would justify approval of what they are asking. Mr. Jones stated that he felt that there was enough space to place external lights in the yard and the roof area, and he did not see a unique circumstance that would prevent them from following the principles and standards. Mr. Nebo stated that on the agenda page 22, the current lights are internally illuminated but also have external light. He noted that this would be an excellent opportunity to find signs that fit in historic district areas.

A brief discussion ensued on the extensive zoning regulations regarding security lighting in parking lot areas, such as how bright it can be, in what direction the lighting can point, and where it should be placed; all of that is under a zoning permit and not a part of this consideration.

Board Member Mr. Jones made the motion to deny the presented petition because the internally illuminated sign does not conform to the historic district's design standards. Board member Ms. Jourdet seconded that motion. The motion was unanimously approved to deny the petition. (5-0).

### **Item III: Public Hearing PLCA202300475 – Ann Kelley Ownbey – 509 S Lee St**

The applicant has applied to appeal the Historic District Commission decision.

Chair J. Lee Taylor recognized Zoning Administrator Jason Putnam for a staff presentation.

The applicant, Ann Ownbey, has filed an appeal against the City of Gastonia's Historic District Commission (HDC) decision to deny an application for replacing roof shingles, removing the cupola, and adding a new roof covering over the porch. On March 28, 2024, the HDC subcommittee voted to deny an application for a Certificate of Appropriateness (COA) to remove a cupola and install a new roof covering at the front entrance. This work was completed before the application was made to the HDC for a COA. There were also no zoning permits obtained from the City of Gastonia, nor was there a building permit issued by Gaston County Building Inspections. The HDC recommended that Ms. Ownbey submit a new application for changes to the front porch roof covering. As of today, there has been no submittal to the HDC for this change.

Chair J. Lee Taylor wanted to make sure he understood that Mrs. Ownbey did not request a Historic District COA or a zoning or building permit before the construction of replacing roof shingles, removing the cupola, and adding a new roof covering. The improvements were made, and someone

complained or brought it up after the work. Mr. Putnam replied that this is an after-the-fact application. He stated that anybody can submit a zoning permit; however, this request would have to be denied as the applicant did not have an approved COA. Gaston County would not issue a building permit for the applicant without an approved zoning permit from the City of Gastonia as it is part of their submittal process. Chair J. Lee Taylor was concerned about the work that was done without a building permit, and did not know if it was built according to the NC Building Code with correct materials and construction standards.

Chair J. Lee Taylor recognized Planner Jalen Nash for a staff presentation.

Mr. Nash, Planner for the Historic District, began his presentation by describing the property's style, the year it was built, the materials used in the house, and the zoning district. The property owner was notified of the violation for the roof covering installation and submitted the COA application on November 11, 2023. The application stated that the roof shingles were damaged, and the cupola had to be removed due to water leakage and rot. Also mentioned in the application was that the applicant has lived in her house for 20 years and never had a cover over the front door, exposing her to the elements. Mr. Nash continued to explain the excerpts from the design standards for roofs and gutters and the excerpts for the porches, decks, and patios in the historic district area. A before-construction and after-construction picture was displayed. Board member Mr. Nebo asked Mr. Nash what the HDC proposed to have done. Mr. Nash replied that the decision was that the applicant needed to remove the covering, take it down, or return with a new application sufficient enough to be approved. The applicant would not have to remove it immediately if she returned with a new application. Brief comments were made by Chair J. Lee Taylor and Mr. Jones that changes need to occur with an approved COA and zoning permit, or the applicant will have to tear it down. Mr. Nash agreed.

Chair J. Lee Taylor recognized Mrs. Ownbey, 509 S Lee St, as the applicant and property owner. Mrs. Owenby stated that she has been in the neighborhood for 20 years. She has never done any exterior repairs until now. The property entrance has 16 steps, and because of her age, it isn't easy to carry groceries, work materials, and other things to the house. She stated that she changed the roof and setting of the house while keeping the original color. She had no problem going through the proper steps to get this approved. She stated that she has taken pictures of homes from the Gastonia and Belmont Historic Districts. She commented that some homes in Gastonia were not kept up, including several on her street. She commented about Belmont being a diverse architecture, trying to be inclusive of different individuals, and adding to the economic development of Belmont City; she thinks the city would benefit from doing the same.

Board member Mr. Jones asked Mrs. Ownbey if her house was part of the historic district when she purchased the home 20 years ago. She responded, "Yes, or at least within a few years". Mr. Jones asked her whether her realtor or someone else had explained that it would involve extra steps with the Historic District. It was essential to understand that when you move to a Historic District, there were things you can and can't do. He stated that everyone needed to follow the rules because if the Board made an exception with her, they would have to do it for everyone else. Mrs. Ownbey said, "I know."

Chair J. Lee Taylor asked Mrs. Ownbey if she knew she was in the historic district when she made these improvements. She said, "Of course I did." But she wasn't aware of the procedures because she had never done anything to the house in 20 years, so it was nothing she had to address before. Chair J. Lee Taylor asked her if the siding and the new roof did not require a process of approval. She said, "No." Mr. Nash also replied that it was ordinary maintenance to repair. Chair J. Lee Taylor asked Mrs. Ownbey if the contractor had not told her she needed a building permit. Mrs. Ownbey stated that he told her he had done such porches without a permit, and she was going by his word. Mr. Jones asked her the name of her contractor, and she responded Steven Davis. Mr. Jones stated that she has a chance to repair the porch without tearing it down, but she does need a COA, as well as a zoning permit and building permit. Chair J. Lee Taylor stated that after all that is done, she would probably also need an engineer's letter since the porch is completed, so as not to have a problem.

Board Member Mrs. Jourdet made a motion to affirm the Historic District Commission's denial of the Certificate of the Appropriateness of the presented petition because it does not conform to the Historic District's Principal and Design standards. Board Member Mr. Nebo seconded that motion. The motion to deny the petition was unanimously approved (5-0).

**Item IV: Other Business or Announcements**

Chair J. Lee Taylor stated that any aggrieved party shall have the right to appeal the Board’s decision by filing a petition for review with the Gaston County Clerk of Superior Court within thirty (30) days of receiving written notice of the decision.

Mr. Putnam informed the board that an application was submitted yesterday, so a meeting may take place on December 5<sup>th</sup> (combined meeting for November and December). Staff still needs to talk to the applicant who filed the application.

There being no other business, Board Member Mr. Marino made a motion to adjourn the meeting. Board Member Mr. Jones seconded the motion, and the motion was unanimously approved. The meeting was adjourned at 10:58 a.m.

Respectfully Submitted:

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Rebeca Mintz, Planning Technician, CZO

Zoning Board of Adjustment  
City of Gastonia, NC

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Chairman, J. Lee Taylor

Zoning Board of Adjustment  
City of Gastonia, NC