



Board of Adjustment

Meeting Agenda

November 17, 2015 at 7:00pm
Council Chambers, 201 S Main St

1. Approve minutes of the September 23, 2015 meeting
2. Old Business
3. New Business
 - a. AP1501: An appeal of a denial of sign permit by Gary S. Evans for a pedestal sign located at 141 E Harden Street (GPIN 8884240795).
4. Administrative reports

A complete agenda packet is available at www.cityofgraham.com

CITY OF GRAHAM
BOARD OF ADJUSTMENT
September 23, 2015

There was a special called meeting of the Board of Adjustment on Wednesday, September 23, 2015 at 7:00 pm because of no quorum for the meeting the previous week. Members present were as follows: Dean Ward, Bonnie Blalock, Michael Benesch, Bill Teer and Ricky Hall. Staff members present were Nathan Page, City Planner, and Martha Johnson, Zoning/Inspections Technician.

Chair Ricky Hall called the meeting to order, explained the function of the Board.

Ricky Hall gave the invocation. Martha Johnson, Notary Public swore in Nathan Page, Jo Warren, Larry Warren, and Dan Fogleman.

1. Dean Ward made a motion to approve the minutes from the August 18, 2015 meeting, second by Bonnie Blalock. All voted aye.
2. Old Business. Mr. Page was letting the Planning Board Members know that Mayor Peterman will be at the next Planning Board meeting to discuss the Development Ordinance and any proposed changes. Also Mr. Teer had inquired about the Oneida Mills project. Mr. Page said the City of Graham has building plans on the table and they are closing on the property the first week in October.
3. New Business. VR 1503: A request for a variance by Larry and Jo Warren for their property located at 1401 E Gilbreath Street (GPIN 8883954667). Mr. Page said this request was for a variance from accessory buildings being restricted to the rear and side yards. The stated purpose of this request is "We are requesting to build a much needed storage building on our property in order to store our tools, materials, tractor, lawn mower, trailer, work truck etc." Jo Warren 1401 E Gilbreath Street the applicant spoke next. Ms. Warren further explained their purpose of the variance request and criteria which was already provided to the Board in their agenda packets.

Mr. Teer asked Ms. Warren if her neighbors were aware of what they were proposing to do and she said yes and no one had a problem with it. Dean Ward asked what size the building will be and Ms. Warren stated 34 x 28. Mr. Ward asked the distance the building would be placed from the side property line and Mr. Page replied 20'. Also he asked the distance from the front property line. Ms. Warren furnished the original paperwork from the Health Department and it was 64'.

Mr. Fogleman, their neighbor at 1303 E Gilbreath Street spoke in support of this project.

With no one else to speak Mr. Hall closed the hearing for deliberations.

Mr. Ward stated that with the topography of the land, the way the lot is a triangle with the back of the property going to a point and the creek running through front yard, he said this is

the only place they have to put their building and he felt they had presented evidence to show that.

Mr. Ward made a motion to approve, second by Bonnie Blalock. All voted aye. Mr. Ward made a motion to adopt page 1 and page 2 of the Findings of Fact and Conclusions of Law, second by Michael Benesch. All voted aye.

The following seven Findings of Fact and four Conclusions of Law were adopted with the motion

FINDINGS OF FACT

1. The property that is the subject of this variance request, 1401 E Gilbreath St, is zoned Residential (low density) (R-18).
2. The property contains a single family dwelling.
3. A storage building is being proposed in the front yard.
4. The *City of Graham Development Ordinance*, in Section 10.136(1) Notes to the Table of Permitted Uses, states that “accessory uses in residential districts such as garages, utility buildings are restricted to rear yards or side yards if the required setback can be maintained.”
5. The *City of Graham Development Ordinance*, in Section 10.16 Definitions, provides the following definitions for yards:
 - A front yard is an open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the front line of the lot and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the front line of the lot. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.
 - A rear yard is an open space on the same lot with a main building, unoccupied except as hereinafter permitted, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building.
 - A side yard is an open unoccupied space on the same lot with a main building, situated between the side lines of the building and the adjacent side line of the lot, and extending from the rear lines of the front yard to the front line of the rear yard. If there be no front yard, the front boundary of the side yard shall be the front line of the lot and if there be no rear yard, the rear boundary of the side yard shall be the rear line of the lot.
6. The applicant states and has submitted pictures to illustrate that “the slope of the property does not allow for us to install it [the carport] on the side of behind the house.”
7. An application for a variance from was filed with the City Planner on August 31, 2015.

CONCLUSIONS OF LAW

The Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

From the strict application of the ordinance, the applicant would not be permitted to install an outbuilding in the front yard.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

The applicant states that the shape of the property, the topographical features, and the creek on the parcel results in a hardship.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

The applicant did not cause the property to have a creek running through the property, which caused the residence to be placed to the rear of the lot. However, the septic tank leach field could be removed, if the applicant were to tap onto the existing city sewer running through the property.

