

**CHARLOTTE UNIFIED DEVELOPMENT BOARD OF ADJUSTMENT MINUTES**

**January 28th, 2025**

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The Unified Development Ordinance Board of Adjustment (hereinafter “Board”) for the Charlotte Unified Development Ordinance held a meeting at 9:00 a.m., January 28th, 2025. Chair Deborah Dryden called the meeting to order. Reference to “Ordinance” means “Charlotte Unified Development Ordinance” (“UDO”).

**Present:** Deborah Dryden (Chair), Kevin Shea (Vice-Chair), Marshall Williamson, Hamilton Cort, Amy Sun (Also present in the room: alternates Gary Young and Wes Davis)

**Also Present:** Solomon Fortune, Zoning Administrator  
John Kinley, Senior Project Manager  
Terrie Hagler-Gray, Senior Assistant City Attorney, Lead  
Jill Sanchez-Myers, Senior Assistant City Attorney (virtual)  
Anna Schleunes, Senior Assistant City Attorney  
Crystal Monsegur, Planner  
Kamesha Lampley, Associate Planner/ Clerk to the Board  
Elizabeth Majors, Veritext Court Reporting

**Index of Cases:**

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**RECOMENDATION AGENDA**

**Case No.:** VAR-2024-00068

**Request:** Variance to Article 22 Table 22-5, to allow a double-sided electronic conversion of existing static outdoor advertising sign (billboard) to front a parkway rather than limited access road.

**Applicant/Agent:** Parkway Advertising Corporation represented by David Murray/ Murray Law

**Address:** 4698 Josh Birmingham Parkway

**Parcel ID Number:** 11515121

**Applicable Code Sections:**

**Article 22.10, Table 22-5 Electronic Changeable Face Outdoor Advertising Signs**

<b>Zoning Districts Permitted</b>	Manufacturing and Logistics Zoning Districts, located within 150’ of the right-of-way of Limited Access Roads
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**Article 2.3 General Definitions:**

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**Outdoor Advertising Sign.** A permanent sign directing attention to or promoting a business, product, service, event, or activity that is not sold, produced, manufactured, furnished, or conducted at the site upon which the sign is located. Outdoor advertising signs may be static or electronic. Also known as a billboard or a permanent off-premise advertising sign.

***The Board based its decision on the following findings of fact:***

1. The applicant is Parkway Advertising Corporation represented by David Murray/ Murray Law.
2. The site is located at 4698 Josh Birmingham Parkway, further identified as tax parcel 11515121.
3. The property is zoned ML-2 (ANDO) (Manufacturing & Logistics Zoning District, Airport Noise Disclosure Overlay District) and is 7 acres.
4. The applicant proposes the conversion of existing double sided static billboard to a double-sided electronic billboard.
5. Per Article 22.10, Table 22-5, in Manufacturing and Logistics Zoning Districts electronic billboards are permitted only within 150 ft of Limited Access roads.
6. Parcels surrounding the subject site are industrial zoning.
7. The applicant is requesting to allow a double-sided electronic conversion of existing static billboard to be within 150 ft of the right-of-way of parkway rather than limited access road.
8. The hardship results in strict application of the Ordinance because Josh Birmingham Parkway functions as a limited access road however it is designated as a Parkway on the Charlotte Streets Map, which is one category below a Limited Access Road.
9. The hardship results from conditions that are peculiar to the property because the property has an existing static billboard which was compliant with zoning at the time it was placed. Josh Birmingham Parkway is designated as Parkway on the Charlotte Streets Map. Josh Birmingham Parkway is only accessible via interchanges and ramps. The road functions as a loop highway around the northeast side of the airport. Like an interstate, Josh Birmingham Parkway has no at-grade intersections or traffic lights.
10. The hardship does not result from actions taken by the applicant or the property owner, the hardship results from the road designation and strict application of the Ordinance.
11. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, in that the public safety is secured and substantial justice is achieved.
12. The existing static billboard was permitted properly previously. The Ordinance allows conversions and a change to electronic function does not cause significant impacts to the area or safety.
13. All other Ordinance standards for electronic changeable face outdoor advertising signs will be met.
14. Granting the variance will not alter the essential character of the industrial area.

