

Appeal

Pecan Ave

Hearing Request Application - Form 1
Zoning Board of Adjustment
City of Charlotte

Date Filed: 8-1-2012

Case Number: 12-035
~~720120029472~~

Received by: SSK

Instructions

This form must be filed out completely. Please attach the appropriate additional form depending on your request type along with required information as outlined in the appropriate checklist. Please type or print legibly. All property owners must sign and consent to this application, attach additional sheets if necessary. If the applicant is not the owner, the owners must sign the Designation of Agent section at the bottom of this form.

The Applicant Hereby (check all that apply):

- ☐ Requests a variance from the provisions of the zoning ordinance as stated on Form 2
- ☒ Appeals the determination of a zoning official as stated on Form 3
- ☐ Requests an administrative deviation as stated on Form 4

Applicant or Agent's Name: Adams Outdoor Advertising Limited Partnership d/b/a Adams Outdoor Advertising

Mailing Address: 1134 North Graham Street

City, State, Zip: Charlotte, NC 28206

Daytime Telephone: (704) 373-1700

Home Telephone: n/a

Interest in this Case (please circle one): Owner Adjacent Owner other

Applicant is the owner of the Billboard that is the subject matter of the zoning notice of violation.
Applicant leases the real estate parcel identified below from Cole Properties, Inc..

Property Owner(s) [if other than applicant/agent]: Same.

Mailing Address: _____

City, State, Zip: _____

Daytime Telephone: _____

Home Telephone: _____

Property Address for Billboard:

Tax Parcel Number: 08117723*

Zoning District: B-2

Subdivision Name: n/a

Conditional District: YES NO

*Owner of Parcel is Cole Properties, Inc., 1318 Central Ave., Ste. F, Charlotte, NC 28205-5052

Applicant Certification and Designation of Agent

I (we) certify that the information in this application, the attached form(s) and documents submitted by me (us) as part of this application are true and correct. In the event any information given is found to be false, any decision rendered may be revoked at any time. I (we) hereby appoint the person named above as my (our) agent to represent me (us) in this application and all proceedings related to it. I (we) further certify to have received, read and acknowledged the information and requirements outlined in this packet.

7/31/12
Date

[Signature]
Property Owner

Appeal Application - Form 3
Zoning Board of Adjustment
City of Charlotte

Date Filed: 8-1-2012

Case Number: Z20120029472

Fee Collected: _____

Has work started on this project?	YES <input type="checkbox"/> NO <input type="checkbox"/>	N/A
If yes, Did you obtain a building permit?	YES <input type="checkbox"/> NO <input type="checkbox"/>	If yes, attach a copy.
Have you received a Notice of Violation for this project?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	If yes, attach a copy.
Has this property been rezoned?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, Petition Number: _____

(1) What zoning ordinance section numbers do you allege were applied in error? Please list each section, the requirement and the requested variance.

Item	Code Section	Code Requirement
<i>Example</i>	<i>9.205 (1)(g)</i>	<i>45 foot rear yard</i>
A	13.112(1)(b)	Nonconforming on-premise signs erected prior to 2-1-1988 allowed to remain subject to certain requirements, including the requirement that they cannot be increased in size or height. THIS SECTION CITED IN THE CITY'S ZONING VIOLATION ALTHOUGH BILLBOARD IS A NONCONFORMING, OFF-PREMISE/OUTDOOR ADVERTISING SIGN, NOT AN ON-PREMISE SIGN.
B	13.111(3)	Existing outdoor advertising signs cannot be increased in size or height when rebuilt
C		Mark Fowler (Neighborhood & Business Services Code Enforcement Officer) stated that the Billboard was not erected until 1997 or after, which purportedly would require the sign to comply with current zoning ordinances (See attached "Billboard Status Update" letter and attachment).
D		
E		

(2) Please describe why you feel the code sections listed above were applied in error. Tell the Board what you feel is the appropriate application of each code section.

(a) Code Sections 13.112(1)(b).

Billboard is a nonconforming, off-premise/outdoor advertising sign, not an on-premise sign.

(b) Code Section 13.111(3).

The Billboard in question was erected and is maintained pursuant to a valid, unrevoked, permit issued by the North Carolina Department of Transportation ("DOT"). The DOT permit was originally issued in 1972 with the inception of the DOT's regulatory program arising from the North Carolina Outdoor Advertising Control Act (G.S. 136-126 *et seq.*) ("OACA"). Contrary to Mark Fowler's assertions, the Billboard was erected in 1959. The DOT's documentation for the Billboard is attached hereto.

