

Town of Lexington  
**Board of Zoning Appeals  
Minutes**

August 5, 2021

---

---

The Board of Zoning Appeals held their regular scheduled meeting on August 5, 2021 at 5:30 p.m. in the Council Chambers located in Town Hall, 111 Maiden Lane, Lexington, S.C. Those present for the meeting were Chair Mary Watts, Vice-Chair Troy Fite, Board Members Reve Richardson and Ronald Fisher. Board Member Justin Brown was absent.

Council and Staff members present were: Director of Planning, Building and Technology John Hanson, Assistant Zoning Administrator Jessica Lybrand, I.T. Specialist Alan Parker and Municipal Clerk Becky Hildebrand.

Two (2) citizens were present and no one from the news media was present.

---

---

Chair Watts called the meeting to order at 5:30 p.m. and read an opening statement to explain the rules of procedure for a Board of Zoning Appeals meeting as follows:

*All four points must be met and should be read as part of the official record. The Board of Zoning Appeals is a legal board operating under the Comprehensive Planning Act of the State of South Carolina; they make decisions within the parameters of State law and may hear and decide appeals for a variance from the requirements of the ordinance when strict application of the provision of the ordinance would result in unnecessary hardship and a variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing all their findings: (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography. (2) These conditions do not generally apply to other property in the vicinity. (3) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property. (4) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance. State law further prohibits the board from granting a variance simply because the property could be used more profitably if the variance were granted. The board is not concerned with the use of the property because that is determined by others. If the applicant believes the board made an incorrect decision, they may appeal the decision through Circuit Court within certain time limits provided by State law. Those testifying at the meeting are asked to sign-in.*

**ACTION ITEMS**

1. **Variance 2021-9(V): Variance from the Sign Ordinance at 5440 Sunset Boulevard (Kohl's):** Director of Planning, Building and Technology Hanson presented the request. He stated that Mr. Matt Pennington, Visual Concepts Signs and Lighting, was the applicant, but Mr. John Hankinson, President of Visual Concepts Signs and Lighting, was present to answer any questions. Mr. Hanson stated that Visual Concepts had requested a variance from the Sign Ordinance to install a larger wall sign at Kohl's located at 5440 Sunset Boulevard. The Sign Ordinance allows each tenant in a commercial center to have one wall sign and a tenant panel in a commercial center. The Sign Ordinance defined the maximum allowable size of a wall sign as fifteen percent (15%) of the area of the wall of the first story of the building. In this case the store is allowed to have a wall sign that is 67.5 square feet. The applicant requested to replace the existing non-compliant sign with a new sign that is 151 square feet.

Section 159.09.04 of the Sign Code states: "Whenever any nonconforming sign, or part thereof, is altered, replaced, converted or changed due to a change in business, attraction, service, ownership or management, the entire sign shall be brought into compliance with these regulations". The Board was asked to review the request.

Chair Watts called for comments from the applicant.

**Mr. John Hankinson**, President of Visual Concepts Signs and Lighting, thanked the Board for allowing him to present his case. He stated that they understand that Kohl's used to be a standalone and was converted to a shopping center with the addition of a tenant which reduces their allowable signage. Mr. Hankinson asked for consideration to allow Kohl's to add signage for the new company going into Kohl's and not have to reduce the size of Kohl's sign. He added that the size of that anchor sign represents similar sizes of other anchor stores in the Town of Lexington. Mr. Hankinson explained that Kohl's would like to keep the size of their sign and add the new company's name, Sephora, underneath it in order to allow Sephora to advertise as well. He felt if Kohl's had to reduce their signage in order to add Sephora, then it would hurt Sephora's ability to have exposure and Kohl's as well. Mr. Hankinson stated that he would like to see Kohl's succeed in Lexington and to attract new customers as they move into town. He added that their sign would be currently appropriately sized if you look at other anchor tenants in this area.

Chair Watts advised Mr. Hankinson that if Kohl's does not change their sign, they can keep the sign at the size it is now, but if the sign is changed it would have to comply with the new zoning requirements. She asked if Sephora is part of Kohl's now or is it a company that is located inside of Kohl's. Mr. Hankinson called on Kohl's Manager to respond.

**Mr. Michael Autry**, Manager at Kohl's Lexington, stated that Sephora will be located inside the Lexington Kohl's building and it will be Kohl's associates running the business. He added that Sephora has their own business and their model

**Board of Zoning Appeals Minutes  
August 5, 2021**

is they (Kohl's) is going into a partnership with Sephora. Mr. Autry stated to get advertisement for Sephora they would use the Sephora logo.

Vice-Chair Fite stated that there is a store in Columbiana Mall that does something similar with Sephora. Mr. Autry responded that J.C. Penny's had a partnership with Sephora, but J.C. Penny's is eliminating that partnership.

Chair Watts asked if all Kohl's would have a Sephora located inside their stores. Mr. Autry responded, no, not all Kohl's because some stores only have 40,000 square feet which would be too small. He added that they will roll out 250 stores this year with Sephora and 250 more next year and more the third year. Chair Watts asked if all Kohl's logos would have the Sephora logo under it. Mr. Autry responded that if a Kohl's store does not have a Sephora inside, then they would not have the Sephora logo outside. He gave the store in Charleston at West Ashley as an example of a small store which will not have a Sephora. Mr. Autry stated that his store in Lexington and others in Irmo and Spring Valley are 85,000 square feet buildings so they will have Sephora incorporated into their business. He estimated that about 85% to 95% of all Kohl's stores would have Sephora.