4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

With the proposed condition, the variance would retain the required front yard setback and minimize the intrusion of the outbuilding into the front yard.

For the above reasons, the Board of Adjustment grants the variance that is the subject of this application.

5. Administrative reports. There were none.

Respectfully Submitted,
Martha Johnson, Secretary



STAFF REPORT

Prepared by Nathan Page, City Planner

**Appeal of Notice of Denial for Sign Permit at
141 E. Harden St (AP1501)**

Type of Request: Appeal

Meeting Dates

Board of Adjustment on November 17, 2015

Contact Information

Gary S. Evans
141 E. Harden Street
(336)221-0171; 54detailing@gmail.com

Summary

This is an appeal from a Denial of Sign Permit issued by the City Planner on October 14, 2013 for a pedestal sign on property located at 141 E Harden St.

Staff offers **AP1501 Timeline** as Exhibit D. This is a summary of events as experienced and told by Nathan Page, City Planner. It includes references to several attachments, which include all the papers constituting the record upon which the action appealed from was taken. Staff has also included a copy of the ordinance that is the subject of the in violation as Exhibit E.

This agenda packet includes a **draft Resolution for the Board to consider** when making its decision. This draft Resolution should be modified as the Board sees fit and is only provided by staff as a template.

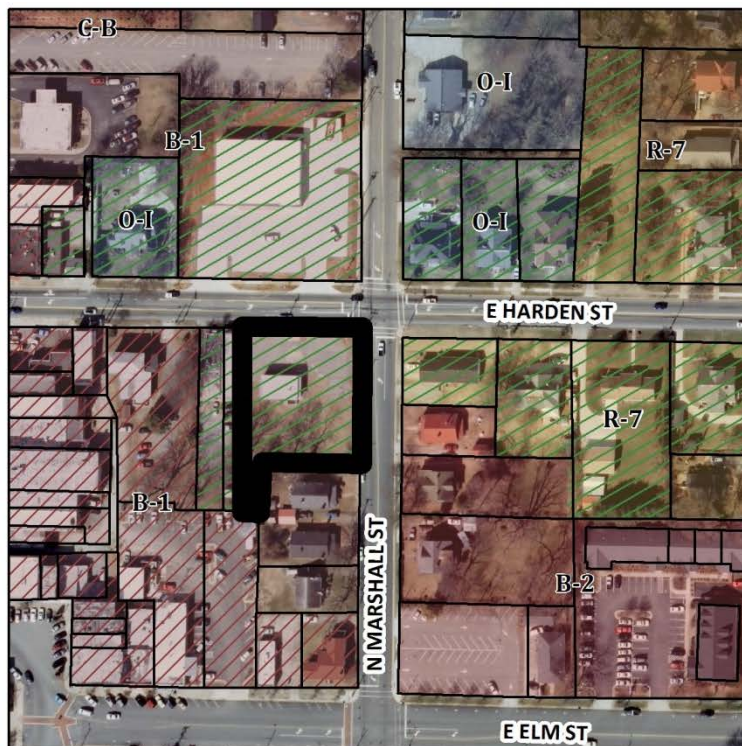
Location

141 E Harden St

GPIN: 8884240795

Current Zoning

Business (B-1)
(Central Business District)



Request for Appeal

related to the denial of a sign permit

Property located at 141 E Harden St
Tax Map# 146225
GPIN# 8884240795
Application by Gary S. Evans



**Board of Adjustment Meeting
November 17, 2015**



Prepared by the City of Graham Planning Dept. on 2/1/2013

This map was compiled from the GIS resources of the Burlington Regional GIS Partnership for public planning and agency support purposes. These resources include public information sources of different scales, time, origin, definition and accuracy, which may produce inconsistencies among features represented together on this map. Neither the City of Graham nor the Partnership shall be held liable for any errors in this map or supporting data. Primary public information sources from which this map was compiled, in conjunction with field surveys where required, must be considered for the verification of the information contained within this map.



ZONING PERMIT

P.O. Drawer 357
201 South Main Street
Graham, NC 27253
(336) 570-6705
Fax (336) 570-6703
www.cityofgraham.com

Complete only the information on this side.

Purpose of Application

- ☒ Opening a New Business
- ☐ Constructing a New Building or Structure
- ☐ Expanding an Existing Building or Structure
- ☒ Verification of Zoning District or Permitted Use
- ☐ Obtaining a Zoning Permit with Vested Rights

Proposed Business or Activity/Use

Location: 141 E HARDEN ST

Type of proposed business or use (describe activities):

AUTO DETAIL SHOP
(WASH-WAX-INTERIOR)
PASSENGER CARS
SVU TRUCKS (NO SEMIS)
AND MOTORCYCLES

Current or most recent type of activity/use:

PREVIOUS USE SERVICE STATION

Applicant

☐ Property Owner ☒ Business Owner

Other _____

Name: GARY S. EVANS

Phone # 336 386 5831

Email: JEN STOUT @SSMKUP.COM

I have completed this application truthfully and to the best of my ability.

