
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
DECEMBER 9, 2014- 10:00 AM

City Hall Council Chambers
1737 Main Street • Columbia, SC

In attendance: Ernest Cromartie, III, Patricia Durkin, Dr. Pat Hubbard, Reggie McKnight, Calhoun McMeekin, Chuck Salley, Preston Young

Absent: None

Staff: Brian Cook, Andrew Livengood, Andrea Wolfe

I. CALL TO ORDER and DETERMINATION OF QUORUM

Ernest Cromartie, chairperson, called the meeting to order at 10:00 AM, and introduced the members of the Board of Zoning Appeals (BOZA).

Brian Cook, Zoning Administrator, noted changes to the agenda since publication. Item 2 on the Consent Agenda, 1900 McFadden Street, was withdrawn by the applicant. Item 5 on the Regular Agenda, 4000 Kilbourne Road, was withdrawn by the applicant.

II. CONSENT AGENDA

A. APPROVAL OF MINUTES

Approve November 11, 2014 Minutes

B. OLD BUSINESS

None.

C. NEW BUSINESS

1. **14-070-SE** Dist. 2 **1904 Academy Street, Suite C (TMS# 11504-28-06)** Special Exception to establish a beauty salon (Aliya Butler) (C-1)
2. **14-071-SE** Dist. 2 **1900 McFadden Street (TMS# 11511-18-06)** Special Exception to establish a beauty salon within a residence (Vernell Trapp Jenkins) (RS-2)

Withdrawn

Case withdrawn at the request of the applicant.

Motion by Mr. Young to approve the November 11, 2014 Minutes and the Consent Agenda 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; motion seconded by Mr. McMeekin.

Consent Agenda items approved as presented 7-0.

III. REGULAR AGENDA

A. OLD BUSINESS

3. [14-058-SE](#) Dist. 2 **816 Whaley Street (TMS# 08913-08-01)** Special Exception to establish a roominghouse (Kurt Rayburg) (RG-2, -DP, -CC1, -PD)

Request deferred from the November 11th BoZA meeting at the applicant's request.

Kurt Rayburg, applicant, presented on his request to establish a five-bed roominghouse. Earlier in the year, Zoning Staff investigated after a complaint was received for over-occupancy, and found more than three unrelated individuals were occupying the residence, which is a violation of the Zoning Ordinance.

Mr. Rayburg stated the property has been utilized as a roominghouse for over 20 years, and he has been the property owner since January 6, 2014. There have been no changes to the property other than change of ownership.

There are no other roominghouses in the area, so there would not be any density of this kind. The house has been taken off the market, and he would like to continue use as a roominghouse. His daughter will live there with four of her friends, and serve as the on-site house manager.

Mr. Rayburn reviewed the criteria required for approval of a special exception:

The proposed special exception will not have a substantial adverse impact on vehicular traffic or pedestrian safety as there is adequate parking. There is an existing gravel parking lot on the side and additional on-street parking on Mulberry Street.

The proposed special exception will not have an adverse impact on adjoining properties in terms of environmental factors such as noise, lights, glare, vibration, fumes, odors, obstruction of air or light, and litter as his daughter will live there as house manager and is also on the deed. She will not allow any adverse impact on any of these items. There will always be a house manager on site.

The request will not have a substantial adverse impact on the aesthetic character of the area.

This is a historic district and there will be no change to the exterior or the aesthetics of the property.

The request will not have a substantial adverse impact on public safety or create nuisance conditions detrimental to the public interest or conditions likely to result in increased law enforcement response. There will be an on-site coordinator/house manager.

The establishment of the proposed special exception will not create a concentration or proliferation of the same or similar types of special exception use as the closest similar roominghouse house is about one mile away; and his understanding is there is no density in the area.

The proposed special exception is consistent with the character and intent of the district - the exception is consistent with the district and RG-2 multi-family unit where he could actually have six people if construction is done. It has no adverse impact on the overlay district goals and requirements, and meets all district requirements for a historical district.