According to N.C. Gen. Stat. § 136-131.1 (2012) of the Act:

No municipality, county, local or regional zoning authority, or other political subdivision, shall, without the payment of just compensation in accordance with the provisions that are applicable to the Department of Transportation as provided in paragraphs 2, 3, and 4 of G.S. 136-131, remove or cause to be removed any outdoor advertising adjacent to a highway on the National System of Interstate and Defense Highways or a highway on the Federal-aid Primary Highway System for which there is in effect a valid permit issued by the Department of Transportation pursuant to the provisions of Article 11 of Chapter 136 of the General Statutes and regulations promulgated pursuant thereto.

In *Lamar OCI South Corp. v. Stanly County Zoning Bd. of Adjustment*, 186 N.C. App. 44, 650 S.E.2d 37 (2007), *aff'm per curiam*, 362 N.C. 670, 669 S.E.2d 322 (2008), our appellate courts held that, pursuant to G.S. 136-131.1, a local government cannot use its land use regulations to cause the removal of a Billboard, nonconforming to local requirements, for which there is in effect a valid DOT permit. The *Lamar* holding states that a nonconforming sign may continue as long as the DOT permit remains unrevoked. There is no competent evidence to support the assertion that the Billboard was erected in 1997 or thereafter. There is no competent evidence to support the assertion that the Applicant illegally modified or increased the size/height of the Billboard contrary to the Act and DOT regulations, which State regulatory provisions preempt Charlotte's zoning provisions related to the operations and maintenance of a DOT-permitted sign. Because Adams possesses a valid, unrevoked DOT permit for the sign in question, Charlotte lacks any code enforcement jurisdiction in this case. The City's only recourse, if available, is pursuing relief from the DOT.

(c) Code Section _____.

(d) Code Section _____.

(e) Code Section _____.

Property Owner Authorization

I, John Cole Hatcher (print name), the owner of record for the property located at 1221 E. Independence Blvd., do hereby authorize Adams Outdoor Advertising (print name of tenant), by and through Attorney Craig D. Justus, to file an appeal related to the Notice of Violation letter from the Code Enforcement Division (print agency or department) dated 7/3/12.

Dated this 27th day of July, 2012.

If Individual:

By: John Cole Hatcher

Print name: JOHN COLE HATCHER

OR

If Entity:

COLE Properties & Investments, Inc
(Print Company Name)

By: John Cole Hatcher

Print Name: JOHN COLE HATCHER

Print Title: PRESIDENT

STATE OF NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public of the County and State aforesaid, certify that _____ (print name) personally came before me this day and acknowledged that he or she executed the foregoing instrument in the capacity indicated.

Witness my hand and official stamp or seal, this _____ day of _____, 2012.

Notary Seal:

Notary Public

Printed Name: _____

Commission expires: _____

North Carolina STATE

Mecklenburg County COUNTY

I, Brenda Allen, a notary public of said County and State certify that
Danny Steen personally appeared before me this day, and being duly sworn,
stated that he witnessed John Cole Hatcher execute the foregoing instrument.

Witness my hand and official seal, this the 27th day of July 2012.



(Signature of Notary taking acknowledgment)
My Commission expires December 30, 2014



Code Enforcement Division
Southwest Service Area
4150 Wilkinson Blvd.
Charlotte NC 28208



7/3/2012

Adams Outdoor Advertising
1134 North Graham St
Charlotte NC 28206

ZONING NOTICE OF VIOLATION

Case Number: Z20120029472 Document # 6959

Property Address: 1322-1336 CENTRAL AV CHARLOTTE NC 28205 Zoning Classification: B-2

Tax Parcel No.: 08117723

Violation Summary:

Billboard ID# US-74-060-002, identified as Adams #7161, has been modified and/or increased in size/height and is in violation of the City of Charlotte Zoning Ordinance. Existing outdoor advertising signs that conform to the standards in Table 13.111(5) shall be allowed to remain so long as they maintain a conforming status. Signs may be rebuilt; however, no existing sign shall be increased in size or height when rebuilt. All signs that do not conform to the regulations shall be removed in accordance with Section 13.112 of these regulations or brought into compliance.

Please immediately correct the violation(s). If the violation(s) are not corrected within 30 days from the date of this Notice of Violation, and there is no appeal to the Zoning Board of Adjustment, the City reserves the right to exercise any one or all of the following remedies outlined in Chapter 8 of the City of Charlotte Zoning Ordinance.

- (1) Issuance of criminal summons for failure to comply with the City of Charlotte Zoning Ordinance.
- (2) Escalating monetary citations.
- (3) Civil judicial remedies to include: court order to vacate occupancy and/or use of premises. Injunction to correct violation abatement order.
- (4) Revocation of certificate of occupancy.

