
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
MAY 13, 2014- 10:00 AM

City Hall Council Chambers
1737 Main Street • Columbia, SC

In attendance: Ernest Cromartie, III, Patricia Durkin, Calhoun McMeekin, Reggie McKnight, Preston Young

Absent: Dr. Pat Hubbard, Chuck Salley

Staff: Brian Cook, Andrew Livengood

Absent: Andrea Wolfe

I. CALL TO ORDER and DETERMINATION OF QUORUM

Ernest Cromartie, chairperson, called the meeting to order at 10:03AM, and introduced the members of the Board of Zoning Appeals (BOZA).

II. APPROVAL OF MINUTES

Approve April 8, 2014 Minutes

Motion by Mr. Young to approve the April 8, 2014 Minutes; seconded by Mr. McKnight. Motion approved 5-0.

Mr. Cook proceeded with review of the Consent Agenda.

III. CONSENT AGENDA

A. OLD BUSINESS

None.

B. NEW BUSINESS

- 1. 14-020-SE Dist. 4 171 Greenmill Road (TMS# 22709-03-18) Special Exception to establish a day care facility (Jessica D. Fluker) (RG-1)**
- 2. 14-022-SE Dist. 2 3731 and 3720 Martin Street (TMS# 11713-02-39 and -36) Special Exception for leased off-site parking (Mr. Gordon Tate, Trustee, Bride Tabernacle of Jesus Christ, Inc.) (D-1)**
- 3. 14-025-V Dist. 2 804 and 802 Gervais Street (TMS# 08916-11-03) Variance to the allowable display surface area for signage and number of signs (Robin H. Dial II, Dial Real Estate, LLC)(M-1, -DD, -DP and M-2, -ID)**

Motion by Ms. Durkin to approve Consent Agenda as presented, subject to any exhibits and conditions that may be found within the case summary for that application and to adopt as the findings of the Board, those findings in each case prepared by Staff, also found within each case summary; *seconded by Mr. McMeekin.* **Consent Agenda items approved 5-0.**

IV. REGULAR AGENDA

A. OLD BUSINESS

None.

A. NEW BUSINESS

- 4. 14-017-SE Dist. 2 2009 Lincoln Street (TMS# 09011-11-14)** Special Exception to establish a roominghouse (Lincoln Street Associates) (C-1, -DD)

This is a former residential structure that was converted into a commercial building. Applicant is proposing to operate a five-bedroom house and plans to maintain three rooms for offices on the third floor. A separate garage apartment is to the rear of the property.

Roominghouses and boarding houses are permitted with special exception in this district. Should be the Board be inclined to approve the applicant's request, staff would ask the Board to limit to no more than one person per bedroom, or five persons in the front building.

Several letters in opposition from neighboring property owners have been received.

Mr. Cromartie asked the applicant to speak on the criteria with regard to the request for special exception, and suggested the applicant focus on public safety, vehicular and pedestrian safety, and concentration based on the number of individuals signed up to speak in opposition of the request.

Gary White, applicant, presented and reviewed the criteria for special exception.

- **The proposed special exception will not have an adverse impact on vehicular traffic as there is currently only one tenant who has a car, and there are multiple parking places behind the building. Most of the tenants work at the Lizard's Thicket right next door. There should be no impact on traffic at all.**
- **With regard to public safety, there should be no direct impact at all. A lot of the buildings in the surrounding area are empty in the evenings. It is felt this will have a positive effect on public safety.**
- **There should be no change or impact on environmental factors. Improvements have been made to the buildings, and will continue to be made. Nothing is being done that will create any fumes, noise, or any other adverse impacts.**
- **There will be no adverse impacts on adjoining properties.**
- **By having tenants in the building will help maintain the building and the yard of the building; so aesthetically it should be improved by that.**
- **There is not a proliferation of these types of dwellings in the immediate area. Because a number of the residents work at the neighboring Lizard's Thicket, it is convenient and felt there is a need for this type of use.**
- **As this was an existing residence and this was an existing residential neighborhood, it is felt the character will be maintained.**

- **It is felt they are contributing to the neighborhood as they providing a place for neighborhood residents and employees to live; and provides security for the surrounding area.**

Mr. Cromartie stated two letters, one from Laura Valtorta and one from attorney Daniel Sullivan, were received voicing concerns with homelessness and drug issues/drinking that stems from tenants staying at 2009 Lincoln Street.