Signature of Applicant

Date

to be completed by Zoning Official

Jurisdiction: ☒ City Limits ☐ ETJ

Current Zoning District(s): B-1

Overlay District, if applicable:

☐ Historic ☐ S Main St/Hwy 87 ☒ E Harden St/Hwy 54

Use from the Table of Permitted Uses:

Car Wash, including Self Service

☒ The proposed business or use, as described in this application, **IS permitted** at the location indicated.

☐ The proposed business or use, as described in this application, **IS NOT permitted** at the location indicated.

Melissa Guilbeau, City Planner
Name and Title of Zoning Official

Melissa Guilbeau
Signature of Zoning Official

12-29-2014
Date

Additional requirements that must be addressed before issuance of permits/licenses (see Zoning Official for details):

☐ Special Use Permit _____

☐ Off-Street Parking _____

☐ Landscaping _____

☐ Floodplain _____

☒ Other see Note 7 to Table of Permitted Uses
Safe & efficient disposal of waste & runoff.

Remarks: Any new sign will need a sign permit.

Tax Map#: 146225

GPIN: 8884240795

DEVID#: _____

to be completed by Zoning Official

CITY OF GRAHAM
Permit to Build Sign
(336) 570-6705

Permit Date: 2/25/2015

Permit #: 5360

Permission has been granted to 54 DETAILING (GARY EVANS) to ERECT A SIGN
at 141 E HARDEN STREET

at an Estimated Cost of \$200.00

Subdivision:

Lot #:

This Building is to be altered, erected or moved in accordance with the ordinances
of the CITY OF GRAHAM, N.C. and the General Building Laws of the STATE OF
NORTH CAROLINA, as they relate to construction, health, and safety.

Square Footage:

Census:

GPIN: 8884240795

Tax Map: 150-613-55

Category: S

Residential/Commercial/Public:

CO

Zone: B1

Contractor: BULLS EYE

Useage: 12 SQ FT DECAL SIGN

Phone #: 336 221 8188

Sub

General License #:

Electrical Contr:

Heating Contr #1:

Heating Contr #2:

Plumbing Contr:

Insulation Contr:

Building Fee: \$20.00

Driveway Fee: \$0.00

Sign Fee: \$0.00

Home Recovery: \$0.00

Water Tap: \$0.00

Sewer Tap: \$0.00

Set Meter: \$0.00

Water Conn: \$0.00

Sewer Conn: \$0.00

Total Fee: \$20.00

Flood: N Flood Panel:

Flood Zone:

Base Flood Elevation:

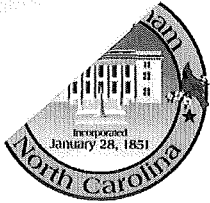
Req Finish Floor Elev:

Elevation Certificate: False Engineer:

A permit shall expire six (6) months after the date of issuance if
the work authorized by the permit has not been commenced. If after
commencement, the work is discontinued for a period of twelve (12)
months the permit shall expire. Work authorized by any permit that
has expired shall not continue until a new permit has been secured.

Signed:

City Inspector



Application for a SIGN PERMIT

P.O. Drawer 357
201 South Main Street
Graham, NC 27253
(336) 570-6705
Fax (336) 570-6703
www.cityofgraham.com

Signs are regulated by Article X, Signs, of the City's Development Ordinances. Additional regulations apply for properties located in an overlay district. See Article XI, Highway Corridor Overlay Districts, and the Historic District Design Guidelines for Signage.

Site

Business/Project Name: 54 DETAILING
Street Address: 141 E HARDEN ST
Property Owner: SHOP & GO OF NC
Zone: ☐ O-I ☒ B-1 ☐ B-2 ☐ B-3 ☐ I-1 ☐ I-2
☐ Residential ☐ Conditional

Overlay District, if applicable:

☐ Historic ☐ S Main St/Hwy 87 ☒ E Harden St/Hwy 54

Applicant

Name: GARY S. EVANS
☐ Property Owner ☒ Business Owner ☐ Contractor
Other _____
Mailing Address: 141 E HARDEN ST
City, State, Zip: GRAHAM NC 27253
Phone # 336 221 0171
Email: _____

I, the applicant, hereby make application to

☐ Erect a New Sign(s) ☐ Replace or Repair Existing Sign(s)
☒ Other NEW WINDOW

I, the applicant, agree to conform to all applicable laws and ordinances of the City of Graham and the State of North Carolina. I, the applicant, further state that all statements made herein are true.

