
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
MARCH 10, 2015- 10:00 AM

Mayor's Conference Room
1737 Main Street, 2nd Floor • Columbia, SC

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

Absent: Patricia Durkin, Preston Young

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, reviewed the Consent Agenda as presented.

II. CONSENT AGENDA

A. APPROVAL OF MINUTES

Approve February 10, 2015

B. OLD BUSINESS

None.

C. NEW BUSINESS

- 1. 15-014-V Dist. 4 116 Gills Crossing Road (TMS# 22715-01-57)** Variance to the height requirements of the RS-1 district (Fremont Nelson, Prestige Construction Group, LLC) (RS-1)

- 2. 15-020-SE Dist. 2 1401-1447 Hampton Street, 1519 Bull Street, 1404 through 1436 Taylor Street, and 1514 Marion Street (TMS# 11402-03-02 through -06 and 11402-03-08 through -11)** Special Exception to permit shared parking (Will Yandell, Heritage Land & Development, LLC) (C-4, -DD)

No one spoke in favor or opposition of the requests, or requested any items be removed for discussion.

Motion by Mr. Hubbard to approve 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. Approval to include February 10th Minutes.

Motion seconded by Mr. McMeekin. Motion approved 5-0.

III. REGULAR AGENDA

A. OLD BUSINESS

None.

B. NEW BUSINESS

- 3. 15-012-V Dist. 2 1601-1615 Gervais Street and 1220 Henderson Street (TMS# 11401-06-02, 11401-06-05, and 11402-10-01)**
Variance to the parking requirements for a hotel (Gervais Street Hotel LLC) (C-4, C-4, -DD, and C-3)

The request for variance is to the parking requirements of a 244-room hotel development for redevelopment of the existing Clarion Hotel, and construction of a new six-story building connected to the main hotel. Two hundred forty-four parking spaces are required, whereas the applicant is proposing 203 spaces. Plans are to reconfigure the Henderson Street right-of-way adjacent to the property to provide up to 41 additional spaces; however the spaces cannot be used to count toward filling the parking requirement of this ordinance.

Rick Patel of Gervais Street Hotel, LLC, applicant, spoke on the request. Henderson Street is a very wide street and will be reconfigured with Lady Street, in the Vista, to put in angled parking for up to 40 spaces. With the on-site spaces, the purchase of 1601 Gervais and the Henderson Street property, there will be a total of 244 parking spaces.

The back area of the hotel is a historic feature will be retained, and historic renovation will be done to the project. Keeping that element of the project prevents extra parking on-site. The property is under the historic register due to the uniqueness of the building. The request for variance is the minimum necessary to meet the goals of the project.

No one spoke in favor or opposition of the request. Testimony closed.

Motion by Mr. Salley to approve the request for variance for 1601-1615 Gervais Street and 1220 Henderson Street to the parking requirements for a hotel. The applicant has shown there are exceptional and extraordinary conditions that apply to this property. In general, there is a public road that is not a thoroughfare but essentially serves the parking lot of the property and some adjacent parcels, but not the general public as a thoroughfare. Historic features on the property that will be retained are using the property which deters the use for additional parking. These conditions do not generally apply to other properties because of the unique situation with the road. Approval of the variance would not be of substantial detriment to the adjacent property. It will clearly be in the public good to have the additional development in the area. Approval is subject to all staff comments.

Motion seconded by Mr. McKnight. Request for variance approved 5-0.

- 4. 15-015-SE Dist. 2 405-407 South Assembly Street (TMS# 11204-04-01)** Special Exception to establish a towing service (Jim Havird, Havird Tire Company) (M-1, -FP)

Don Havird of Havird Tire Company, the applicant, stated he would like to withdraw the request for special exception as the family business has strong neighborhood ties with the community and they do not wish to cause any controversy that the request may bring.

5. 15-016-SE Dist. 2 1512 aka 1516 Heidt Street (TMS# 11411-01-03) Special Exception to allow extended time to reestablish a nonconforming use (towing service) in a design preservation district (Daryl Elgin, Elgins of Columbia, Inc.) (C-3, -DP)

Ray Bryson, property owner, provided background and a brief history of the property with its various automotive uses. As part of the improvements Elgin Automotive plans for the site is the removal of an existing billboard.

