
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
MARCH 11, 2014- 10:00 AM

City Hall Council Chambers
1737 Main Street • Columbia, SC

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

Absent: Patricia Durkin, Chuck Salley

Staff: Andrew Livengood, Andrea Wolfe

Absent: Brian Cook

I. CALL TO ORDER and DETERMINATION OF QUORUM

Ernest Cromartie, chairperson, called the meeting to order at 10:01AM, and introduced the members of the Board of Zoning Appeals (BOZA).

Technical difficulties until approximately 10:05AM.

II. APPROVAL OF MINUTES

Approve February 11, 2014 Minutes

Motion by Mr. Hubbard to approve the February 11, 2014 Minutes; seconded by Mr. McKnight. Motion approved 5-0.

Mr. Livengood proceeded with review of the Consent Agenda. Mr. Livengood noted changes to the Agenda since publication. Item 3, **907 Park Street**, variance to parking requirements to establish a restaurant; item 4, **1907 Senate Street and 1007 Park Street**, special exception to permit leased remote parking for a restaurant, were withdrawn at the request of the applicant.

III. CONSENT AGENDA

A. OLD BUSINESS

None.

B. NEW BUSINESS

- 1. 14-011-SE Dist. 1 5911 Colonial Drive (TMS# 11710-14-57)** Special Exception to establish a carwash and detail shop (Elon R. Robinson) (C-3A)

- 2. 14-012-SE Dist. 1 4600 Ryan Avenue (TMS# 09208-09-10)** Special Exception to establish a day care facility (Mary Randolph) (RS-3 and Richland County RS-MD)

Motion by Mr. Hubbard 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. Young.* **Consent Agenda items approved 5-0.**

Mr. Livengood noted item 3, **907 Park Street**, variance to parking requirements to establish a restaurant; and item 4, **1907 Senate Street and 1007 Park Street**, special exception to permit leased remote parking for a restaurant, were withdrawn and would be presented in a different application.

IV. REGULAR AGENDA

A. OLD BUSINESS

3. 14-005-V Dist. 2 **907 Senate Street (TMS# 08916-02-02)** Variance to the parking requirements to establish a restaurant (Tim Sittema, C4 Gervais, LLC) (M-1, -DD, -DP)
Withdrawn
4. 14-006-SE Dist. 2 **907 Senate Street and 1007 Park Street (TMS# 08916-02-02 and 08916-10-02, -10, -11, -12, -15, -16)** Special Exception to permit leased remote parking for a restaurant (Tim Sittema, C4 Gervais, LLC) (M-1, -DD, -DP and C-4, -DD)
Withdrawn

B. NEW BUSINESS

5. 14-008-SE Dist. 2 **500 Huger Street (TMS# 08914-16-01 and -02)** Special Exception to exceed maximum density per acre for a student housing development (Ben D. Arnold, Arnold Companies) (MX-2, -ID)

Ben Arnold of Arnold Realty Company, applicant, was available for any questions.

Paul Levine, one of the principals of Park 7 Group, provided a brief history of the company, and addressed each criterion required for a request for special exception.

- **This is basically an addition of 42 beds and will not have an adverse impact on vehicular traffic to what currently exists on Huger and Blossom Streets. A traffic study previously done showed the level of traffic service was adequate.**
- **There will be no substantial adverse impact on adjoining properties because all the parking and amenities outside of the five-story building are within a courtyard, any noise or pollution potential that would affect neighbors will be eliminated.**
- **There will be no adverse impact on the aesthetic character of the area as the aesthetic design has been reviewed and approved by the D/DRC, and considered to be consistent with the Innovista District.**
- **There will be no adverse impact on public safety or create nuisance conditions detrimental to the public interest because the outdoor recreations are internal. There is mix of retail and service businesses in the area, so there will be compatibility with surrounding uses.**

- There are no similar uses within several blocks of the area, so there will not be a proliferation of the same or similar uses.
- It is consistent with the character and intent of the underlying district as it is zoned MX-2/Private Dormitory is a permitted use within the district and the design of the building is consistent with the Innovista Plan.
- It is appropriate for its location and consistent with the permitted uses adjacent to and in the vicinity with this type of residential development.
- For all those reasons, it will not adversely affect the public interest.

Mr. Levine stated if the special exception were granted today, the management plan will remain in compliance as it is submitted today. Regardless of future outcome, it will run with the property.

Beejan Savabi, Head of Property Operations, spoke on property operations and management. Four to eight community assistants will live on the property and on call for tenants from 9am to 8pm; as well as an off-duty police officer on-call and living on the property from 8pm – 9am.