The proposed special exception is appropriate for its location and compatible with the permitted uses adjacent to and in the vicinity of the property - Whaley and Mulberry Streets are a student housing area.

The proposed special exception will not adversely affect the public interest - this property has been used as a roominghouse for twenty years, and his proposed use is no change. There is student housing all around the surrounding area. In his opinion, there is no adverse impact.

Testimony received from members of the public who were in opposition of the request:

Scott Hendley, resident

Ryan Nevius, board member of Sustainable Midlands

Walter Morley, President of the Wales Garden Neighborhood Association

Kathryn Fenner, vice president of the University Hill Neighborhood Association
Odette Foure, vice president of the Whaley Square Homeowners Association

Testimony closed for Board discussion.

Board members had concerns with non-compatibility for the character of the district, public interest in opposition of the request, long term use of being a roominghouse, the importance of the location of the house, and how City staff would police. Board members felt the request should be denied. Though Mr. Rayburg is trying to better the area, the special exception will run with the land; this needs to be corrected and made as it should have been twenty years ago.

Motion by Mr. Hubbard to deny the request for special exception to establish a roominghouse; motion seconded by Ms. Durkin.

Motion to deny request approved 6-1 with Mr. Salley in opposition of motion to deny.

4. [14-059-V](#) Dist. 2 **816 Whaley Street (TMS# 08913-08-01)** Variance to the parking requirements for a roominghouse (Kurt Rayburg) (RG-2, -DP, -CC1, -PD)

As the request for special exception for 816 Whaley Street to establish a roominghouse was denied, there is no need for additional parking. The applicant withdrew the request for variance for 816 Whaley Street, variance to the parking requirements for a roominghouse as there is no need for additional parking.

5. [14-062-V](#) Dist. 4 **4000 Kilbourne Road (TMS# 13909-15-01)** Variance to the lot coverage and side yard setback requirements to construct an addition (Ashlyn and Joe Boykin) (RS-1)

Case withdrawn at the request of the applicant.

B. NEW BUSINESS

6. [14-072-SE](#) Dist. 4 **4431 Devine Street (TMS# 13811-05-24)** Special Exception request for a tattoo establishment (Ashley Schultz, 5 Brand Ink) (C-3)

Request to allow a tattoo establishment within an existing, vacant commercial suite in an area which is part of the recently completed Devine Street/Fort Jackson Boulevard Commercial Node Plan, which calls for future land use of this block to be "neighborhood mixed-use". There are two other tattoo establishments on the same block, and a tattoo establishment across the street. This facility is subject to regulation and licensing by the SCDHEC, as are all tattoo establishments.

Stan Hudgens, owner and CEO of 5 Brank Ink, presented on the request.

Mr. Rayburn reviewed the criteria required for approval of a special exception:

The proposed special exception will not have a substantial adverse impact on vehicular traffic or pedestrian safety.

The proposed special exception will not have an adverse impact on adjoining properties in terms of environmental factors.

The request will not have a substantial adverse impact on the aesthetic character of the area.
The only change will be with the signage.

The request will not have a substantial adverse impact on public safety or create nuisance conditions detrimental to the public interest or conditions likely to result in increased law enforcement response.

The proposed special exception is consistent with the character and intent of the district as there have been tattoo facilities on the street for years. It is more of an art district.

The proposed special exception is appropriate for its location and compatible with the permitted uses adjacent to and in the vicinity of the property - yes.

The proposed special exception will not adversely affect the public interest.

Testimony received from members of the public.

Jonathan Cheston, owner of Devine Street, spoke in opposition of the request as he feels there is a concentration of tattoo shops in the area due to South Carolina regulations, and that it will cause parking issues.

Testimony closed for Board discussion.