Daryl Elgin, owner of Elgins of Columbia, presented on the request. Elgins will work with the property owner to improve and maintain the property. No vehicles will be stored long-term outside of the facility; no repairs will be done onsite and 90% of vehicles are taken to other shops for body work. Vehicles brought to the facility are either picked up by the owners or insurance, and only on-site for a few days. A privacy fence will provide screening and have landscape coverage. Mr. Elgin stated they are willing to work with the neighborhood and be an asset to the area.

The Board reminded Mr. Elgin that the proposed non-conforming use must be more in character with uses in the neighborhood and underlying zoning district than the prior non-conforming use. Approval of the special exception will remain with the land. There was no reference to the Good Neighbor Plan, however the applicant could be asked to voluntarily comply as some aspects of the Plan do apply to this business.

Mr. McMeekin felt this business will be a different non-conforming use because there will be no on-site storage and repair. Criterion #3 of the Good Neighbor Plan is not valid to this request as the prior applicant was a savage yard, and the current proposal is not.

Ronald Davis, community activist for Historic Waverly, voice opposition to the request.

Sylvie Dessau, resident and property owner, spoke in opposition to the request.

Ray Borders Gray, resident, spoke in opposition to the request.

Mr. Bryson spoke in support of the request saying his understanding is that the definition of towing service is being updated by the City of Columbia and he feels it is not an appropriate term for Elgins of Columbia.

Mr. Elgin said the hours of operation for the business will be 8am to 5pm; though towing will run 24/7. There may be one drop a night every four or five days, one highway call (vehicular accidents) per week. There is an average of night calls every one to two days because of other services in the area. No repairs will be done onsite. He owns seven vehicles for pickup and three tow trucks. The contract with the City for outstanding parking tickets may result in no more than 15-20 cars on the lot at one time. A curb cut can be added and the property accessed from Millwood. The residential property on the corner has always been short-term rental property and not a permanent residence.

If the special exception is approved and the applicant proposes certain changes to the building or property, such as a fence, they must adhere to the design preservation overlay district guidelines.

Testimony closed for Board discussion.

Mr. Cromartie felt the community is trying to protect and enhance with has been achieved over the past fifteen years, and want to continue that progress. In review of what is allowed in C-3 zoning to see what may be a better fit, the Board has the opportunity to place a caveat with significant restrictions on the applicant that may be tools to mitigate the current use. To deny this application, the community will be open to having the possibility of all other uses allowed in C-3 that be allowed and would not have to present to the Board.

Mr. Hubbard noted he was considering at least seven conditions to address the concerns raised by the neighborhood which almost creates a special zoning category for this parcel that would need to be kept up with. He felt the best approach would be to deny the request. The intent of the ordinance is to allow nonconforming uses to continue until they are removed, but not to encourage their survival.

Mr. Salley said eliminating access to Heidt Street will improve the area tremendously. He felt it better to approve the request and negotiate conditions with the owner, which would be a huge improvement to the neighborhood. It is unrealistic to think this property will turn into something that will please everyone.

Mr. McMeekin agreed with Mr. Salley and felt this would be an opportunity for improvement.

Testimony reopened for public comment.

Ms. Gray said a land use plan has been approved by City Council that referenced more retail. She questioned if it was possible to get the property rezoned from C-3. The noise and emissions from the proposed use were of great concern, and she felt rezoning of the property would be beneficial and a possibility.

Testimony closed.

Motion by Mr. Hubbard to deny the request for special exception as the multiple conditions under consideration to apply to this request to meet the goals of the zoning ordinance would be appropriate to apply to other uses allowed under C-3 which would serve the neighborhood, while the towing service would not serve the neighborhood as its focus is community wide.

Motion seconded by Mr. Cromartie. Request for denial of the special exception granted 3-2. Mr. McMeekin and Mr. Salley in opposition.