Lester Johnson, president of the Johnson Group in Columbia, elaborated on the security plan. The technology is well advanced but designed to be used by individuals with minimal training. Cameras can view the area all around and viewed remotely if desired. It will be up to the management company to decide how the cameras will be manned. There will be remote keys to monitor access, emergency call boxes in the garage, and sends out audible as well as visual warning. Mr. Johnson personally spoke to the Columbia Police Department (CPD) to allow them to provide an off-duty officer on-site during busiest hours (Thursday through Saturday); or the management can have one of their knowledgeable individuals there to reside on-site. How the system is used will be based on the management company. The technology can be used as needed as the system is tied in to work together. They will work together to ensure the students are protected. A minimum of 30 days to maximum of 45 days of material will be stored in the cameras.

No one spoke in favor or opposition of the request.

Mr. Levine added a long-time Park 7 member and Columbia resident will serve as the regional property manager for this property.

Testimony closed for Board discussion.

Motion by Mr. Hubbard to approve the request for special exception for 500 Huger Street to exceed maximum density per acre for a student housing development subject to the conditions that it must be consistent with the operations management and management plan and materials, also consistent with testimony given today about how it will be run. There will be no problems with vehicular or pedestrian safety, no substantial negative impact on that as well; parking and egress/ingress have been discussed; there are no problems with environmental or aesthetic factors; nor the public safety of nuisance conditions, public safety is one reason for having the conditions imposed; no problem with concentration; it will fit in with the character of the area as the area develops into the future; and will be in the public interest.

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

6. 14-009-V Dist. 2 2 Jagers Plaza (TMS# 11512-01-35) Variance to the secondary front yard setback requirements to permit an accessory building (Lucy Gordon) (RS-1)

Lucy Gordan, homeowner, presented. Ms. Gordan built a gazebo about 2 ½ years ago, and decided to close it in to use for storage about 2 ½ weeks ago. On February 5, 2014, a stop work order was issued as no permit was issued for the gazebo, and the secondary front yard setback requirements were not met. She stated she tries to ensure that things are done in good taste for the area; and still had a few other things she wanted to do to enhance her property.

Mr. Livengood stated permits had been issued in December 2010 for fences, but a permit was not issued for a gazebo. He did not know why it was not permitted at that time.

A list of neighbors in support of the request was provided.

Ms. Gordan said there is also a slope from the rear of the gazebo toward Barhamville Road. The walls will be stucco to match the house, and the structure will be finished out to match the house.

Criteria required for a variance was reviewed:

- **Extraordinary and unique conditions pertain to the property due to the slope at the back of the property. Her lot is different because it faces two schools;**
- **Because the lot faces two schools, these conditions do not generally apply to other property in the area;**
- **If the variance were denied, it would prohibit or unreasonably restrict the use of the property;**
- **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;**
- **The variance is the minimum necessary based upon the unique nature of the property; and**
- **If granted, it will not be injurious to the neighborhood or otherwise detrimental to the public welfare.**

Reverent Leroy Cannon, neighbor, was sworn in. Reverend Cannon's house faces Ms. Gordon's property right at the structure. He does not feel it takes away from the property, and it blends in with the house. He feels most of the neighbors feel the same way.

No one else spoke in favor or opposition of the request.

Testimony closed for Board discussion.

Mr. Cromartie asked how the applicant would work with staff to complete the process if the request for variance is granted.

Mr. Livengood stated the property owner must obtain a zoning/building permit, and must meet the neighborhood covenants. The City can only enforce the setback requirements, and cannot grant relief from covenant restrictions as that is beyond the scope of the City.

Mr. Hubbard asked if it would be a problem to grant approval conditional upon the structure being finished to match house, or allotting a time frame to be placed on approval; perhaps of six months.

Mr. Livengood stated that would be allowed within the Ordinance, and a time frame of six months is the usual term a permit is valid.

Motion by Mr. Hubbard to approve request for a variance for 2 Jagers Plaza to the secondary front yard setback requirements to permit an accessory building, as there are extraordinary and exceptional conditions as discussed by the applicant and visible on the map; what is on three sides of the house is very unique and extraordinary conditions that do not generally apply to other properties; it would be a prohibition or an unreasonable restriction on the use of her property; it would not be of substantial detriment to the surrounding public or character of the neighborhood; it would not be injurious; and it is consistent with the general purpose and intent of the goals of the Ordinance in general.

Motion seconded by Mr. McKnight. Request for variance granted 4-1 with Mr. McMeekin in opposition.