The Zoning Board of Adjustment is empowered to rule on the interpretation of the Zoning Ordinance and to grant variances when a difficulty or hardship exists. Appeals will not be heard by the Board unless an application is properly filed in the Zoning Administrator's office within 30 days of the date of this Notice of Violation. Once the deadline has passed, your right of appeal is forfeited.

Forms are available at the office address below and online at
<http://charmeck.org/city/charlotte/planning/AboutUs/Pages/FeesApplications.aspx>.

If you have any questions as to what is required by this notice, please contact me at the number below.

GEORGE LEE



Violations

13.112 (1) (b)

13.112. Removal of Certain Signs. (1) (b) On-Premise Signs. Notwithstanding (a) above, all nonconforming on-premise signs that were issued valid permits prior to the February 1, 1988 and were erected in accordance with the permits, may remain until such time as one of the following occurs: 1. Such sign(s) is moved, removed or replaced by voluntary action. Any such sign, or portion thereof, which is required to be relocated due to any governmental action such as a roadway improvement, may be moved to another location on the same property. 2. Additions to the principal building that exceed 1,000 square feet or 5% of the building's gross square footage; whichever is less. 3. Structural or nonstructural alterations excluding routine maintenance and repair of the facade of the principal building that exceed 50% of the facade's area. 4. Any change in the existing use of the property requiring a change of use permit from Neighborhood Development or Engineering and Property Management. 5. Any change to the sign that is not: (1) necessitated by routine maintenance or by repairs, (2) necessitated for compliance with minimum Electrical or Building Codes, or (3) a change to the existing sign face not involving the modification of the size or shape of the sign face. 6. Approval of an application for a sign permit to add new or additional signage to the site of a nonconforming sign. Such nonconforming on-premise signs shall be subject to all applicable nonconforming provisions of this ordinance. If the use to which the sign refers to is visibly discontinued for more than twelve (12) consecutive months, then the sign shall lose its nonconformity status and be unlawful.

13.111(3) Existing outdoor advertising signs.

Existing outdoor advertising signs. Existing outdoor advertising signs that conform to the following standards shall be allowed to remain so long as they maintain a conforming status. Signs may be rebuilt to conform to the following standards; however, no existing sign shall be increased in size or height when rebuilt. All signs that do not conform to the regulations shall be removed in accordance with [Section 13.112\(5\)](#) of these regulations.

Regulation Existing Outdoor Advertising Signs

- **Zoning District Permitted:** I-1 and I-2 on Class I, II, III, IV, V and VI Roads B-2 on Class I, II, III, IV, V, and VI Roads
- **Location:** Located outside of the front setback, side and rear yards of the district.
- **Maximum Sign Face Area;** 380 square feet in I-1 and I-2 zoning districts; 300 square feet in B-2 zoning district
- **Maximum Height Class;** I Roads in I-1 and I-2: 50 feet, Class II, III, IV, V, and VI Roads in I-1 and I-2: 40 feet Class I, II, III, IV, V, and VI Road in B-2: 30 feet
- **Maximum Number of Sign Faces;** 1 per side of sign, totaling no more than 760 square feet
- **Sign Type;** Freestanding with unipole construction only.
- **Limitations;** No dimming, flashing, fading, or scrolling messages. No moving, rotating, fluttering, blinking, flashing elements permitted. No animation, video, audio, pyrotechnic components. No automatic changeable face outdoor advertising signs, and no bluecasting technology permitted.
- **Message Duration;** The message shall not change more than once within a 24-hour period.
- **Illumination;** No outdoor advertising sign shall remain lighted between the hours of 12:00 a.m. and 5:00 a.m. except those signs located along Class I and II streets. All illumination devices shall be effectively shielded so as to prevent beams or rays of light from being directed at any portion of a street or highway. Illumination intensity or brilliance shall not cause glare or impair the vision of motorists, and shall not interfere with any driver's operation of a motor vehicle.
- **Spacing of Sign to Residential Districts and Institutional Uses;** There shall be at least 400 linear feet

spacing, distance between the outdoor advertising sign and Residential Districts and Institutional uses. Institutional uses include schools, religious facilities, health institutions, colleges and universities, vocational schools, child care centers, government buildings, recreation centers, public parks, and civic, social and fraternal associations, or other institutional uses as classified in the Zoning Ordinance. The distance shall be calculated as the shortest measurable distance between the nearest point of the sign to the edge of residential district or to the property line of the institutional use.