Mr. White stated there had been some issues in the past which have now been resolved; and he would be glad to speak to Ms. Valtorta and Mr. Sullivan. There are currently two on-site managers for the building, one resides in the apartment building in the back and one resides in a room upstairs, so there are only four rooms available.

Debbie Chapman, neighboring attorney, spoke in opposition to the request.

?? (did not state name), spoke in opposition to the request.

Robert Wynn, president of the Arsenal Hill Neighborhood Association, resident of Arsenal Hill and current member of the D/DRC, spoke in opposition to the request.

Laura Valtorta, neighboring attorney, spoke in opposition to the request.

Jim Harrison, neighboring attorney, spoke in opposition to the request.

Bill Nettles, property owner, spoke in opposition to the request.

Katie Span, Arsenal Hill resident, Arsenal Hill treasurer and landlord, was sworn in, spoke in opposition to the request.

Mr. White spoke in response the comments made saying homelessness will no longer be problem, and the building is being repaired. The only and best use for this property is a boarding house. Many people wander through the area, so it does not mean the issues come from the house. Any issues or problems presented to the applicant will be addressed.

Testimony closed for Board discussion.

Mr. Cook stated the current permitted use is:

The property could be rented to three unrelated persons, it could be used for an office, and there are numerous other permitted uses in the C-1 district; regardless of the decision made by the Board today, the applicant could rent the property to a maximum of three unrelated persons. At this time, staff is unable to say how many individuals are in the house, or whether or not they are unrelated.

Mr. McMeekin stated the area is surrounded by boutique law firms, St. Timothy's and the Governor's Mansion; this proposed use is not intended for this area, and is opposed to the request.

Ms. Durkin felt Mr. White has not demonstrated he has the experience to run a roominghouse, and has not had any prospects to purchase the property; and voiced opposition to the request.

Mr. Cromartie stated with the history provided by staff and testimony provided by neighbors and adjacent owners, increasing the number of tenants from three to five will have an adverse impact and adverse effect on vehicular and pedestrian safety. It will not be consistent with public safety, and may increase the nuisance conditions. He does not feel it is compatible with the character, or in the best interest of the public good.

Motion by Mr. McMeekin to deny the request for special exception for 2009 Lincoln Street as there are numerous parts of the criteria required for a special exception with this case that fail. Pedestrian safety, aesthetics, public safety, nuisance conditions, character, and public interest. Based on this application not meeting the criteria for special exception, he proposes the request be denied.

Motion seconded by Ms. Durkin. Request for special exception denied 5-0.

[Ten-minute recess taken at 11:10 a.m., meeting resumed at 11:20 a.m.]

- 5. 14-018-V Dist. 3 2920 Oceola Street (TMS# 11313-11-05) Variance to the side yard requirements to construct an addition (Scott Wells) (RS-3)**

Scott Wells, homeowner, presented on his request to add a bathroom and master bath to the front of the home. The request is to allow the aesthetics of the house to be retained, as well as keeping the roof line contiguous. Mr. Wells is aware the addition will go over the allowable lot coverage, and agreed to make the appropriate reductions to ensure the allowable lot coverage will not be exceeded.

Mr. Wells felt criterion 4 was the most important.

- **If the variance were approved, it would not be of any substantial detriment to the adjacent property and would not detract from the public good or character of the district; they are trying to enhance the neighborhood. The roof will be gabled and not covered by roofing tile.**
- **Extraordinary and unique conditions pertain to the property because the house was built four feet from the property line, and now encroaches on one foot of the five-foot setback. He would like to keep within that site line when the extension is built;**

Mr. Wells obtained signatures of approval from adjacent property owners.