Mr. Livengood asked for clarification if the condition was to be part of the motion.

Mr. Hubbard stated it was and revised motion to add approval conditioned upon completion within six months and for the structure to be finished consistent with the style of the house.

Revised motion seconded by Mr. McKnight. Request for variance granted 4-1 with Mr. McMeekin in opposition.

As Ms. Gordan stated in her earlier testimony that she wanted to do some other work outside of this request, Mr. Cromartie advised her to talk to city staff prior to doing so.

- 7. 14-010- SE Dist. 2 907 Senate Street and 1007 Park Street (TMS# 08916-02-02 and 08916-10-02, -10, -11, -12, -15, -16) Special Exception to permit leased remote parking for mixed uses (Tim Sittema, C4 Gervais, LLC) (M-1, -DD, -DP and C-4, -DD)**

A similar application was to present at the February 11, 2014 BoZA meeting and was deferred.

Since that time, staff and the applicant met, and received more clarity on the proposal. Currently, the applicant is proposing to lease eleven spaces off-site and to provide seventeen spaces on-site. When considering an application for leased off-site parking, certain criteria must be reviewed.

Mark Hebard, Crosland Southeast, and J.P. Scurry, Colliers, International, presented on behalf of the ownership part of the entity, not the restaurant.

Mr. Scurry said the lease is in negotiations with the City. Signage has not been discussed. There will be discussions with the restaurant to encourage people to know there is additional parking in the garage.

Criteria required for a special exception was reviewed. 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. Loading and unloading is already taking place on-site, no adverse impact is foreseen.
- on adjoining properties in terms of environmental factors such as noise, lights, glare, vibration, fumes, odors, obstruction of air or light, and litter. No adverse impact is seen to adjoining properties. It is felt the proposed restaurant will be a great enhancement to the area.
- on the aesthetic character of the area, to include a review of the orientation and spacing of buildings. No adverse impact, it will be an enhancement to the area.
- on public safety or create nuisance conditions detrimental to the public interest or conditions likely to result in increased law enforcement response. No adverse impact.
- 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, the project is a mix of retail and restaurant uses.
- The proposed special exception is consistent with the character and intent of the underlying district as indicated in the zoning district description, with any applicable zoning overlay district goals and requirements. Very much correct in promoting a dense development in the Vista. This will be a good example of quality project. The project will present to the D/DRC on Thursday.
- The proposed special exception is appropriate for its location and compatible with the permitted uses adjacent to and in the vicinity of the property. The restaurant in the Vista meets that criterion.
- The proposed special exception will not adversely affect the public interest. It is felt to be a complement.

The off-site parking arrangement for the eleven spaces was discussed. Mr. Hebard stated eleven spaces would be leased with the garage, and there was to be some type of arrangement with signage directing patrons to the off-site parking; details have not been finalized.

Mr. Livengood stated the Ordinance states as it is a City owned parking garage, there are differences than with a private parking garage. There must be available spaces, but not required signage. There must be parking available for other businesses; parking is on an as-is basis. Parking at the restaurant may be used for customers and employees will use the parking in the garage.

Mr. Hubbard voiced concerns that patrons would not know parking was in the garage, which spaces they should use, or whether they would have to pay or not. He asked staff if approval could be conditioned on the garage parking being used for employees only, and parking on-site be used for customers.

Mr. Livengood said that would be up to Board discretion if so desired.

No one else 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 907 Senate Street and 1007 Park Street to permit leased remote parking for mixed uses subject to condition that employees of the restaurant will not park on the on-site parking, but will use the leased parking [spaces in the garage]. It is not that customers cannot use the leased spaces; it is just conditioned that the employees will park there.

There will be no problem with vehicular or pedestrian safety; there will be no problem with environmental factors or aesthetics; no problem with public safety or nuisance conditions; there is in effect a concentration of restaurants in the area, but that is exactly what is wanted, so it is not a harmful concentration; it is consistent with the character and compatible with what is wanted there in terms of the city; it is clearly in the public interest; it is a piece of property that should have a nice development; the requirements of §17-345(b)(2) subject to the exception of the publicly owned city garage have all been satisfied as well.

Mr. Livengood stated one additional issue the Board must address is that the location of the parking spaces and the associated pedestrian path of travel are safe and well lit.

Mr. Hubbard added it is his understanding that the area is currently adequately well lit; and it is assumed that once one gets closer to the garage that it is well lit.

Motion seconded by Mr. Young. 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 March 11th, 2014 meeting. Meeting adjourned at 11:45 a.m.

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