6. 15-017-SE Dist. 1 4900 Main Street (TMS# 11604-15-01) Special Exception to establish a convenience store (Gitaben Ahir) (MX-1, -NC)

Request to allow establishment of a convenience store on the property. The building was previously used as a gasoline station. The property is part of the North Main Corridor (-NC) overlay, and should the request be approved, any exterior changes to the building will need to be reviewed by City of Columbia planning Staff or conformance with -NC guidelines. The Good Neighbor Plan was addressed in the application, as well as letters to the surrounding neighborhood associations and the Columbia Police Department.

Alex Shissias, attorney representing the owners, presented on the request. The Ahirs purchased the property left in poor condition by the previous owner, and the contractor they hired did not perform the work which resulted in the twelve month lapse subject to the new ordinance.

Denying the request would result in hardship for the family as this is the only business the applicants know, and logically the historical use of the property. A non-compliant free-standing sign on the corner

of the property has already been taken as a gesture of good faith. The Ahirs own stores in other parts of town, and hope to attract students from the local college at this location. Hours of operation will be 8AM to 9PM; the property will be kept clean; loitering will not be allowed; the owners signed the Good Neighbor Plan; there is adequate parking in the area; there is not a proliferation of this type of business in the area; there will be fencing on both sides of the property; there is no intent to install lights; there are no plans for alteration or expansion of the existing structure, however there are plans for restoration and internal upgrades; and notices were sent to community leaders by certified and first class mail, as well as email; two were picked up and no response has been received from the College Place Community Council.

There are no current plans for the canopy however it may be used for signage; and there are no firm plans for use of the fueling island. There is an existing residence on the side, but there is a total privacy fence on both sides. The store will be closed after 9PM, and there will be no issue with light pollution.

Mr. Shissias has spoken with the owners and the Ahirs have no problems with conditions placed on approval, if granted. There are no issues regarding compliance of the Good Neighbor Plan; no freestanding sign in excess of 4' will be placed on the property; lighting will not shine into neighbors' homes; there will be one dumpster behind the building which will be serviced during daylight hours and removed weekly to prevent problems. If there are complaints with odors, the applicants will comply with conditions and neighbors requests.

Patricia Brown, Northwood Hills Neighborhood president, thanked the applicant for communication and agreeing to conditions of the Good Neighbor Plan; however voiced objection with having another convenience store in the area that may sell beer or wine. The neighborhood is sure the store will be good neighbors as some of the other stores are; however they have issues with signage on an existing store and is a total eyesore which they can do nothing about. There were no issues with the former store at this location as they did not have offensive signage. They are concerned about the number of establishments in the area that may sell beer or wine.

Mr. Cromartie questioned asked store the neighborhood had issues with regarding signage, and said the Good Neighbor Plan will address neighborhood concerns, as well as address and limit signage.

Mr. Cook stated that the Good Neighbor Plan will be included as criteria if the request is approved, and any violation of the conditions will be cited if in violation by closure of the establishment or fines. Mr. Cook will have staff check the other location of concern that Ms. Brown noted.

Ms. Brown said the College Place president attended their last neighborhood meeting and did not appear to have knowledge of the request or acknowledge receipt of the letter from the attorney or the owners. Most people at the meeting said the former store was a good neighbor with not a lot of signage, was quiet and orderly; so people were expecting if a new business was allowed, it would be of the same character. Three members of the College Place community were in attendance at the meeting who seemed to agree with that and did not see the new establishment as a threat or problem to the community.

Ms. Shissias said it is his understanding that the reason this particular ordinance was passed because there were a few defacto beer and wine stores operating all hours of the all night, bothering the neighbors, and consuming an exorbitant amount of police and other resources. This is a family-oriented business run only family, open from 8AM until 9PM. this is not a defacto beer and wine store, they are bound by the Sign Pledge and Sign Ordinance. Every poster in the window will contribute to the sign pledge and ordinance.

Testimony closed for Board discussion.