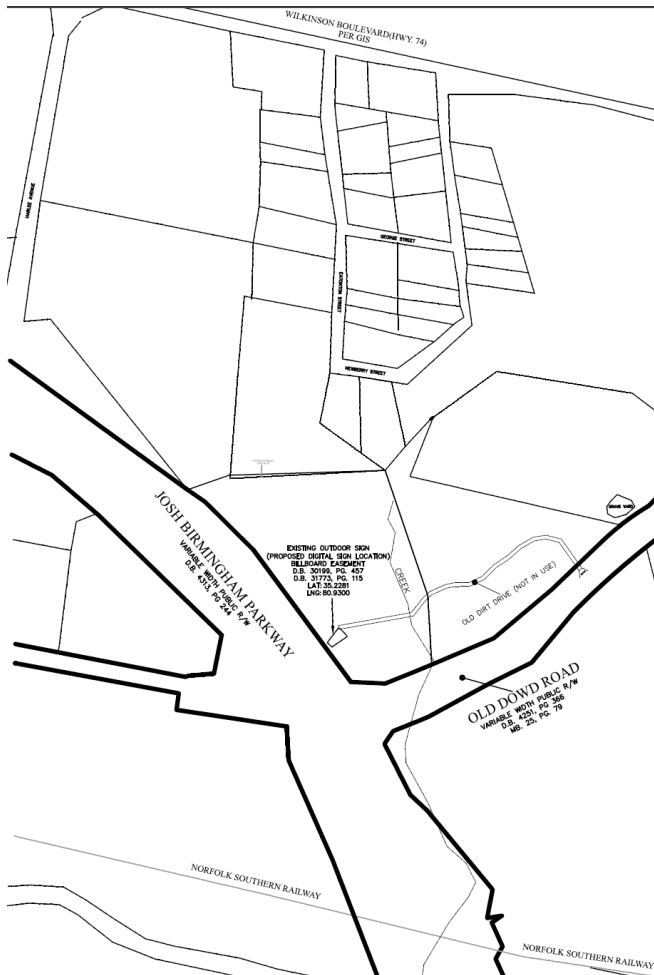
**Conclusion of Law:**

1. Unnecessary hardships would result from the strict application of the Ordinance.
2. The hardship does result from conditions that are peculiar to the property (location, size or topography).
3. The hardship does not result from actions taken by the applicant or the property owner.
4. The requested variance is consistent with the spirit, purpose, and intent of the *Unified Development Ordinance*, in that the public safety is secured and substantial justice is achieved.

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Board Member Kevin Shea made a motion to **approve** the variance. The motion was seconded by Board Member Hamilton Cort. The Board voted unanimously to approve the variance. The motion passed 5-0.

Board Member Hamilton Cort made a motion to adopt the findings of fact and conclusions of law. Board Member Marshall Williamson seconded the motion. The Board voted unanimously to **approve** the findings of fact and conclusions of law. The motion passed 5-0.

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**Variances**

**Case No.:** VAR-2024-00065

**Request:** Three variance requests for a proposed detached garage:

- Variance to Article 17.1D.1. to allow a detached garage in the established front setback.
- Variance to Article 17.2B. to reduce the front setback for a detached garage from 20ft to 3ft.
- Variance to Article 19.6A.1.a.iii.c. to reduce the minimum driveway/parking pad length from 20 ft to 10 ft.

**Applicant/Agent:** Norman Whitaker

**Address:** 2704 Sadler Road

**Parcel ID Number:** 11327125

**Applicable Code Sections:**

**Article 4, Table 4-2 Neighborhood 1 Zoning Districts Building Siting Standards**

Standards for N1-C zoning.

Minimum Front Setback 17 ft.

**Article 2.3 General Definitions:**

**Setback.** The minimum dimension a structure may be located as measured from a curb line, lot line, right-of-way line, or other point set by the Ordinance, along frontages and side and rear lot lines. A setback shall be located at or behind the required pedestrian/bicycle facilities and planting strip/amenity zone.