Chairperson Cromartie spoke with regard to concentration as he is professionally familiar with some body piercing and tattoo facilities in the state, and familiar with SCDHEC requirements. SCDHEC puts very strict limitations on tattoo facilities in terms of distance from church, schools, playgrounds, etc.; so there are very small areas where one can meet those requirements which creates the possibility of concentration. Generally, concentration is criteria reviewed, however he felt the reason of concentration may not be the desire of the applicant. This should be a thought for the Board to keep in mind.

Ms. Durkin voiced concerns regarding concentration and also the issue of parking, as customers may bring friends for support which could cause additional traffic issues. She felt the laws need to be changed however the Board is not charged with that task.

Mr. McMeekin said he was opposed to the request because of concentration and felt the tattoo facility was not compatible with the area as future land use of this block is to be "neighborhood mixed-use". He felt number 5, 6, 7 and 8 of the criteria for special exception were not met, and the request should be denied.

Motion by Mr. Hubbard to deny the request for special exception for 4431 Devine Street for a tattoo establishment as there is a concentration in that area. It is not in the public interest to have this concentration in a sensitive area of economic development that finally seems to be turning around. The idea of special exception is that a particular use can be in an area sometimes but not others; requiring a specific special consideration as to whether the location would go. There has been no testimony that the market for tattoo establishments is underserved, so there is need for another one. The state has made its rules, and the city has made its rules; both must be satisfied. The reason the criteria were amended by City Council recently was to include, specifically, the concern about concentration of particular uses. This is an example where the specific language applies because of state laws, there is a concentration of this type of establishment and it does not meet the criteria; motion seconded by Mr. McMeekin.

Request for special exception denied 6-1 with Chairperson Cromartie in opposition of denial.

10. [14-076-V](#) Dist. 4 **4431 Devine Street (TMS# 13811-05-24)** Variance to the parking requirements for a tattoo establishment (Ashley Schultz, 5 Brand Ink) (C-3)

As with the previous case, this is an associated request for variance to the parking requirements for a tattoo establishment. Mr. Hudgens withdrew the request for variance for 4431 Devine Street, stating they will appeal the decision of the Board of Zoning Appeals.

A brief recess was taken at 11:05 am. Meeting resumed at 11:15 am.

7. [14-073-SE](#) Dist. 2 **3922 W Beltline Boulevard (TMS# 11609-08-02)** Amendment to previously approved Special Exception for a gasoline service station (Krunal Parmar, Jay Hanuman LLC) (C-3)

Application to amend a previously approved request for special exception to establish a gasoline service station. The proposed gasoline canopy vastly exceed the size of the previously approved canopy.

Jake Moore, presented on behalf of property owner Jay Parmar. Mr. Moore stated the larger canopy will benefit the public in the event of inclement weather and better the appearance, as well as make the location look more substantial.

Scott Green of Mecco, spoke on the canopy. Mr. Green felt the previously approved size of the canopy is too small for the business. In addition, the proposed four gas pumps are being reduced to two pumps, therefore the additional canopy is for overhang only. Each pump will have four LED lights that will down light; there will be no bleed over into the neighborhood. The canopy will not connect the existing building.

Mr. Moore confirmed that the applicant will work with staff to ensure the landscaping will comply with the Ordinance.

Testimony closed for Board discussion.

Motion by Mr. Hubbard to grant the amendment to a previously approved special exception for 3922 W Beltline Boulevard for a gas station, contingent upon the applicant commitment of working with staff to come up with a mutually agreeable approach to the landscaping. The are no problems with vehicular or pedestrian safety, or environmental factors; this improvement will help the aesthetics in the area; it will not be a public nuisance, or a safety problem; given the location, there is no undue concentration; it fits with the character, and is compatible with the public interest; *motion seconded by Mr. Young.*

Request for special exception granted 7-0.

8. [14-074-SE](#) Dist. 2 **Block bound by Gervais, Harden, Lady, and Laurens Streets (TMS# 11406-13-01, -02, -03, -04)** Special Exception to exceed maximum density per acre for a student housing development (Jeff Githens, Peak Campus Development, LLC) (C-3)

A private dormitory in C-3 district allows for a maximum density of 150 beds per acre. The applicant is requesting 160 beds per acre. The applicants are meeting or exceeding the parking requirements with 495 off-street parking spaces, and 165 bicycles parking spaces.