Gary S. Evans

2-25-15

Signature of Applicant

Date

Sign(s)

For each sign, indicate the type of sign, size of display surface, estimated cost of construction and if it will be illuminated.

Sign types include: Monument, Freestanding, Projecting, Wall, Marquee/Awning, Outdoor Advertising, or Other.

Type of Sign	Size of Display Surface (sqft)	Est. Cost of Construction	Illum.
1 <u>DECAL</u>	<u>12 sq ft</u>	<u>\$ 200</u>	<input type="checkbox"/>
2		\$	<input type="checkbox"/>
3		\$	<input type="checkbox"/>
4		\$	<input type="checkbox"/>
5		\$	<input type="checkbox"/>
6		\$	<input type="checkbox"/>
7		\$	<input type="checkbox"/>
8		\$	<input type="checkbox"/>
9		\$	<input type="checkbox"/>

Attach all of the following that apply to the sign(s):

- Plans, with dimensions, showing the location of the sign(s) on the lot in relation to property lines and buildings, zoning district boundaries, right-of-way lines and existing signs.
- Elevations, with dimensions, of the sign(s) and building(s) located on the lot.
- Drawings (to scale) showing the size, complete structural specifications, and methods of anchoring and support.
- A narrative and/or table which describes each sign, including, as applicable, the height, width, length and depth. If in an overlay district, include colors and materials. For outdoor advertising, include state sign permit number.

Sign Contractor Name: BULLSEYE

Phone # 336 221 8188

If the sign(s) is illuminated, complete the following:

Electrical Contractor Name: _____

Lic. # _____ Phone # _____

If the sign(s) requires an engineered footing, you may need a building permit. Contact Inspections at (336) 570-6705.

FOR OFFICE USE ONLY

Approved by: <u>Nathan Page</u>	Remarks:
Approved date: <u>2/25/15</u>	
MBL# <u>150-613-55</u>	
GPIN: <u>8884240795</u>	
City Limits / ETJ <input checked="" type="checkbox"/> Flood <input type="checkbox"/>	
Fee \$ <u>20-</u>	DEVID#

City of Graham
P.O Drawer 357
201 South Main Street
Graham, North Carolina 27253
Tel: (336) 570-6700 / Fax: (336) 570-6703

OCTOBER 2, 2015

54 DETAILNG
ATTN: GARY S EVANS
141 E HARDEN ST
GRAHAM NC 27253

NOTICE OF VIOLATION

This notice of violation is concerning development ordinance violations at 141 E Harden St in Graham NC. Alamance County Tax parcel ID# 146225 records show you as the owner(s) of this property.

The following ordinance violations are present;

- **Article XI - Signs. Section - 10.467**

The City of Graham had received a complaint in regards to the pedestal sign at 141 E Harden St in Graham NC. I did verify the complaint this week. Also there was no sign permit pulled for this sign. The property at 141 E Harden St is in the East Harden St/ Highway 54 Overlay District and pedestal signs are not allowed in this district. Monument and Wall signs are the only two types of signs allowed in this district, but each require a sign permit.

You will be given ten (10) days, or until October 12, 2015 to have the non-conforming pedestal sign removed from your property. After this date, elevated enforcement action will be taken.

Please contact me with any questions at (336) 570-6705 or by email at jbost@cityofgraham.com.

Sincerely,

Jenni Bost
Zoning Enforcement Officer
City of Graham

CC: Stop and Go of NC INC

Sending a copy of this letter to : Stop and Go of NC Inc; 4401 United St, Greensboro, NC 27407, this is the owner of the property.

Exhibit D: AP1501 Timeline
141 E Harden St, Graham NC 27253
Sign Denial Appeal

12/03/2007 – Castlewood Builders turned off the water at the location, zoned as a Conditional Residential (C-R).

11/03/2009 – Allen Knight with C/K Properties filed a request to rezone the property from C-R to Central Business District (B-1).

12/29/2014 – Mr. Evans obtained a zoning permit for a new business locating at 141 E. Harden Street. This permit is attached here as Exhibit A. Upon the permit was the handwritten note “Any new sign will need a sign permit.”

01/13/2015 – The water was turned back on at 141 E. Harden Street.

02/25/2015 – A Sign Permit was issued for a 12 square foot wall sign.

10/02/2015 – After receiving an anonymous complaint about a new free standing pedestal sign on the property, the City’s Zoning Enforcement Office made the determination that the appellant was in violation of Article IX of the City’s Code of Ordinances. At this time, a notice of violation was sent to Mr. Evans, as well as Stop and Go of NC, Inc., the property owner.

10/14/2015 – The appellant submitted a sign permit to place faces in the abandoned freestanding pedestal sign. This was subsequently denied as being inconsistent with the overlay district, in an email describing the decision and rationale, included here as Exhibit G.