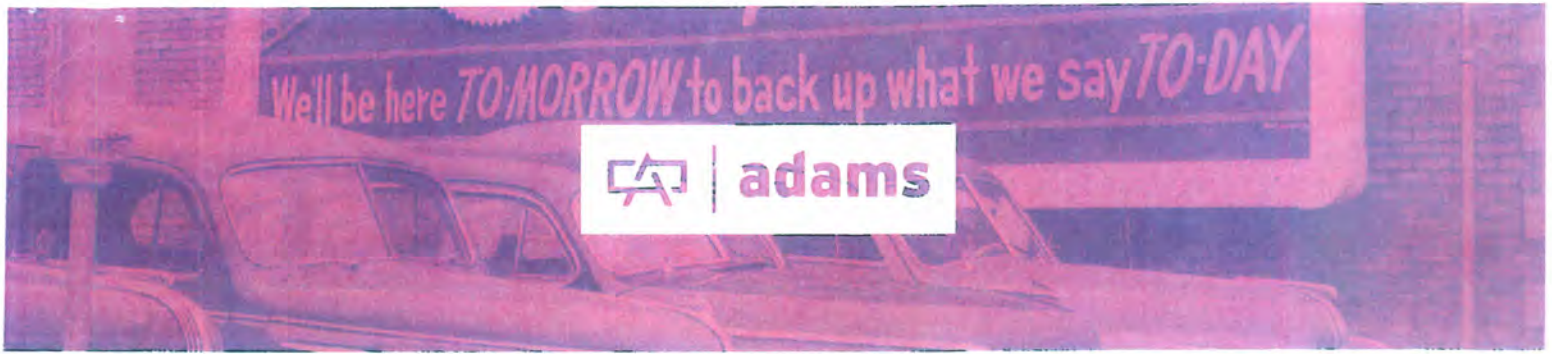
- **Spacing to Outdoor Advertising Signs on the Same Side of the Street;** There shall be at least 1000 linear feet spacing distance between outdoor advertising signs on the same side of the street. The distance shall be measured from the nearest point of the sign as projected to the centerline of the street upon which the sign is intended to be viewed to the nearest point of the other sign as measured to its closest centerline point along the same street.
- **Spacing to Outdoor Advertising Signs on the Opposite Side of the Street;** There shall be at least 500 linear feet spacing distance from any other outdoor advertising sign on the opposite side of the street. The distance shall be measured from the nearest point of the sign as projected to the centerline of the street upon which the sign is intended to be viewed to the nearest point of the other sign as measured to its closest centerline point along the same street.
- **Spacing to Other Outdoor Advertising Signs on Nearby Streets;** In addition, no two outdoor advertising sign structures within 300 feet of any street right-of-way on the same side of the street shall be spaced less than 1000 feet apart, regardless of the street from which the sign is intended to be viewed. The distance shall be the shortest measured distance between the nearest point of the sign to the nearest point of the other sign.
- **Spacing to Existing Buildings;** There shall be a minimum of 20 feet distance required between an outdoor advertising sign structure and an existing building. The distance shall be the shortest measured distance between the nearest point of the sign to the edge of the building.
- **Spacing to the Principal Use being Advertised;** There shall be a minimum of 500 feet distance to any part of the principal use being advertised. The distance shall be the shortest measured distance between the nearest part of the sign to the nearest point of the principal use.
- **Tree-Cutting;** Vegetation cutting in the public rights-of-way for the purpose of clearing views for signs shall be prohibited unless approved by the City Arborist. Cutting of any trees required by the Tree Ordinance that are located in the setback on any property is also prohibited.
- **Conformity;** Existing signs that conform to the standards in this Table shall be allowed to remain so long as they maintain a conforming status. Signs may be rebuilt to conform to these standards; however, no existing sign shall be increased in size or height when rebuilt. All signs that do not conform to the regulations shall be removed in accordance with Section 13.112 of these regulations.

Attachments:

Section 8.105. Citations. (1) The zoning administrator, individually, or by and through his or her authorized designees, including the professional staff identified in part 5, chapter 3, is authorized to issue citations to any person if there is a reasonable cause to believe that the person has violated any provision of these regulations. A violator shall be deemed to be the owner of the premises, the agent of the owner authorized to be responsible for the premises, or the occupant of the premises. Citations may be directly issued to the occupant, lessee, or person having immediate beneficial use of the property. The non-occupant owner or agent responsible for the premises each has a duty to maintain the premises in compliance with these regulations. A citation shall not be issued to a non-occupant owner, agent or occupant for those premises unless there has been written notice delivered to the owner, agent, or occupant, or mailed to the last known mailing address as shown by public records, or by making other reasonable efforts to communicate the existence of the violation to the owner, agent, or occupant. (2) The initial citation for each violation shall be fifty dollars (\$50.00). The issuance of a second citation for any violation that has not been corrected shall be in an amount up to two hundred dollars (\$200.00) upon the day of issuance, up to five hundred dollars (\$500.00) for the third citation, and up to five hundred dollars (\$500.00) thereafter. Any unpaid citations and delinquency charges shall be cumulative and shall subject the violator to a possible civil penalty to be recovered in a civil action in the nature of debt. The citations may be delivered in person to the violator or, if the violator cannot be readily found, then the citation may be mailed. (3) The citation shall direct the violator to make payment to neighborhood development within fifteen (15) days of the date of the citation, or alternatively pay the citation by mail. If the violator does not make such payment or does not mail the citation and payment within fifteen (15) days of the issuance, a delinquency charge of ten dollars (\$10.00) shall be added to the amount shown on the citation. The citation shall inform the violator that a civil complaint or criminal summons may be filed if the citation and delinquency charge is not paid within fifteen (15) days from the date of delinquency. Further, the citation shall state that the violation is a continuing violation and additional citations may be issued with escalating amounts for a continuing violation.