- **If granted, it will not be of substantial detriment to adjacent properties, and the character of the district will not be harmed. It will raise property values, and the addition will only be coming out ten feet which should not compete with safety/fire hazard issues.**
- **With regard to parking, it will remain in the footprint of the property; there should be no encroachment into the neighbor's driveway.**

Warner Wells, father of the applicant, spoke in support of the request.

Testimony closed for Board discussion.

Mr. Cromartie felt what is being asked is consistent with the current four feet between building and property line, which constitutes an exceptional and extraordinary condition. As well as the fact there will be some demolition work so there is no exceeding of the allowable lot coverage than what is currently present. Coupled with the fact that it will not be a substantial detriment to the adjacent property, and that it is going to stay within the 30% allowable, meets the criteria for a variance in this instance; and therefore make a motion to approve the request for variance for 2920 Oceola Street.

Motion seconded by Mr. Young. Request for variance granted 5-0.

6. 14-019-SE Dist. 3 2706 Devine Street (TMS# 11316-12-02) Special Exception to establish a liquor store (Craft Beer and Wine) (Andrew Johnson, Craft and Draft LLC) (C-2)

Request to establish a craft beer and wine store in a vacant retail space on Devine Street. Applicant was approved by the Board last year for a similar proposal at a different location, and is currently not pursuing that location. While the applicant will not be selling hard liquors, he proposes to sell retail 'growlers' of beer and potentially sell pints of beer for on-site consumption or sampling at an eight-seat station in the building.

Should be Board be inclined to grant approval of this application, staff would ask that in an effort to maintain the nature on-site consumption in the Devine Street corridor so it does not turn into a retail establishment or bar; approval be conditioned upon the hours of operation, and outdoor seating for consumption of alcohol be prohibited. Staff requests the Board consider the overall impact the use will have on the surrounding area; as well as obtaining encroachment of the right-of-way in the event the applicant wishes to place anything outside.

Specifically, what is being presented today is approval for a retail store that sells craft beer and wine store, not a store to sell hard liquor; with perhaps some on-site sampling or consumption.

Andrew Johnson, applicant, presented on the request saying there will be no outside seating in front of the establishment. There is a small space at the back of the building where one table will be placed periodically as an amenity. This will be a high-end store that will fit the area very well, no hard liquor will be sold; it is not a bar.

??, applicant, spoke on the request as well.

The applicant has requested eight seats at a tasting area. The store is set up and designed as a retail store with the exception of the area set up for tasting. The space has two ADA compliant bathrooms, an electrical room, and larger storage area with sinks. Refrigerated boxes will be used instead of a walk-in cooler. The sales floor is not being expanded, it is a large building, but will not have more commercial retail space; it has more useable space.

Criteria required for a special exception was reviewed. They all comply with the Merchants Association. The proposed special exception will not have a substantial adverse impact:

- on vehicular traffic or vehicular and pedestrian safety and adequate provisions are made in the proposed exception for parking and for loading and unloading as there is street-front parking, as well as some designated parking behind the building. This is already commercial and restaurant use, so there should be no impact.
- With regard to safety issues, both applicants intent to take the 'safe serve' classes. As a recommendation for insurance purposes, they will adhere to the pint bill where only a certain number of pints will be served as a brewery.
- on adjoining properties in terms of environmental factors such as noise, lights, glare, vibration, fumes, odors, obstruction of air or light, and litter. It is felt the proposed use will be a perfect fit to the area.
- The establishment of the proposed special exception does not create a concentration or proliferation of the same or similar types of special exception use, which concentration may be detrimental to the development or redevelopment of the area in which the special exception use is proposed to be developed. No, there are no similar businesses in the area.
- The proposed special exception is consistent with the character and intent of the underlying district and the proposed special exception is appropriate for its location and compatible with the permitted uses adjacent to and in the vicinity of the property.

Surrounding businesses have been contacted, and they are excited to have this business in the district.

- Testimony stated that seating in the growler/tasting area will be limited to eight.

Testimony closed for Board discussion.