10/27/2015 – The appellant submitted an appeal, included here as Exhibit H.

Section 10.71 Nonconforming Site Elements

Nonconforming site elements may remain and be continued, subject to the following provisions or as otherwise provided for in this ordinance:

- (1) No action shall be taken which increases the degree or extent of the nonconformity of the nonconforming site element.
- (2) Where this ordinance requires certain types of site elements to come into conformance with this ordinance, those requirements shall apply in addition to the provisions in this division.
- (3) Nonconforming signs may not be relocated.
- (4) A nonconforming sign that has been damaged by any cause may be repaired if the cost of the repair does not exceed 50% of the original value or replacement value, whichever is greater.
- (5) All nonconforming signs, except outdoor advertising signs, must be brought into compliance or removed (including the entire sign and any or all supports) if any or all of the following occurs:
 - a. If damage to the sign exceeds 50% of its original value or replacement value, whichever is less;
 - b. If the sign is demolished or damaged to the extent where more than fifty percent (50%) of its display area requires replacement;
 - c. If the business or activity on the premises is discontinued for a continuous period of 90 days or more;
 - d. If additions or expansions of buildings, parking areas, or uses of open land occur that are greater than 3,000 square feet; or
 - e. If any change in the existing use of the property occurs.
- (6) Nonconforming outdoor advertising signs may be converted to single-pole construction, upon obtaining a sign permit, so long as both the height and display surface area of the replacement sign do not exceed the greater of the height and display surface area of the sign replaced or the sign regulations for the applicable zoning district.

Section 10.390 Definitions

For the purposes of this article, the following definitions shall apply:

Sign: Any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity or a product, which are visible from any public way and used to attract attention.

Sign, dilapidated: An existing sign shall be considered dilapidated when it shows signs of being in disrepair, broken down, shabby or neglected, when it fails to be in the same form as originally

constructed, or when it fails to perform its intended function of conveying a message. Conditions of dilapidation shall include, but not be limited to:

- (1) Structural pole or support failure.
- (2) Signs not being held vertically or as originally constructed.
- (3) Borders falling off or already removed.
- (4) Panels missing or falling off.
- (5) Message falling off or in disrepair such that it cannot be interpreted by the motoring public.
- (6) Signs which are overgrown by trees or other vegetation.

Signs, freestanding, adjacent to interstate highway: As used in this section, shall be defined as a sign located on the property that is located within five hundred (500) feet of the right-of-way of an interstate highway and contiguous with an interstate highway or a state-numbered highway which interchanges with an interstate highway. *Amended by City Council 4/2/2002.*

Signs, freestanding on-premises: As used in this section, shall be defined as a sign advertising a service, product, or offering which utilizes the property for the business and purpose advertised.

Sign, marquee/awning: A sign attached to and hanging under a marquee or awning.

Sign, outdoor: Any sign which advertises an establishment, service, commodity, goods or entertainment sold or offered on premises other than that on which such sign is located.

Sign, projecting. A sign attached to and supported by a building and extending beyond the building to which it is attached at a right angle.

Signs, temporary: A non-permanent sign designed to be displayed for a short period of time for the purpose of identifying or informing the public of a sale or “special” event. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

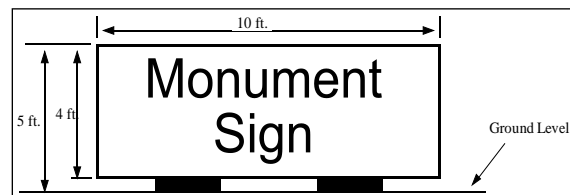
Sign, wall: A sign attached to or painted on a wall of a building, with the exposed display surface of the sign in a plane parallel to the plane of the wall to which it is attached or painted, and including signs affixed to or otherwise displayed on or through a facade window.

Section 10.467 Signage

All signage within the Overlay District shall conform to the following standards:

(a) Monument Signs:

- (1) Monument signs shall exclusively display only the name, trademark, and registered logo.
- (2) Monument fuel pricing signs shall display only



the name, trademark, registered logo, or vehicular fuel product and prices.

- (3) The area encompassed by the monument sign shall not exceed forty (40) square feet.
- (4) No monument sign shall exceed five (5) feet in height.
- (b) Walls Signs: The maximum total area of all allowable wall signs shall be equal to no more than ten percent (10%) of the area of the wall of which such sign is a part or to which each such sign is attached.
- (c) Signs shall be located such that there is at every street intersection a clear line of sight, and all signs shall be located outside of the right-of-way of any public street.
- (d) Prohibited Signs: In addition to signage prohibited in Article X of the *City of Graham Development Ordinances*, the following signs shall be prohibited in the Overlay District:
 - (1) Animated sign, nor moving or flashing signs, including changeable copy signs, except for ones that display exclusively time, date, and/or temperature.
 - (2) Portable signs, unless exempt by Section 10.393 Exemptions.
 - (3) Projecting or suspended signs from building or structure.
 - (4) Inflatable signs or tethered balloons.
 - (5) Backlit monument signage is not permitted except in knockout backlit signs.
 - (6) Beacons.
 - (7) Roof signs.
 - (8) Flags used as promotional devices of any type, including but not limited to the promotion of goods, services, business establishments, events, etc.
 - (9) Posters.
 - (10) Outdoor Advertising Signs shall be permitted only on properties in the Overlay District adjacent to Interstate 85-40. Such signs shall be directed toward traffic on Interstate 85-40.



