



**Board of Adjustment  
Staff Report  
Appeal of Administrative Decision  
Hearing Date: March 21, 2019**

**ITEM 2** Paul Evans requests an appeal of an administrative decision to the Board of Adjustment for the Blue Rock Medical Group sign, located at 3152 N University Ave in the Professional Office (PO) Zone. Riverside neighborhood. Brian Maxfield (801) 852-6429 PLABA20190056

<p><b>Applicant:</b> Paul Evans <b>Staff Coordinator:</b> Brian Maxfield <b>Property Owners:</b> Bluerock Medical LLC <b>Parcel ID#:</b> 20:030:0195 <b>Current Zone:</b> PO Professional Office</p> <p><b><u>Alternative Actions:</u></b></p> <ol style="list-style-type: none"><li>1. Continue this item to a future meeting;</li><li>2. Approve the applicant's appeal. This action <i>would not</i> be consistent with staff's findings and conclusions and would require specific findings to be made by the Board.</li></ol>	<p><b><u>Current Legal Use:</u></b> Signage as permitted for the PO Professional Office Zone and the North University Avenue Riverbottoms Design Corridor.</p> <p><b><u>Relevant History:</u></b> See attachments</p> <p><b><u>Summary of Key Issue:</u></b> - Lack of Jurisdiction by the Board of Adjustment</p> <p><b><u>Staff Recommendation:</u></b> Staff recommends the Board dismiss the appeal based on the lack of jurisdiction of the Board regarding the Indemnification Agreement and the untimely filing of an appeal.</p>
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**BACKGROUND**

This application is the appeal by Mr. Paul Evans of approvals given by Provo City for an On-Premises Electronic Display sign located in front of the Blue Rock Medical Building at 3152 N University Avenue. Signage at this site is regulated by both Chapter 14.38 Signs and Outdoor Advertising, and by Section 14.34.290(2)(d) North University Avenue Riverbottoms Design Corridor – Signs and Lighting.

**ANALYSIS and CONCLUSION**

The appeal can be broken down into two separate issues; the first, related to the October 24, 2018 issuance of the building permit for the sign and the second, related to

the February 7, 2019 Indemnification Agreement between Provo City and Blue Rock Medical, LLC.

**Appeal of the Building Permit.**

Pursuant to a settlement agreement between Provo City and Blue Rock, the City issued a building permit for a sign on October 24, 2018, with revised specifications for the sign made on November 27, 2018. On-site construction began by December 15, 2018. Sections 14.05.040(1) and (2) relating to appeals made to the Board of Adjustment state:

**(1) The applicant or any person or entity adversely affected by a decision administering or interpreting a provision within this Title may appeal that decision applying the provision by alleging that there is error in any order, requirement, decision, or determination made by an official in the administration or interpretation of the provision.**

**2) All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board and within fourteen (14) days of the action or decision appealed from by filing a Notice of Appeal with the officer from whom the appeal is taken or with the Board of Adjustment. The officer from whom the appeal was taken shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken.**

The appeal was filed on February 14, 2019, which is clearly more than 14 days following both the issuance of the building permit and the beginning of visible construction. Therefore, the application was not filed in a timely manner, and the Board of Adjustment lacks jurisdiction.

**Appeal of Indemnification Agreement.**

An Indemnification Agreement between Provo City and Blue Rock Medical, LLC., was entered into on February 7, 2019. Although the appeal was filed within 14 days of that agreement, an Indemnification Agreement is not covered by Title 14 Zoning. As stated in Section 14.05.030 and more specifically in 14.05.030(5):

**14.05.030 Appeals to Board – Powers and Duties**

**The Board of Adjustment shall hear and decide appeals from zoning decisions applying this Title; variances from the terms of this Title; and may authorize special exceptions to the terms of this Title pursuant to the procedures and standards set forth in Subsection (10) of this Section. ...**

**(5) Only decisions applying this Title may be appealed to the Board of Adjustment.**

Therefore, the Board of Adjustment lacks jurisdiction regarding the Indemnification Agreement.

## **RECOMMENDATION**

Staff recommends the Board dismiss the appeal based on the lack of jurisdiction of the Board regarding the Indemnification Agreement and the untimely filing of an appeal.

## **ATTACHMENTS**

Attachments for this item include submissions from the applicant and are included in a separate packet.