Section 8.106. Civil judicial remedies. (1) If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of these regulations or other regulation made under authority conferred thereby, the city, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises. The General Court of Justice shall have jurisdiction to issue such orders as may be appropriate. (2) If the zoning ordinance makes unlawful a condition existing upon or use made of real property, then the zoning ordinance may be enforced by injunction and order of abatement and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such an ordinance occurs the City may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commending the defendant to correct the unlawful condition upon or cease the unlawful use of the property. (3) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed or that any other action be taken that is necessary to bring the property into compliance with the ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the city may execute the order of abatement. The city shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and material man's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

Section 13.113. Enforcement. (1) Inspections and investigations. (a) Neighborhood development will periodically inspect signs in order to determine whether there are any violations of this ordinance. (b) Neighborhood development shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in these regulations, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting signs. No person shall refuse entry or access to any authorized representative of neighborhood development or engineering and property management who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out his official duties. (c) Neighborhood development may require written statements, or the filing of reports with respect to pertinent questions relating to signs. (2) Citations. If, through inspection, it is determined that a person has failed to comply with the provisions of these regulations, neighborhood development shall issue a warning citation to the violator. Violations shall be corrected within ten (10) days of the issuance of such citation. If the violation is not corrected within the specified time period, the violator is subject to section 8.105, 'Citations', of this ordinance, which is incorporated by reference herein as if fully stated. (3) Other enforcement methods. In addition to the civil penalties, the provisions of these regulations may be enforced by one or more of the methods described in Chapter 8 of the Zoning Ordinance.



August 1, 2012

081-177-23

Via hand-delivery

Mark Fowler
Code Enforcement Official
Neighborhood & Business Services
City of Charlotte
600 East Trade Street
Charlotte, NC 28202

RE: Request to Rescind Notices of Violation for Case# Z20120029485 Doc. # 6966 & Case #
Z20120029472 Doc. #6959

Dear Mark:

This letter will provide to you facts to unequivocally support that the most recently issued Notices of Violation were issued in error and we respectfully request your office to rescind each of the Notices of Violation prior to Adams Outdoor Advertising (AOA) and the City of Charlotte having to incur additional, unnecessary investigative time and expense to resolve. It is clear that AOA possesses and has provided proof of valid NCDOT permits for these sites.

From the start, the City of Charlotte and Adams Outdoor Advertising have agreed to work together to resolve specific concerns regarding sites which are a part of the Billboard inspection review; however, specific to these two sites there clearly is an inaccurate assessment by the City of Charlotte.

For one of the sites (#7161) a claim had been made by Mark Fowler that the sign was not built until 1997 or after. The Zoning Violation document states that the structure has been illegally modified; however, it makes no reference to any issue concerning when the sign was erected.

Statements by City of Charlotte

Original Informal statement by Mark Fowler

US-74-60002 7161 July 3, 2012

Parcel ID 08117723 1111 Pecan Ave

Based on aerial photos, this current billboard was not erected until 1997 or after, which would have required the billboard to comply with current zoning ordinances. Based on this information, the billboard will be required to be brought into compliance.

Notice of Violation issued on July 3, 2012

US-74- 60002, identified as Adams #7161, has been modified and/or increased in size/height and is violation of the City of Charlotte Zoning Ordinance. Existing outdoor advertising signs that conform to the standards in Table 13.111 (5) shall be allowed to remain so long as they maintain a conforming status. Signs may be rebuilt however; no existing sign shall be increased in size or height when rebuilt. All signs that do not conform to the regulations shall be removed in accordance with Section 13.112 of these regulations or brought into compliance

Adams Outdoor Advertising has a valid NCDOT Permit for the Billboard. Because of that, and the Lamar v. Stanley case (a copy of which has been provided), the City's regulatory enforcement efforts are preempted. Although arguably not required, Adams did obtain in 1989 a City of Charlotte permit to perform repair work on the sign due to hurricane Hugo damage. After reviewing the various permits, it is clear that the structure existed well before 1997 and its actual display size has not changed.