Motion by Mr. McMeekin to approve the request for special exception for 2706 Devine Street as this is a reasonable use for the area; it is in harmony with the general purpose and intent of the Zoning Ordinance; the application does not cause any harm to the neighborhood or otherwise detrimental to the public welfare. In granting this request, the hours of operation will be from 10 am to 8 pm. They are limited to having one table at the back, not at the front for whatever on-site consumption they might have.

Motion seconded by Mr. Young. Request for special exception granted 5-0.

- 7. 14-021-SE Dist. 4 566 Spears Creek Church Road (TMS# 28803-01-02) Special Exception to establish a liquor store (Leonard K. Pearson, Rains and Pearson LLC) (M-1)**

Leonard Pearson of Rains and Pearson, LLC, applicant, presented on his proposed request to establish a liquor store in a small plaza with ample parking, no obstructions to the current traffic flow, and currently there are no constructed walkways on Spears Creek Church Road. The applicant has contacted the existing businesses in the plaza who have no issues with the request.

There will be no increased need for law enforcement. This is a transitional rural into commercial, so all travel is vehicular with no foot traffic. It is in compliance with state liquor law in distance from schools, churches, and playgrounds. No opposition has been received from Ft. Jackson. This will be a package only liquor store with no consumption on-site tailored for more high-end type liquors. There is existing liquor on the western side of I-20 (Percival and Spears Creek) +/- 1/2 mile away, a store in Sandhills, and one on Clemson Road. Because of existing commercial in the area, there will be no increase in the traffic flow or adverse impact on traffic.

Rebecca Hanlen of Caldwell Bankers, one of the tenants in the plaza, was sworn in and voiced concerns with safety issues for clients and their female staff.

Testimony closed for Board discussion.

Mr. Young voiced concerns with the close proximity of the proposed business to the elementary school and bus stop. Traffic is very heavy along Spears Creek in that area, as well as some heavy foot traffic. He was undecided with a decision for this request.

Ms. Durkin has been in the alcohol business for a number of years, and said she had more concerns with the restaurant and its on-site consumption than the package store. Most people will purchase their liquor to take home for consumption from a package store. She did not have any issues with this request.

Mr. McMeekin questioned hours of operation for liquor stores by state law.

Mr. Livengood stated that liquor stores are allowed to be open from 9 am to 7 pm, six days a week, no Sundays. The Governor may also declare other days that they may be required to be closed.

Mr. McMeekin echoed comments made by Ms. Durkin saying he had more concerns with a restaurant and on-site consumption, saying he is in favor of the request.

Motion by Mr. McMeekin to approve the request for special exception for 566 Spears Creek Church Road to establish a liquor store based on testimony offered by the applicant. In his opinion, this special exception has no substantial adverse impact on: vehicular or pedestrian safety; environmental factors, noise, lights, glare, vibration, fumes, etc.; public safety; it will not create nuisance conditions as long as this business is operating as it should be under state law; concentration is not an issue though recognized there are other package stores in the area, this is a high growth area; no changes are proposed that will be inconsistent with the character of the district; it is compatible for the location; and there is no adverse effect to the public interest.

Motion seconded by Ms. Durkin. Request for special exception granted 4-1 with Mr. Young in opposition.

8. 14-023-SE Dist. 3 411 through 431 South Maple Street, 506 Howard Street, and 2801 (aka 2807), 2804 and former right-of-way of Oceola Street (TMS# 11313-20-10 through -14, 11313-13-01 and -18) Special Exception to expand an elementary school and day care facility (Karen Kuse, Montessori School of Columbia) (RG-2 and RS-3)

Swearing in of the applicant and others wishing to speak.

Karen Kuse, head of the Montessori School of Columbia, presented on the proposed request to complete the final stages of expansion of the master campus plan. Steps include:

- purchase and renovation of the house at 411 South Maple Street to be used as the administrative offices
- parking will be generated on the former right-of-way of Oceola Street
- a new 4,900 sq. ft. building will be constructed in Phase II
- an addition will be built onto the pre-school in Phase III.