Mr. Salley recused himself from this request as the applicant is represented by Colliers International, which he is associated with.

Jeff Githens, Peak Campus Development, presented. The request is in keeping with similar requests and a good use for the area. Mr. Githens presented on the criteria for special exception and additional criteria.

The proposed special exception will not have a substantial adverse impact on vehicular traffic or pedestrian safety as required parking will be exceeded. There is secured deck ingress/egress from both Lady and Laurens Streets. The deck will be well-lit and have secured gated parking. Existing spaces on Lady Street will be preserved, and landscaped/streetscape to improve pedestrian safety and experience.

The proposed special exception will not have an adverse impact on adjoining properties in terms of environmental factors such as noise, lights, glare, vibration, fumes, odors, obstruction of air or light, and litter as the site is unique in that it is surrounded on three sides by commercial therefore there will not be any adverse impact. There will be increased street lighting on south Gervais and Harden, as well as significant increased lighting on the parking deck on Lady and Laurens, but will not bleed over into the neighborhood area.

The request will not have a substantial adverse impact on the aesthetic character of the area. This proposal will be a vast improvement to the area.

The request will not have a substantial adverse impact on public safety or create nuisance conditions detrimental to the public interest or conditions likely to result in increased law enforcement response. Having people in the area will be an improvement to safety, as well as having this property which is a secured access property.

The establishment of the proposed special exception will not create a concentration or proliferation of the same or similar types of special exception use as the surrounding properties will remain general commercial.

The proposed special exception is consistent with the character and intent of the district - the proposal is outside of any overlay district and across the street from the Five Points district. They have been mindful of the neighborhoods, and plans to use the Five Points design will be consistent with the area. Shuttle service will be provided for the student base of USC students, and possibly residents of the area; as well as easily accessible pedestrian traffic areas.

The proposed special exception is appropriate for its location and compatible with the permitted uses adjacent to and in the vicinity of the property - referenced in criterion 7 (above).

The proposed special exception will not adversely affect the public interest - this proposal is in general alignment of Columbia and those who have supported the project, as well as an interconnection point for the area.

The operations and management plan were provided in packets. Security and resident managers will be on-site at all times; as well as third party security at flexible times.

Ms. Durkin voiced concerns with increased traffic, traffic concerns, and parking in the area; as well as using third party security that are not dependable. She stated shuttle service was needed and required.

No one spoke in favor or opposition of the request.

Motion by Mr. McMeekin to approve the request for special exception at the Block bound by Gervais, Harden, Lady, and Laurens Streets to exceed maximum density per acre for a student housing development based upon the testimony given by the applicant. He does not feel there will not be a substantial adverse impact on vehicular and pedestrian safety; there are no substantial adverse impacts on environmental factors, aesthetics; with the nature of this project, there are safeguards that do not give concern for public safety, nuisance conditions; there is not a concentration in this area; it is consistent with the character of the district; it is compatible; and is in the public interest. Mr. McMeekin did not feel conditions should be placed on security.

Mr. Hubbard noted in the pinpoints on traffic that there was representation of a third lane on Laurens Street, but it was no longer being studied. He felt approval should be conditioned upon that being the case because there would be a traffic issue at that location.

In addition, their operations plan and security, based on testimony that it would be 24/7 indicates that is satisfactory as well. The Private Dormitory Ordinance states a plan must be provided, and with this condition, the Ordinance is satisfied.

Motion by Mr. McMeekin, with addition and second by Mr. Hubbard.

Request for special exception granted 5-1 with Ms. Durkin in opposition of approval.