- **Front setback** A required setback located along the shortest lot line dividing the lot from the right-of-way.

**Article 17.1 D.1 General Standards for Accessory Structures:**

No accessory structure is permitted in the established front or corner side setback along a street or frontage.

**Article 17.2 B Design of Surface Parking and Parking Lots**

Detached carports shall be set back a minimum of 20 feet from the right-of-way or back of sidewalk, whichever is greater, to allow a driveway or parking pad with a minimum length of 20 feet.

**Article 19.6 A.1.a.iii.c Standards for Specific Accessory Structures**

Driveways and parking pad spaces shall be a minimum of 20 feet in length as measured from the right-of-way, back of sidewalk, or back of a shared use path, whichever is greater.

***The Board based its decision on the following findings of fact:***

1. The applicant is Norman Whitaker.

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2. The site is located at 2704 Sadler Road, further identified as tax parcel 11327125.
3. The property is zoned N1-C (Neighborhood 1 Zoning) and is 0.508 acres.
4. The physical survey provided by the applicant completed on March 20, 2024, shows the parcel, the dimensions of the lot, and the existing residential dwelling.
5. Per the survey the parcel is rectangular, approximately 142 feet deep at the widest point and approximately 120 feet at its narrowest point and 177 ft wide.
6. The applicant is requesting three variances, one to allow a detached garage in the established front setback. The second variance is to reduce the front setback for a detached garage from 20ft to 3ft. The third variance is to reduce the minimum driveway/parking pad length from 20 ft to 10 ft.
7. The hardship results in strict application of the Ordinance because it requires the detached accessory structures to be located in the side or rear yard.
8. The property is located on Lake Wylie and slopes steeply down towards the lake.
9. The UDO requires a lake buffer, and the rear yard of the home is within the lake buffer.
10. Per the applicants plan there is a septic line and drain field prohibiting compliance with the 20 ft setback for garages. The garage will face west towards the existing driveway which is located within the front setback.
11. The applicant has agreed to the condition that a driveway/parking pad with a depth of at least 10 ft will be provided in front of the garage door.
12. The hardship results from conditions that are peculiar to the property because the shallow depth of the lot and the topography is steep, sloping towards the lake.
13. There is a 50 ft wide water quality lake buffer and floodplain over the rear yard.
14. The hardship does not result from actions taken by the applicant or the property owner.
15. The site constraints existed prior to the owner purchasing the property in 2024.
16. The home was constructed in 1945 and is served by septic, as there is not public sewer available to the area. A septic tank is located on the east side of the home and a septic field located on the west side of the lot near the road frontage.
17. The requested variances are consistent with the spirit, purpose, and intent of the Ordinance, in that the public safety is secured and substantial justice is achieved.
18. Building on a portion of the part of the lot that is already paved will minimize the net increase of impervious surface area, reducing impacts to the lake and watershed.
19. The visual impact of the garage will be reduced because the building site is several feet below the grade of Sadler Road. There is a 6-foot-high masonry wall along the property line of the adjacent property, providing partial screening.
20. Other existing dwellings in the neighborhood have similar detached accessory structures on the front of their property.
21. The variances would allow the construction of a detached garage and granting the variances will not adversely affect the adjacent or contiguous properties.
22. Granting the variance will not alter the essential character of the neighborhood.