Montessori wishes to remain a small school to continue to provide the level of care by a Montessori School however more space has been needed for a number of years for the enrichment program, language classes, and aftercare program. Currently there are four classes with a total of 88 children; after completion of the plan, there will be six classes for a total of 108 to 132 children.

Ms. Kuse reviewed the six conditions noted by staff should the request be approved and stated she will comply with them.

• **Construction, operation, and/or use shall be in substantial compliance with the documents placed on file in conjunction with this case** – The applicant has been working closely with zoning staff and provided all necessary documentation.

• **The extension of the privacy fence along South Maple Street be no higher than the existing fence** – they do not want a fence lower than 4' as children can jump it. When the fence is installed, zoning will give the final specifications on the fencing.

• **Operator of the day care/preschool must be licensed by the SC Department of Social Services (DSS) or its successor for state licensing** – they are DSS licensed and must always comply with DSS licensing regulations as well as complying with City requirements. Zoning has requested 31 on-site parking requirements, and they are more than willing to accommodate that.

- **Play Area** – the play area currently has not less than 3,000 square.
- **Loading and unloading** - An area adequate for loading and unloading of children not in the public right-of-way will be located on Oceola Street, which is the safest location, and remove traffic from Maple and Howard Streets. They are working closely with zoning staff on this.
- **Play equipment** - No play equipment shall be closer than 20 feet to any residential line.

A drawing of the proposed 4,900 square foot building was presented showing it will be in line with the residential character of the neighborhood.

Criteria for approval of special exception was reviewed.

- **The proposed special exemption will positively impact vehicular traffic and pedestrian safety.**
- **There will be no adverse effect on adjoining properties in terms of noise as they are there during the day, and not at night when residents are home. It is felt it will be a positive impact. There is no need for screening.**
- **With the extensive interior renovations of existing buildings and the demolition of a building that is beyond repair, the project will have a tremendous positive impact on the neighborhood. The new building will be in keeping with the residential look and feel of the neighborhood. Everything is well spaced and will be secured with a privacy fence.**

Cindy Storm, neighborhood resident, spoke in favor of the request.

Elaine Frick, neighborhood resident, speaking on behalf of herself and her husband, spoke in opposition of the request voicing traffic concerns.

Scott Wells, neighborhood resident, voiced concerns with traffic issues.

Warner Wells, concerned citizen, spoke of in favor of the request.

Charles Dibble, attorney [handled the petition of title conveyance of the portion of the block of Oceola], board member and parent of a former Montessori student, spoke in favor of the request. He feels traffic flow will be improved because the street will be controlled and provide more safety of the children and teachers.

Ms. Kuse explained how the recently closed public right-of-way will work.

- Elementary - will be a one-way entry on Maple Street. Drop-off entry will be to the right of the elementary building, and parents exit to Howard Street.
- Pre-school – a left is taken off of Oceola Street (existing driveway) which is one-way only, and exit to Howard Street.

The only stacking that will occur will be in the driveway. Ms. Kuse worked diligently on “number crunching” regarding the number of children currently at the school. Of the 88 attending children, eight of the children, which includes her son, are children of staff members, so eight cars will not be in the drop off lines. Of the remaining 80 children, three families have three children each at the school, which is three cars, not nine, for drop-off. Of the remaining students, there are 34 sets of siblings which is 17 cars, not 34 cars. Out of the remaining 46, five of the students bike to school every day if it is not raining; and three of the students walk to school every day if it is not raining.

In looking at the enrollment of 88 children, they are looking a maximum of 38 cars which is about 43% in cars. Eighty-eight bodies does not mean 88 cars. Following that formula for the increase in students, it may be about 46 to 50 cars.

When running a school, the first question asked is safety; *one wants to be proactive about safety, safety is paramount when working with children and people.* This is reviewed constantly and is a main priority.