9. [14-075-SE](#) Dist. 2 **933 Gervais Street and 1217 Park Street (TMS# 09013-11-09 and 09013-11-07)** Special Exception to allow leased remote parking for a restaurant (Bryan Slonski, NORR Inc.) (M-1, -DD, -DP)

Request to allow leased parking in within a parking lot at 1217 Park Street to accommodate the required parking for proposal. In addition to standard criteria for special exception, the Board must find that the location of the parking spaces and associated pedestrian path of travel are safe and well lit. The applicant will need to comply with all of the applicable conditions within §17-345, including that an executed lease for the approved parking must be provided prior to occupancy of the building, and at the time of every annual renewal for a business license, the user must provide evidence that the lease is still in effect. The submitted lease does not appear to specify that parking spaces are for the exclusive use of the applicant as required by §17-345(b)(2)c.; should the board be inclined to approve the applicant's request, the applicant shall be required to amend the lease to include this exclusivity requirement.

Bryan Slonski of NORR Architects, represented Panera Bread and spoke on the request stating 18 parking spaces will be provided on an existing lot. Currently, the lease is written that the spaces will be unassigned, but there would be an indication on-site where the designated parking lot for Panera Bread customers would be. If a requirement for approval were that designated spaces would need to be clearly marked and designated for the exclusive use of the user, Mr. Slonski agreed that would be done. He then reviewed the criteria for special exception.

The location of the parking spaces leased are within an existing parking lot, therefore there should be no substantial adverse impact on vehicular traffic or pedestrian.

There will be no change in the use of the existing parking lot so there will not be adverse impact on adjoining.

The request will not have a substantial adverse impact on the aesthetic character of the area as this is an existing parking. The building will be renovated to become a restaurant. Because this is a design overlay district, the applicants are working with the D/DRC for exterior modifications proposed which should be an enhancement to the area.

The request will not have a substantial adverse impact on public safety as the existing parking spaces will be utilized.

As this is a parking lot, Mr. Slonski was unsure how this criterion applied, however it is an existing use and there should be no additional concentration.

Panera Bread wishes to supply the on-site parking and what is proposed is within the requirements for approval of the special exception.

The use of the parking lot is not being changed, therefore the use should be appropriate and an allowed use.

The proposed special exception will not adversely affect the public interest.

Chairperson Cromartie was in favor of the request contingent upon the revised lease. He suggested that after reviewing the lease, the applicants have language in the lease that speaks directly to §17-345(b)(2). This would make it easier to show that the requirements are being met by having a diagram showing where the 18 parking spaces for Panera Bread are located. Each time the business license is renewed, the applicant must show that lease is in effect.

He said he is asking for that degree of specificity because it will 1) make it easier for staff; and 2) it allows the Board to know that staff has seen what will probably be a contingency; and 3) each time the annual permit comes up, they can look and check that all those factors have been met. This information is referenced in §17-345(b)(2) condition j, k and l.

Mr. Cromartie suggested staff notify future applicants of this same information noted for this case (to add two or three exhibits to their lease). It will make things easier for staff and the Board.

The applicant agreed to these contingences for approval of their request.

No one spoke in favor or opposition of the request.

Testimony closed for Board discussion.

Motion by Mr. Hubbard to approve the request for special exception for 933 Gervais Street and 1217 Park Street to allow leased remote parking for a restaurant subject to the conditions agreed to, and as testimony indicated as all that is being changed is who will park.

Motion seconded by Mr. McMeekin.

Request for special exception granted 6-0.

10. [14-076-V](#) Dist. 4 4431 Devine Street (TMS# 13811-05-24) Variance to the parking requirements for a tattoo establishment (Ashley Schultz, 5 Brand Ink) (C-3)

Request withdrawn by applicant after denial of special exception for 4431 Devine Street to establish a tattoo establishment, in conjunction with case 6.

IV. OTHER BUSINESS

V. ADJOURNMENT

There being no further business, motion by Mr. Cromartie to adjourn the December 9th, 2014 meeting. Meeting adjourned at 12:30 p.m.

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