Board Member Richardson confirmed that all the stores Mr. Autry mentioned would have Sephora signage outside on the Kohl's sign.

Vice-Chair Fite asked for clarification, going back to the T.J. Maxx sign, that the Board is only reviewing a sign for the front of the store, not multiply signs. Mr. Hanson responded that the applicant is also proposing a panel in the monument sign out front which is not an issue. Vice-Chair Fite restated that he was only referring to any signs on the building. Mr. Hanson further clarified that Sephora is not a separately licensed business within Kohl's, it is essentially a kiosk inside Kohl's. He compared it to if J.C. Penny's put the Levi sign outside with their sign. Mr. Hanson explained that you are still going to Kohl's but you can also buy at Sephora.

Chair Watts compared the partnership to a lease such as Amazon, because Kohl's takes Amazon but the Amazon logo is not on the sign out front.

Vice-Chair Fite confirmed that the current Kohl's sign on the front of the building is not in compliance with the Town's ordinance. Mr. Hanson stated that it is one of those situations that if the sign was left alone it could stay. Vice-Chair Fite stated it was just like the T.J. Maxx sign. Mr. Autry stated that it was his understanding that the Kohl's logo on the sign in front of the building was not changing, just adding the Sephora logo. Chair Watts stated that was adding to the amount of signage that you have which is non-compliant. She added that the Kohl's sign should actually be smaller, not adding more. Mr. Hankinson stated that if the sign were smaller it would look odd compared to all the other anchor store signs in the Town of Lexington

Chair Watts explained that T.J. Maxx decided to not change their non-conforming sign so they could keep it. She stated that if Kohl's changes their sign in any way, it is non-conforming so they would have to adhere to the new zoning which would

**Board of Zoning Appeals Minutes  
August 5, 2021**

make their Kohl's sign come down which may not allow enough room for Sephora. Mr. Hankinson was concerned that if they could not have a sign, Kohl's may decide to not have Sephora and if they cannot advertise it the business would fail. Chair Watts stated that Kohl's can have Sephora, they just cannot have a larger sign. She thought it would be to their best interest to not change the sign on the building.

Board Member Richardson added that Kohl's could have Sephora on the monument sign. Chair Watts agreed that Sephora could be on the monument sign then Kohl's would not have to lose their big sign on the front of the store. She added if they change the sign on the front of the building, it would have to be a smaller sign. Board Member Richardson stated that Kohl's would have to decide which way they wanted to go.

Vice-Chair Fite stated that if Kohl's follows the ordinance it should be approximately one-third the size, but they are asking for a sign that is twice the size allowed by the ordinance. Mr. Hankinson stated that when the original sign was approved it was calculated on the entire store front and now you can only use the inset brick portion of the front. He added if they could use the entire store front in the calculation, like other anchor stores, there would be enough room to add Sephora. Vice-Chair Fite asked for clarification on the formula for calculating allowed signage. Mr. Hanson explained that the code states to use the wall to which the sign is attached. He added that if Kohl's used the whole front of the building for their calculations, the current sign could be twice as big as it currently is. Mr. Hankinson stated that they are not asking for that. Mr. Hanson stated that is why the Town does not use that calculation.

Chair Watts asked if the Board had any further questions. Vice-Chair Fite stated that Mr. Hanson was doing the calculation. Mr. Hanson told the Board to proceed, he was working on a Plan B. Mr. Hankinson thanked the Board for their consideration. Chair Watts called for the Board's discussion. She stated that she thought it would be better for Kohl's if they kept the sign they have now and place Sephora on the monument sign. She added by doing that, they would not lose the larger non-conforming sign that they currently have on the building. Vice-Chair Fite asked Mr. Hanson if Kohl's tagged Sephora under their existing sign, did it count as changing the sign. Mr. Hanson responded, yes. Chair Fite stated that he was trying to think of a work around, but he could not. Chair Watts restated that this is a contract company like Kohl's has with Amazon and they do not have an Amazon sign out front.

Chair Watts called for a motion if there were no further questions. A motion was made by Board Member Richardson and seconded by Board Member Fisher to deny Variance Request 2021-9(V). Chair Watts called for a roll call vote. Roll call vote results: Vice-Chair Fite, yes to the motion to deny the variance request; Chair Watts, yes to the motion to deny the variance request; Board Member Richardson, yes to the motion to deny the variance request; and Board Member Fisher, yes to the motion to deny the variance request. The motion to deny Variance 2021-9(V) was unanimously carried by all those present.

**APPROVAL OF MINUTES**

A motion was made by Board Member Richardson and seconded by Vice-Chair Fite to approve the Board of Zoning minutes from the May 6, 2021 meeting as submitted. The motion was unanimously carried by all those present.

**OTHER BUSINESS**

Vice-Chair Fite asked if the Board had anything on the calendar for next month. Mr. Hanson responded, yes, for September 2, 2021.

Ms. Lybrand reminded the Board that there would be another training session scheduled and she would send an email to confirm the date.

**ADJOURNMENT:** There being no further business Vice-Chair Fite made a motion to adjourn. The motion was seconded by Board Member Richardson. The motion was unanimously carried by all those present. The Board of Zoning Appeals meeting adjourned at 5:45 p.m.

Respectfully submitted by:

Becky P. Hildebrand, CMC  
Municipal Clerk

**APPROVED:**

Mary Watts  
Chair

*FOIA COMPLIANCE – Public notification of this meeting was published, posted and mailed in compliance with the Freedom of Information Act and the Town of Lexington requirements.*