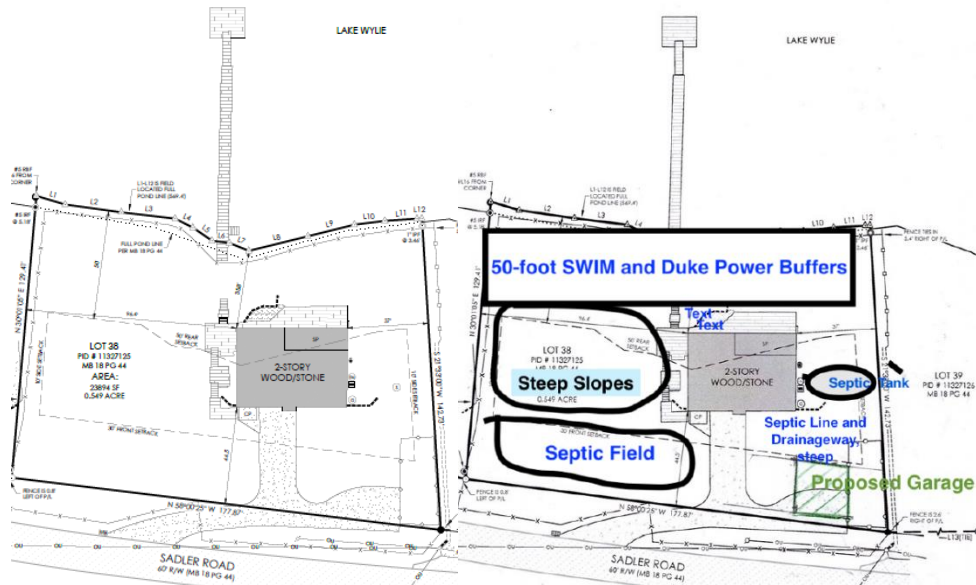
**Conclusion of Law:**

1. Unnecessary hardships would result from the strict application of the Ordinance.
2. The hardship does result from conditions that are peculiar to the property (location, size or topography).
3. The hardship does not result from actions taken by the applicant or the property owner.
4. The requested variance is consistent with the spirit, purpose, and intent of the *Unified Development Ordinance*, in that the public safety is secured and substantial justice is achieved.

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Board Member Hamilton Cort made a motion to **approve** variance. The motion was seconded by Board Member Marshall Williamson. The Board voted unanimously to approve the variance. The motion passed 5-0.

Board Member Hamilton Cort made a motion to adopt the findings of fact and conclusions of law. Board Member Amy Sun seconded the motion. The Board voted unanimously to **approve** the findings of fact and conclusions of law. The motion passed 5-0.

# CHARLOTTE UNIFIED DEVELOPMENT BOARD OF ADJUSTMENT MINUTES

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**Case No.:**

VAR-2024-00067

**Request:**

Variance request to open space requirements.  
Variance to Article 5.3.G.1, Table 5-6 to reduce 50 ft wide common open space when sidewalls are perpendicular to open space to 25 ft at the narrowest point and 43 ft at the widest point.

**Applicant/Agent:**

CONFORMITY AT ASHLEY II LLC, represented by Lin Leslie of Orsborn Engineering.

**Address:**

2719 Ashley Rd.

**Parcel ID Number:**

06706522

## **Applicable Code Sections:**

### **Article 5.3.G.1 Residential Site Layout Standards - Residential Site Layout Standards**

The standards below establish site layout requirements for multi-family attached and multi-family stacked buildings within the Neighborhood 2 Zoning Districts, either as standalone buildings or as components of multi-dwelling developments. These site layout requirements also apply to duplex, triplex, and quadraplex buildings when these forms are components of a multi-dwelling development. Where standards below refer to a frontage, such standards do not apply to parkways or limited access roads.

### **Article 5 Table 5-6 Neighborhood 2 Zoning Districts Residential Site Layout Standards:**

Table 5-6: Neighborhood 2 Zoning Districts Residential Site Layout Standards				
	Multi-Family Attached When Units Not On Sublots	Multi-Family Stacked	Multi-Family Attached When Units On Sublots	Triplex & Quadraplex Buildings in MDDs
The sidewalls of each principal structure <u>abutting</u> a frontage shall be oriented perpendicular to the frontage. On corner lots, sidewalls may be oriented perpendicularly to either frontage.				
If a principal structure abuts both a <u>frontage</u> and common open space, the sidewalls may orient perpendicularly to the common open space <sup>1</sup> if it meets the following:			✓	✓
1. The common open space has a minimum width of 50' for the length of the common open space provided.				
2. The common open space has a maximum length of 500'.				
Principal structures not abutting a frontage do not have to orient sidewalls perpendicularly to a frontage or common open space.				
<sup>1</sup> Common open space shall also comply with the standards of Table 16-2: Design of Open Space.				