North Carolina Department of Transportation

1. Original Valid NCDOT Outdoor Advertising Permit (Permit No. US 74 67032)
 - a. Issue date 3/2/1972
 - b. Size 14 X 48, 672 square feet
 - c. Sign Display, single face
 - d. Status conforming
2. Current Valid NCDOT Outdoor Advertising Permit (Permit No. US 74 60002)
 - a. Issue date 5/2/1991
 - b. Size 14 X 48, 672 square feet
 - c. Sign Display, single face
 - d. Status conforming

City of Charlotte

1. 1989 City of Charlotte Outdoor Advertising Permit (Permit No. 456298)
 - a. Issue date 10/21/1989
 - b. Size 14 X 48, 672 square feet
 - c. Sign Display, single face
 - d. materials steel

With the second site (7181 & 7183), a claim has been made based upon aerial photography and site inspection, that the sign was illegally raised.

Original informal statement by Mark Fowler

US-74-060-004 7181/7183 July 3, 2012

Parcel ID 08117607 1415 East Independence Blvd

Based on aerial photos and onsite inspections, the sign face area was raised to its current height without zoning approval. No permits are on file to approve modifications to the billboard. Based on this information, the billboard will be required to be brought into compliance.

Notice of Violation issued on July 3, 2012

US -60004 identified as Adams #7171/7183, has been modified and/or increased in size/ height and is in violation of the City of Charlotte Zoning Ordinance. Existing outdoor advertising signs that conform to the standards in Table 13.11 (5) shall be allowed to remain so long as they maintain a conforming status. Signs may be rebuilt, however no existing sign shall be increased in size or height when rebuilt. All signs that do not conform to the regulations shall be removed in accordance with Section 13.112 of these regulation or brought into compliance

Adams Outdoor Advertising has a valid NCDOT Permit, and again, based on the Lamar v. Stanley case, any City enforcement action is preempted. According to DOT records, the structure was built in 1970. At that time, there were no height requirements. We understand that the City of Charlotte height requirements came into effect in 1988. According to my previous meeting with Mark Fowler, the contention is that the 1415 East Independence sign was never higher than the building on the adjoining property prior to 1988. The City's adopted Plaza-Central Pedscape Plan contains a photograph of the sign in question in 1985, clearly showing the Billboard to be higher than the adjoining building. Speculative contentions from aerial photos and site inspections cannot override a valid NCDOT permit or the City's own corridor plan for the area which depicts the sign at a proper height.

The City's assertions regarding the above two locations are baseless and an abuse of discretion. Adams requests that the notices of violation be immediately rescinded prior to incurring additional, unnecessary costs defending against the City's claims.

Regards,



Blake Custer

Adams Outdoor Advertising
1134 North Graham Street
Charlotte, NC 28202
704-373-1700

Cc: Kevin Madrzykowski
Ben Krise

North Carolina Department of Transportation Notification of Replacement/Change of Outdoor Advertising Permit

Notification is hereby made of a reissued permit tag or change of permit information to maintain an outdoor advertising sign as designated below, in accordance with provisions of the OUTDOOR ADVERTISING CONTROL ACT, Article 11, Chapter 136 of the General Statutes of North Carolina. No charge is made for a replacement permit tag.

Name of Firm/Owner
ADAMS OUTDOOR ADVERTISING X
Address
1134 N GRAHAM ST. X
City/Town/State/Zip
CHARLOTTE, N.C. 28206 X

Department of Transportation Use Only			
Owner's No. (4-7)		Application No. (8-16)	
X		102670222X	
Mile Post (17-23)		Permit No. (24-35)	
11184L		450074 67423 X	
Property Owner (36-55) 06002			
COLE PROPERTIES INC (36-55)			

Date Sign was erected: **5/9/82** (56-61) (Applicable only to existing structure.)
Y Y M M D D

Old Permit No. **450074 67256** Reason for Replacement Previous Tag was
(if new Permit No. has been issued) (Check One) ☐ 2. Stolen ☐ 3. Damaged ☒ 4. Lost ☐ 5. Other

Sign Description: LENGTH (Max. 60.0 ft.) **48.0** Feet (62-64) HEIGHT (Max 30.0 ft.) **14.0** Feet (65-67) AREA (Max 1200 Sq.Ft.) **0672** Feet (68-71)

Is Sign Lighted?: (Check One) ☒ Yes (72) ☐ No (72)