Application for a SIGN PERMIT

P.O. Drawer 357
201 South Main Street
Graham, NC 27253
(336) 570-6705
Fax (336) 570-6703
www.cityofgraham.com

Signs are regulated by Article X, Signs, of the City's Development Ordinances. Additional regulations apply for properties located in an overlay district. See Article XI, Highway Corridor Overlay Districts, and the Historic District Design Guidelines for Signage.

Site

Business/Project Name: 54 DETAILING

Street Address: 141 E HARDEN ST

Property Owner: SHOP: GO OF NC

Zone: ☐ O-1 ☐ B-1 ☐ B-2 ☐ B-3 ☐ I-1 ☐ I-2
☐ Residential ☐ Conditional

Overlay District, if applicable:

☐ Historic ☐ S Main St/Hwy 87 ☒ E Harden St/Hwy 54

Applicant

Name: GARY EVANS

☐ Property Owner ☒ Business Owner ☐ Contractor
Other _____

Mailing Address: 141 E. HARDEN ST

City, State, Zip: GRAHAM NC 27253

Phone # 336 221 0171

Email: 54 DETAILING@GMAIL.COM

I, the applicant, hereby make application to

☐ Erect a New Sign(s) ☒ Replace or Repair Existing Sign(s)
☐ Other _____

I, the applicant, agree to conform to all applicable laws and ordinances of the City of Graham and the State of North Carolina. I, the applicant, further state that all statements made herein are true.

Signature of Applicant

Date

FOR OFFICE USE ONLY		
Approved by:	Remarks:	
Approved date:		
MBL#		
GPIN:		
City Limits / ETJ	Flood	DEVID#
Fee \$		

Sign(s)

For each sign, indicate the type of sign, size of display surface, estimated cost of construction and if it will be illuminated.

Sign types include: Monument, Freestanding, Projecting, Wall, Marquee/Awning, Outdoor Advertising, or Other.

Type of Sign	Size of Display Surface (sqft)	Est. Cost of Construction	Illum.
1 <u>REDASIAL</u>	<u>55" X 84"</u>	\$	<input type="checkbox"/>
2		\$	<input type="checkbox"/>
3		\$	<input type="checkbox"/>
4		\$	<input type="checkbox"/>
5		\$	<input type="checkbox"/>
6		\$	<input type="checkbox"/>
7		\$	<input type="checkbox"/>
8		\$	<input type="checkbox"/>
9		\$	<input type="checkbox"/>

Attach all of the following that apply to the sign(s):

- Plans, with dimensions, showing the location of the sign(s) on the lot in relation to property lines and buildings, zoning district boundaries, right-of-way lines and existing signs.
- Elevations, with dimensions, of the sign(s) and building(s) located on the lot.
- Drawings (to scale) showing the size, complete structural specifications, and methods of anchoring and support.
- A narrative and/or table which describes each sign, including, as applicable, the height, width, length and depth. If in an overlay district, include colors and materials. For outdoor advertising, include state sign permit number.

Sign Contractor Name: BULLZ EYE

Phone # 336 221 8188

If the sign(s) is illuminated, complete the following:

Electrical Contractor Name: _____

Lic. # _____ Phone # _____

If the sign(s) requires an engineered footing, you may need a building permit. Contact Inspections at (336) 570-6705.

Denied 10/14/18 - Page - Hwy 54 overlay District.

From: Nathan Page
To: ["54detailing@gmail.com"](mailto:54detailing@gmail.com)
Cc: [Frankie Maness](#); [Jerry Peterman](#); [Aaron Holland](#)
Subject: Sign Permit
Date: Wednesday, October 14, 2015 4:43:00 PM
Attachments: [Appeal.pdf](#)

Gary,

All pedestal signs are prohibited in the Highway 54 Overlay zoning district, which covers the parcel 8884240795, located at 141 E Harden Street. As such, I cannot permit the sign as presented to the City on October 14th, 2015. If you wish to appeal my decision, the Board of Adjustment has a deadline for their next meeting of November 3rd. This deadline would have you scheduled to be on the agenda for the November 17th meeting. I have attached the form for your convenience.