The sidewalls of each principal structure abutting a frontage shall be oriented perpendicular to the frontage. On corner lots, sidewalls may be oriented perpendicularly to either frontage.

If a principal structure abuts both a frontage and common open space, the sidewalls may orient perpendicularly to the common open space<sup>1</sup> if it meets the following:

1. The common open space has a minimum width of 50' for the length of the common open space provided.

2. The common open space has a maximum length of 500'.

Principal structures not abutting a frontage do not have to orient sidewalls perpendicularly to a frontage or common open space.

**Footnote 1** - Common open space shall also comply with the standards of Table 16-2: Design of Open Space.

### **Article 16.5, Table 16-2 Design of Open Space**

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Table 16-2: Design of Open Space			
Design Requirement	Public	Common	Private
Open space shall have a minimum width and a minimum length of 10 feet.	✓	✓	
Open space areas shall have a minimum width and a minimum length of ten feet, unless located on balconies, porches, or decks, in which case a minimum dimension of ten feet on one side and seven feet on the other is required.			✓
Open space shall be located outdoors or in the open air but may be under a roof, canopy, or screened. Open space may be located on the ground, decks, galleries, porches, terraces, patios, or roofs.	✓	✓	✓
A minimum of 25% of total required open space area shall be contiguous.	✓	✓	
Open space shall abut a frontage on at least one side for a minimum width of ten feet. Parkway and Limited Access frontages shall not be used to meet this requirement. In the case of a lot with only Parkway and/or Limited Access frontages, this requirement does not apply.	✓		
Open space may abut a parking lot on one side only.	✓	✓	✓
Open space shall be located a minimum of 15 feet from loading docks, loading spaces, or solid waste and recycling service areas.	✓	✓	✓
When located adjacent to a sidewalk, or shared use path along a street, the surface area of the open space shall not be more than an average of 24 inches lower nor 24 inches higher than the elevation of such adjacent sidewalk or shared use path for a minimum of ten feet from the edge of such sidewalk or shared use path along a street. In cases of unusual topography, the Zoning Administrator may modify this provision.	✓		
When located at ground level, the required open space area shall be substantially covered in a combination of at least two of the following: 1) grass and ground cover; 2) shrubs and trees; or 3) usable outdoor hardscape features, such as courtyards, seating areas, patios, fountains/water features.	✓	✓	✓
Circulation within the open space area shall connect pedestrians to rights-of-ways that abut the open space, entrances to adjacent buildings, and any design features, such as seating areas. Such circulation paths are considered part of open space.	✓		
Outdoor amenities, such as grills, pools, tennis courts, or playgrounds, are permitted as part of the required open space.		✓	
Where possible, open space should be connected to abutting public parks and greenways in coordination with Mecklenburg County Park and Recreation.	✓	✓	

## Article 16.5 A. 4. Design of On-site Open Space, Open Space Requirements:

The area used to calculate the required open space does not include existing and dedicated street right-of-ways, utility easements, existing ponds and lakes, and railroad easements and rights-of-way.