Emily Pabala, school board member, parent of a preschool student at Montessori and an attorney who worked with Mr. Dibble on the petition of title conveyance of the portion of the block of Oceola. She is aware that is not the issue today, however stated that occurred with the express consent of the City of Columbia and the Department of Transportation (DOT). It was actually the DOT's suggestion that the school seek to file the petition for the safety of the students and staff. It is felt the school is an asset to the community and Columbia; and hopes her youngest daughter will be able to attend the school because of the proposed expansion. She echoed the comment made by Ms. Kuse of the multiple children in families attending the school.

Rebecca Caughman, resident and parent of multiple children at the school, spoke in favor of the request saying expansion will enrich the school, and she hopes this will take place.

Ms. Kuse said the school has purchased five houses in the neighborhood since 2006, one has been demolished, and plans are to demolish another, with three renovations. This is a very affordable private school dependent on donors.

The youngest students in attendance are three years old, and there is a waiting list which is usually a year.

Testimony closed for Board discussion.

Motion by Mr. Cromartie to approve the request for special exception for 411 through 431 South Maple Street, 506 Howard Street, and 2801 (aka 2807), 2804 and former right-of-way of Oceola Street to expand an elementary school and day care facility based upon he application and testimony of the applicant. The applicant has given testimony that they will comply with and have no opposition to the six conditions that are placed in the summary report. There is no adverse impact upon vehicular and pedestrian safety; this proposed use may actually be a benefit to pedestrian safety; it will not have a substantial adverse impact on environmental factors; it will improve the aesthetics and improve public safety; there is not a concentration of use; it is consistent with the character and intent of the underlying district, and construction has been proper to the City with the residential character; it is compatible and appropriate for this location; and therein consistent with the public interest.

Motion seconded by Mr. Young. Request for special exception approved 5-0.

- 9. 14-024-SE Dist. 3 411 through 431 South Maple Street, 506 Howard Street, and 2801 (aka 2807), 2804 and former right-of-way of Oceola Street (TMS# 11313-20-10 through -14, 11313-13-01 and -18) Special Exception to permit an alternative parking surface for required parking (Karen Kuse, Montessori School of Columbia) (RG-2 and RS-3)**

Karen Kuse, head of the Montessori School of Columbia, presented on the proposed request to utilize crusher run as an alternative parking surface for five parking spaces in a small parking lot behind the proposed administrative offices and a multi-purpose building.

Ms. Kuse reviewed the three conditions noted by staff should the request be approved and stated they can and will comply with them.

- **Gravel surface must be maintained such that grass and/or weeds do not grow through;**
- **Gravel must be solely contained on the property; and**
- **Accessibility requirements of the building code in relationship to any new parking spaces, or those spaces required for the new building.**

Criteria required for approval of a request for special exception was reviewed:

There is no adverse impact upon vehicular and pedestrian safety; environmental factors; aesthetics; public safety; concentration; character; compatibility; or public interest – This is a porous product, great for the environment, and will not have any adverse effect. The product will be contained on the property.

Sonny Sims, architect for the project, spoke on the materials. There are different types of edging materials (vinyl, wooden, or masonry), though it has not been specified which type will be used for this project.

Ms. Kuse testified that a type of edging material would be utilized to keep the gravel/crushed stone in place.

Testimony closed for Board discussion.

Motion by Mr. McMeekin to approve the request for special exception for case #14-024-SE as there are no adverse effects to any of the eight criteria required for a special exception – pedestrian and vehicular safety; environmental factors; aesthetics; public safety; nuisance conditions; concentration; character; compatibility; or public interest. The school must maintain the crusher run surface so that grass and/or weeds do not grow through; crusher run must be solely maintained on the property, it is up to the applicant to choose a way of containment; any accessibility requirements of the building codes to new parking spaces for the building be met.

Motion seconded by Mr. McKnight. Request for special exception granted 5-0.

V. OTHER BUSINESS

None.

VI. ADJOURNMENT

There being no further business, motion by Mr. Cromartie to adjourn the May 13th, 2014 meeting. Meeting adjourned at 12:52 p.m.

Respectfully submitted by Andrea Wolfe
Sr. Admin. Secretary
Planning and Development Services Department
City of Columbia