Sign Displayed: (Check One) ☐ 1. Back-to-Back (73) ☒ 3. Single Face (73) ☐ 5. Combination of 1 & 2 (73)
☐ 2. Side-by-Side (73) ☐ 4. V-Type (73) ☐ 6. Combination of 2 & 4 (73)

Number Display(s): **1** (74)

Permit: Sign is (Check One) ☐ 0. Nonconforming (75) ☒ 1. Conforming (75) ☐ 2. Grandfather (75) ☐ 3. Directional (75)
Code: (Check One) ☒ Reissue Code R (79) or ☐ Change Code C (79)

Instructions: For Reissued Permit Tag, fill in all blanks. Check Reissue Code.
For Change of Permit Information, fill in all lines which are followed by an "X" mark plus whatever information has changed. Check Change Code.

District Engineer J. A. Hough / W. M. M. Date 5/2/91

APPLICATION FOR OUTDOOR ADVERTISING PERMIT

#84

Application is hereby made in Triplicate for a permit to ERECT X MAINTAIN an outdoor advertising sign as located and described below, in accordance with provisions of the OUTDOOR ADVERTISING ACT OF 1970, Article 11, Chapter 136 of the General Statutes of North Carolina.

NAME OF FIRM	NEW STRUCTURE	EXISTING STRUCTURE
Schloss Outdoor Advertising Co.		X
STREET ADDRESS	STATE HIGHWAY COMMISSION USE ONLY	
1134 N. Graham St.	OWNER'S NO. (4-7)	APPLICATION NO. (8-16)
CITY/TOWN/STATE/ZIP	MILE POST (17-22)	PERMIT NO. (23-34)
Charlotte, N. C. 28206	001161	102670222

LOCATION: Route No. US 74 ☒ N ☐ S ☐ E ☐ W side in Mecklenburg County situated 11.61 (nearest tenth) miles of e/o Gaston Co. (Route, County Line, City Limits or Other Nearest Location) on property owned by Colle Properties Inc (35-54) Date sign structure was erected 5/9/08/27 (55-60) [Applicable only to existing structures] First Citizens Paint Ind. Blvd. + Pecan

SIGN DESCRIPTION: LENGTH (Max. 60 ft.) 48.0 feet (61-63) HEIGHT (Max. 30 ft.) 14.0 feet (64-66) AREA (Max. 1200 sq. ft.) 672 square feet (67-70)

SIGNS DISPLAYED: 1 back-to-back (71) 2 side-by-side (71) (3) single face (71) (Circle) 4 V-Type (71) with 1 (number) (72) displays

CERTIFICATION is hereby made that either written or verbal consent to erect and maintain the sign described on this application has been obtained from the owner of the real property or his authorized agent, on which the sign is located or proposed to be located.

Date 11/20/72 Signature (Owner/Agent) H.E. Kennedy

STATE HIGHWAY COMMISSION USE ONLY

PERMIT: Sign is 1 CONFORMING (73) NONCONFORMING (73) with State Highway Commission Ordinance dated March 2, 1972.

Type of Zone B-1 Renewal date is April 15, 1974 and each April 15th thereafter.

NORTH CAROLINA STATE HIGHWAY COMMISSION

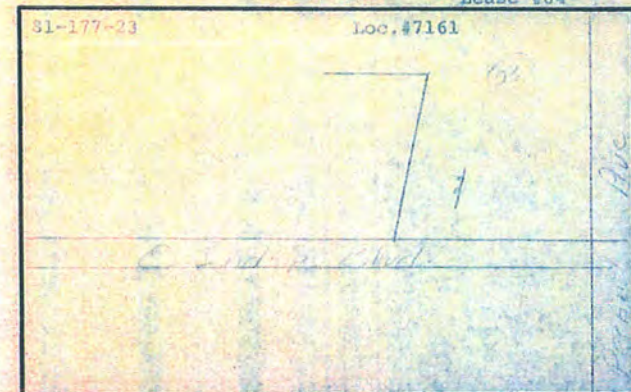
By: CMU District Engineer Date

DISTRIBUTION:
(1) Applicant
(2) Finance Department
(3) District Office

(ANY FALSE STATEMENTS MAY CAUSE REJECTION OF APPLICATION)
(READ REVERSE SIDE)

NUMBER 1500	STREET S. Incey Bl	PROPERTY USED FOR: vacant
Account No.	Fee	Permit No. 456298
Code 10	5/1/18	456298

329 081-177-23 p0
 SKETCH — Show wording, relationship to building, property lines and sidewalks, and dimensions.
 Indicate method of support. Lease #84



