



City of Asheville
Cecil Bothwell, Council Member
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Board of Adjustment
Asheville, NC

May 28, 2012

Re: Variance for signage at Asheville's U.S. Cellular Center

The Board of Adjustment should not grant a variance to the U.S. Cellular Center for its prospective signage, based on multiple stipulations in our UDO, which I have outlined below. But the larger issue is that with wide popular support, the City enacted its sign ordinance in 1990 with the goal of preserving and restoring Asheville's unique beauty. The intent of the law is to tone down commercialism, to let our architecture speak for itself. The City of Asheville must not be a leader in seeking exceptions to this law. The City government should rather be a leader in adhering to the very sensible strictures we have put in place. Note that just last week, Council voted unanimously to ban new electronic billboards. That clearly reflects the will of the people.

Furthermore, the Tourism Development Authority has recently spent hundreds of thousands of taxpayer dollars to install wayfinding signs which provide very clear direction to the Civic Center. Does anyone seriously believe that ticket-holders to the recent Southern Conference basketball tournament were unable to find the venue? Have we had a single letter from a parent fearful of missing a high school graduation this spring due to an absence of signage? Did Christmas-jam patrons drive back and forth on I-240 for hours and hours, unable to locate the show due to removal of the the words "Asheville" and "Civic" from the east exterior of our showcase?

And let's be realistic about the request for this sign. No one is coming to the venue to purchase U.S. Cellular phones or service plans. The prospective sign is nothing more or less than a lighted billboard advertisement. It will do nothing to help anyone find the venue, since by the time one sees it, traveling at highway speed, one will have almost certainly missed the appropriate exit from I-240. It will simply be a glaring violation of the beauty of our city, and a further slap in the face to the majority of Asheville residents who opposed the sale of naming rights in the first place.

On the following page I have outlined the specific legal objections to granting of a variance under our ordinance.

[Sec. 30-9-11. - Variances.](#)

In accordance with the procedure stated in article 8 of chapter 30 [this appendix] of the Code of Ordinances the board of adjustment shall have the power to hear and act upon applications for a variance which meet the following requirements:

1. If the applicant complies strictly with the provisions of this article, the applicant can make no reasonable use of the sign allowed; and

A conforming sign will very adequately identify the building. That is an entirely reasonable use.

2. If the hardship of which the applicant complains is unique, or nearly so, and is suffered by the applicant rather than by owners of surrounding properties or the general public; and

There is no hardship. In fact, unlike competing commercial venues, the Civic Center is the beneficiary of taxpayer funded directional signs at every possible location around the downtown area.

3. If the hardship relates to the applicant's land (such as the terrain of the site) rather than to personal circumstances; and

There is no hardship. This seems to be the issue raised by City Staff. But there is no argument possible that the U.S. Cellular Center sign must be highly visible from I-240. Does that mean that we ought not to have pressed Staples for a smaller sign (albeit still illegal, an issue which raised a public uproar a few years ago)? Wouldn't that mean that EVERY business along the I-240 and I-40 corridors ought to be permitted a non-conforming sign? That blasts a huge hole in the intent and letter of our ordinance.

4. If the hardship is not a result of the applicant's own actions; and

There is no hardship. (see above)

5. If the variance will neither result in the extension of a nonconforming use nor authorize the initiation of a nonconforming use; and

This sign would replace the previous nonconforming sign for the Asheville Civic Center, which predated our sign ordinance. This is precisely the situation foreseen in our ordinance, an opportunity to downsize previous nonconforming uses.

If the variance is in harmony with the general purpose and intent of this article and preserves its spirit and if the variance secures the public safety and welfare and does substantial justice.

The proposed sign is not in harmony with the general purpose of this article. It is far more visible and offensive than the non-electric identifying sign it replaces. In fact, this sign flies in the face of everything we are trying to do with our sign ordinance.

I urge you to refuse to grant the variance.

Cecil Bothwell
Asheville City Council