### The Board based its decision on the following findings of fact:

1. The applicant is CONFORMITY AT ASHLEY II LLC, represented by Lin Leslie of Orsborn Engineering.
2. The site is located at 2719 Ashley Rd., further identified as tax parcel 06706522, owned by CONFORMITY AT ASHLEY II LLC.
3. The property is zoned N2-B (Neighborhood 2 Zoning District) and is 1 acre.
4. The site is located at the corner of Ashley Rd. and Greenland Ave. in an area developed with a mix of use with single family residential to the north, non-residential uses to the west and south and multi-family uses to the east.
5. The applicant is proposing to develop a multi-dwelling development with a combination of triplex, quadraplex and multi-family attached buildings with units on sublots. The applicant proposes a total of 19 units in 4 buildings.
6. The UDO requires that sidewalls for multi-dwelling developments be perpendicular to the frontage or may be perpendicular to open space if the open space that is designed to meet Article 16.5 and is a minimum width of 50 ft.
7. Buildings not abutting a frontage are not subject to the sidewall requirement.
8. As shown on the applicants site plan the width of the open space abutting Building 4 is 25 ft at the narrowest point and 43 ft at the widest point.
9. The hardship is not a result of strict application of the ordinance. The hardship results from the site design and layout.
10. The hardship does not result from conditions that are peculiar to the property. The site does have several utility easements and is an odd shape, however: hardship results from the site design and layout.
11. Units could be rotated to have sidewalls perpendicular to Greenland Ave.
12. Per the applicant's site plan, building 4's sublots are a total of 73 ft wide. The distance between the edge of the easement to the proposed driveway is 75 ft.
13. The hardship does result from actions taken by the applicant. The applicant could revise the site plan so that the variance is not required.
14. The requested variance is not consistent with the spirit, purpose, and intent of the *Unified Development Ordinance*, in that public safety is secured and substantial justice is achieved.
15. The requested variance would reduce the width of the required open space area by up to 50%.



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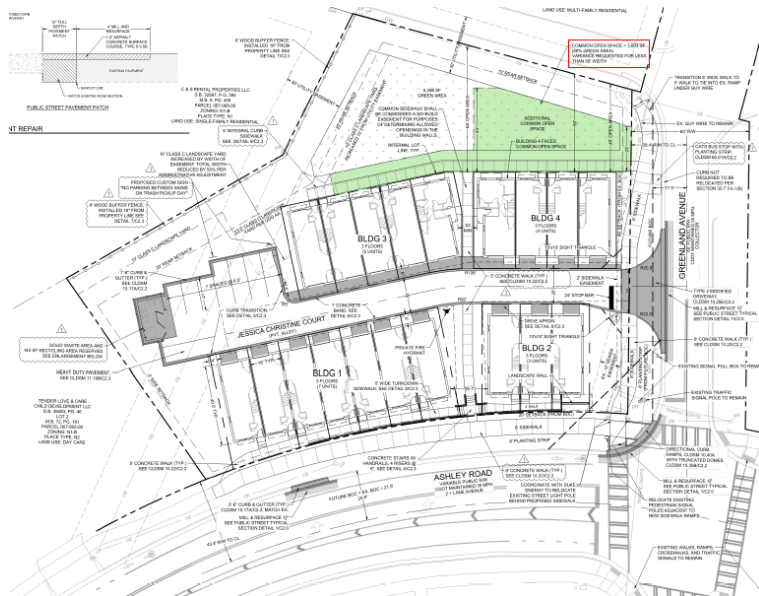
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16. The variance request is not consistent with other multi-family developments to the east of this site which have units either facing Greenland Ave. or 50 ft wide open spaces.

## Conclusion of Law:

1. Unnecessary hardships would not result from the strict application of the Ordinance.
2. The hardship does not result from conditions that are peculiar to the property (location, size or topography).
3. The hardship does result from actions taken by the applicant or the property owner.
4. The requested variance is not consistent with the spirit, purpose, and intent of the *Unified Development Ordinance*, in that the public safety is secured and substantial justice is achieved.



Board Member Kevin Shea made a motion to **deny** the variance. The motion was seconded by Board Member Hamilton Cort. Deborah Dryden, Amy Sun, Kevin Shea, Hamilton Cort voted yes to deny, and Marshall Williamson voted not to deny. The variance was **denied** with a 4-1 vote.

Board Member Hamilton Cort made a motion to adopt the findings of fact and conclusions of law. Board Member Kevin Shea seconded the motion. The Board voted unanimously to **approve** the findings of fact and conclusions of law. The motion passed 5-0.

## MINUTES

Board Member Kevin Shea made a motion to **approve** the minutes from the December 17th, 2024, Board of Adjustment Meeting. Board Member Hamilton Cort seconded the motion. The Board voted unanimously to **approve** the meeting minutes. The motion passed 5-0.

Meeting adjourned

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This \_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Deborah Dryden, Chair

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Kamesha Lampley - Clerk to the Board