Contractor: Adams Outdoor Adv.		Phone: 373-1700
Contractor's Address: P. O. Box 31144, Charlotte		Licensed?
Mechanic in charge: Same		<input checked="" type="checkbox"/> New Sign
Sign Owner: Same		<input type="checkbox"/> Moved
Sign Owner's Address:		
Work will be ready for inspection	Hour:	Date:
Remarks: sign being removed by hand	TYPE OF SIGN	To be filled in by Inspection Agency
Same size, height and location	Business	Bond:
	Identification	License:
	Advertising	Zoning: B-2
		Fire Limits:
		Map No. 101

Property Owner: Cole Properties	
Property Owner's Address: Charlotte, N.C.	
Type of sign	Size: 16' high 48' wide Area: 672 sq. ft. Height: ft.
Ground	Flashing Single face Double face Solid <input checked="" type="checkbox"/> Open
Roof	Estimated Weight: 2,000 lbs. Frame Material: steel
Wall	Face Material: steel Support Material: steel
Projection from Building Wall	Height to bottom, above sidewalk: ft. Projection: ft.
ft. in.	Illuminated? Method: No. Lamps: Total wattage: Tube length:
	Transformer location: Secondary Voltage:
Electrical Contractor:	
Elec. Contr. Address:	
Other Signs Not Attached To Building: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	

The undersigned hereby makes application for permit and inspection of the sign installation as described herein, and agrees to comply with all applicable laws regulating the work.

Signature Of Applicant	Date: 10/21/94	Fees
CHARLOTTE - MECKLENBURG BUILDING INSPECTION DEPARTMENT		Approved By

recommended as engineering is needed to function. Sidewalk placement, any redevelopment of adjacent property standards contained

Commonwealth Avenue recommended for represent major d landscaping. In lements will need ock increments. d to be involved in engineering studies roceed with con-ailable.

ue to The Plaza: ocations with the is over the years. If ould provide n destinations



Proposed Midblock pedestrian path

4. *Connection Street, Commonwealth Avenue*
The Key Concepts Map (Map 4) show through the existing large property south of Pecan Avenue. By extending the street improve circulation for pedestrians, bicy



PLAZA-CENTRAL PEDSCAPE PLAN



Charlotte-Mecklenburg Planning Commission
Adopted by Charlotte City Council November 10, 2003
Amended by Charlotte City Council January 31, 2011

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*186 N.C. App. 44, *; 650 S.E.2d 37, **;
2007 N.C. App. LEXIS 1985, ****

View Available Briefs and Other Documents Related to this Case

LAMAR OCI SOUTH CORPORATION, d/b/a **Lamar** Advertising of Asheville, Petitioner, v. STANLY **COUNTY ZONING** BOARD OF ADJUSTMENT and STANLY **COUNTY**, Respondents.

NO. COA06-993

COURT OF APPEALS OF NORTH CAROLINA

186 N.C. App. 44; 650 S.E.2d 37; 2007 N.C. App. LEXIS 1985

April 10, 2007, Heard in the Court of Appeals
September 18, 2007, Filed

SUBSEQUENT HISTORY: Motion granted by **Lamar** OCI South v. Stanly **County**, 653 S.E.2d 882, 2007 N.C. LEXIS 1356 (N.C., 2007)

Motion granted by **Lamar** OCI South Corp. v. Stanly **County**, 657 S.E.2d 375, 2007 N.C. LEXIS 1349 (N.C., 2007)

Review granted by **Lamar** OCI S. Corp. v. Stanly **County Zoning** Bd. of Adjustment, 362 N.C. 236, 659 S.E.2d 734, 2008 N.C. LEXIS 180 (2008)

Motion granted by **Lamar** OCI S. v. Stanly **County**, 2008 N.C. LEXIS 463 (N.C., May 8, 2008)

Motion granted by **Lamar** OCI South v. Stanly **County**, 663 S.E.2d 313, 2008 N.C. LEXIS 540 (N.C., 2008)

Affirmed by, in part, Review improvidently allowed by, in part **Lamar** OCI South Corp. v. Stanly **County Zoning** Bd. of Adjustment, 2008 N.C. LEXIS 987 (N.C., Dec. 12, 2008)

PRIOR HISTORY: [*1]**

Stanly **County**. No. 05 CVS 752.

DISPOSITION: AFFIRMED IN PART, REVERSED IN PART.

CASE SUMMARY

PROCEDURAL POSTURE: Petitioner advertising company sought review of a decision of respondent **zoning** board which upheld a **zoning** administrator's determination that a billboard erected by the advertising company violated the local **zoning** ordinance. The Stanly **County** Superior Court (North Carolina) affirmed the **zoning** board's decision. The advertising company appealed.

OVERVIEW: Initially, the billboard in question was a legal nonconforming **sign** along a state