Additionally, the rationale behind my decision is as follows;

- 54 Detailing located at 141 E Harden St, Graham, NC
- Property is zoned B-1
- Property is in East Harden Street/Highway 54 Overlay District
- 54 Detailing wants to erect a new freestanding sign on their property

Applicable regulations from the City of Graham Development Ordinance and interpretation

- Any requirement outlined for the Overlay District governs over any requirement of the B-1 district. Section 10.463 states that "the East Harden Street/Highway 54 Overlay District contains several underlying zoning districts... The terms of this Division shall control and take precedence over conflicting terms of the underlying zoning districts found within this ordinance. Where this Division is silent as to a term, condition, or requirement, the requirements of this ordinance and/or the approved policies and procedures of the City shall control."
- The Overlay District specifies requirements for signs, and the only types of signs allowed are monument and wall signs. Section 10.467 states that "all signage within the Overlay District shall conform to the following standards..." It goes on to describe standards for monument signs and wall signs, requirements for clear line of sight, and provides a list of prohibited signs.
- A monument sign is a type of "freestanding sign." This is not specifically stated in the ordinance, but is an interpretation that is made based on a common understanding of such signs.
- Because the Overlay District specifically addresses monument signs, which are a type of freestanding sign, it implies that no other type of freestanding sign is allowed in the Overlay District.
- The sign requirements of the Overlay District govern over the sign requirements of any underlying zoning district, regardless of whether that results in a restriction of signage or an addition of signage. As an example, there is a property zoned O-I in the South Main Street Overlay District (OD). Because it is in the OD, it can have wall signs up to 10% of the façade; if it were not in the OD, it would be limited to 5%. This is, in effect, in favor of more allowed signage. For freestanding signs, though, because it is in the OD, it is limited to a monument sign no more than 5 feet high and 40sf, whereas if it were not in the OD, it could have any type of freestanding sign up to 10 feet high and 48sf. This is, in effect, a restriction on the allowed signage.
- If the 54 Detailing property was not in the Overlay District, it would be able to take advantage of the larger and taller freestanding sign allowed by being in the B-1 zoning district of only 25sf and 14 feet tall.

- Because the 54 Detailing property is in the Overlay District, the only type of freestanding sign allowed is a monument sign. Section 10.467 specifies that monument signs are restricted to 40sf and 5 feet tall. No special provisions are allowed for freestanding signs adjacent to an interstate highway.
- 54 Detailing is not proposing an “outdoor advertising sign” and thus cannot make use of any regulation that applies to outdoor advertising signs. Section 10.390 defines an outdoor advertising sign as “any sign which advertises an establishment, service, commodity, goods or entertainment sold or offered on premises other than that on which such sign is located.” 54 Detailing is proposing to erect a sign on the same lot as the business which is being advertised, not on another lot.

The Board of Adjustment will request your response to the following as part of your application. Please note that an “outdoor advertising sign” is defined as a *Sign, outdoor*: Any sign which advertises an establishment, service, commodity, goods or entertainment sold or **offered on premises other than that on which such sign is located**. As such, they are completely prohibited in the B-1 district.

Section 10.71 Nonconforming Site Elements

Nonconforming site elements may remain and be continued, subject to the following provisions or as otherwise provided for in this ordinance:

- (1) No action shall be taken which increases the degree or extent of the nonconformity of the nonconforming site element.
- (2) Where this ordinance requires certain types of site elements to come into conformance with this ordinance, those requirements shall apply in addition to the provisions in this division.
- (3) Nonconforming signs may not be relocated.
- (4) A nonconforming sign that has been damaged by any cause may be repaired if the cost of the repair does not exceed 50% of the original value or replacement value, whichever is greater.
- (5) All nonconforming signs, except outdoor advertising signs, must be brought into compliance or removed (including the entire sign and any or all supports) if any or all of the following occurs:
 - a. If damage to the sign exceeds 50% of its original value or replacement value, whichever is less;
 - b. If the sign is demolished or damaged to the extent where more than fifty percent (50%) of its display area requires replacement;
 - c. If the business or activity on the premises is discontinued for a continuous period of 90 days or more;

- d. If additions or expansions of buildings, parking areas, or uses of open land occur that are greater than 3,000 square feet; or
- e. If any change in the existing use of the property occurs.

Please let me know if you have any questions, or if I can be of further assistance.

Nathan Page

City Planner for Graham, North Carolina

(336) 570-6705 npage@cityofgraham.com

www.cityofgraham.com/departments/planning



Notice of APPEAL

RECEIVED

OCT 27 2015

CITY OF GRAHAM
INSP. / P.Z.

P.O. Drawer 357
201 South Main Street
Graham, NC 27253
(336) 570-6705
Fax (336) 570-6703
www.cityofgraham.com

Any person who has standing under G.S. 160A-393(d) may appeal any order, requirement, decision or determination made by an administrative official in the enforcement of any City ordinance that regulates land use or development. This Notice of Appeal must be filed with the City Clerk no later than 30 days from the date the decision was received.

Decision that I am appealing

Date I received the decision: 10-14-15

Name and Title of official who made the decision:

NATHAN PAGE

Name, Title

Type of decision being appealed:

- ☐ Certificate of Appropriateness ☐ Civil Citation
☐ Landscaping, alt methods ☐ Notice of Violation
☒ Sign Permit ☐ Site Plan, administrative amendment
☐ Stormwater Permit ☐ Zoning Permit
☐ Other _____

Brief description of the order, requirement, decision or determination that is being appealed:

NO PEDESTAL SIGNS ALLOWED
PEDESTAL WAS ON AND
HAS BEEN ON PROPERTY
FOR ATLEAST 50 YRS.

Property involved with Decision

Street Address: _____

Tax Map#: _____ GPIN: _____

Current Use: _____

Property Owner: _____

Mailing Address: _____

City, State, Zip: _____

Office Use Only. DEVID#

AP1501

Reason for Appeal

Describe the reason you are appealing this decision.

WE DIDN'T BUILD ON
EXPECT ANY SIGN
WE FEEL THE PEDESTAL
THAT IS ON PROPERTY
SHOULD BE GRANDFATHERED
IN

Appellant

☐ Property Owner Other BUSINESS OWNER

Name: GARY S. EVANS

Mailing Address: 141 E HANCOCK ST

City, State, Zip: GRAHAM NC 27253

Phone # 336 221 0171

Email: 54 DETAILING @ GMAIL.COM

I, the appellant, hereby appeal to the Board of Adjustment from the order, requirement, decision or determination as described in this application.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information and belief.

[Signature]

Signature of Appellant

10-27-15

Date



Board of Adjustment

Resolution of Findings of Fact, Conclusions of Law and Decision

The Board of Adjustment for the City of Graham, North Carolina, having held a public hearing on **November 17, 2015** to consider case number **AP1501**, submitted by **Gary S. Evans** of 141 E. Harden St, for **an appeal of a Rejection of a Sign Permit**, and having heard all the evidence and arguments presented at the hearings, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS OF LAW:

FINDINGS OF FACT

1. The property that is the subject of this appeal, 141 E. Harden St, is in the East Harden Street/Highway 54 Overlay District
2. A Zoning Permit, with a handwritten note "Any new sign will need a sign permit" was issued to Gary S. Evans, for an Auto Detailing Shop on December 29th, 2014.
3. A Sign Permit was issued for a 12sq ft window decal for the property on February 25th, 2015.
4. The City's Zoning Enforcement Officer received an anonymous complaint about a free standing pedestal sign on the property and made the determination that the appellant was in violation of Article IX of the City's Code of Ordinances.
5. The City's Zoning Enforcement Officer sent a Notice of Violation to the appellant on October 2, 2015.
6. On October 14, 2015 the appellant submitted a sign permit to place faces in the abandoned freestanding pedestal sign.
7. The City Planner, on October 14, 2015 rejected the application as being inconsistent with the overlay district, in an email describing the decision and rationale.
8. The appellant submitted an appeal on October 27, 2015.
9. On November 2, 2015, the City Planner transmitted to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.
10. On November 2, 2015, a letter notifying the appellant and adjacent property owners of the hearing was deposited in the US Mail and a sign was posted on the property.

CONCLUSIONS OF LAW

1. The sign in question meets the criteria for removal as spelled out under Section 10.71.5, as further explained below. The Development Ordinance states that "All nonconforming signs, except outdoor advertising signs must be brought into compliance if **any** or **all** of the following occurs:" *As the appellant occupied the space in 2015, the current Nonconforming Site Elements section (10.71) was in effect and applies.*

Subsection B: If the sign is demolished or damaged to the extent where more than fifty (50%) of its display area requires replacement. *The sign had no display face installed prior to the installation of the current sign.*

Subsection C: If the business or activity on the premises is discontinued for a continuous period of 90 days or more. *The business turned on water at the site on January 13th, 2015. The previous tenant, Castlewood Builders turned off the water on December 3rd, 2007.*

Subsection E: If any change in the existing use of the property occurs. *The site was a proposed Multi-Family Residential Property, CR0708, which was rezoned to B-1 on May 1, 2012, after the adoption of the overlay district making the sign non-compliant.*

DECISION

For the above reasons, the Board of Adjustment **affirms, in whole**, the Denial of a Sign Permit that is the subject of this appeal, and requires that the entire sign and any or all supports be removed.

The resolution reflects the decision of the Board of Adjustment, made the 17th day of November, 2015.

Attest:

Ricky Hall, Chair

Martha Johnson, Secretary