Motion by Mr. Hubbard to approve the request for special exception for 4900 Main Street to establish a convenience store subject to several conditions:

- 1) The Good Neighbor Plan binding this owner of the land and future owners of the land, and future operators of the store;**
- 2) The hours are limited from 8AM in the morning to 9PM at night;**
- 3) The sign that is underway of removal continue to be removed;**
- 4) There will be no expansion of the size of the building;**
- 5) Measures will be taken to ensure the outdoor lighting that may affect neighbors be pointed away from them and not bother them;**
- 6) The dumpster will only be emptied during the daylight hours, there will be no nuisance odors, and if such odors are reported, will be abated.**

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

- 7. 15-018-SE Dist. 2 2414 Two Notch Road (TMS# 11511-10-01)** Special Exception to allow limited outdoor display of used merchandise (Nelson Smith, A-1 Appliance) (C-3)

The applicant proposes to display merchandise under the front overhang of the store. In April of 2014, City Council passed an amendment to the ordinance allowing for limited outdoor display if approved by the Board of Zoning Appeals as a Special Exception. Items may be left out during daytime hours and must be removed at night. §17-287 is additional criteria that will need to be addressed in addition to the Special Exception criteria.

Nelson Smith, applicant, presented on the request for limited outdoor display of refrigerators, washers, dryers, stoves, and lawnmowers. Mr. Smith is willing to comply with all criteria. Hours of operation will be from 9AM until 7PM, or dark. He requested 3' to 6' additional space beyond the overhang for multiple rows of display. Other items and any furniture will be displayed inside the building. Mr. Smith testified items to be sold will be washers, dryers, refrigerators, stoves, and microwaves.

No one spoke in favor or opposition of the request. Application accepted as testimony.

Testimony closed for Board discussion.

Motion by Mr. Hubbard to approve the request for variance for special exception for 2414 Two Notch Road to allow limited outdoor display of used merchandise.

- 1) Hours of operation will be 9AM until dark.**
- 2) Items to be sold will be refrigerators, washers, dryers, stoves, to include microwave stoves, as well as conventional stoves, and lawnmowers, to be kept in a clean and orderly condition. The location will be under the front overhang and 3' beyond that overhang.**

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

- 8. 15-021-AA Dist. 2 2024 Main Street (TMS# 09016-11-06)** Appeal of the Zoning Administrator's determination regarding a changeable copy advertising (billboard) sign (Jay Bender, attorney, Christ Central Ministries) (C-4, -DD)

Deferred at Request of Applicant

Administrative Appeal deferred at the request of the applicant to be heard at the April 9th meeting.

9. 15-022-V Dist. 2 2053 Two Notch Road (TMS# 11509-01-04) Variance to the front yard setback requirements to construct a fuel station canopy (Zaher Mohammed, Stop N'Save, Inc.) (C-3)

Mr. Livengood reviewed this previously approved request. Due to on-site changes, the existing fuel canopy will no longer meet the setbacks. This request was approved prior to the Convenience Store Ordinance, therefore the Board may ask if the applicant wishes to comply with the Good Neighbor Plan, however must honor the previous approval and use.

Deborah Stratton, real estate agent, presented on behalf of the applicant. Approval was received for a larger canopy which had not been installed. When installation began, it was found the proposed location was not large enough for the canopy and pumps.

Mr. Cromartie stated the special exception was granted based on previous testimony, and questioned what caused this change to require new testimony.

Ms. Stratton said the Gas Company and Tank Company came to the property to decide the location of the tanks and placement for the canopy. At that time, it appeared from the draftsman's drawing that there would be enough turning radius. However when Enlow, the canopy installer, came to the property, it was found there would not be enough room with the pumps and proximity to the building for turn radius.

A new layout was created which will be a better design for traffic flow and gas pump safety. The location will provide more of a buffer for lighting by going inward and down.

The Good Neighbor Plan criteria were reviewed and the applicant agreed to comply with the Plan as this is already done at his other locations.

No one spoke in favor or opposition of the request.

Testimony closed for Board discussion.

Motion by Mr. Hubbard to approve the request for variance for 2053 Two Notch Road to the front yard setback requirements to construct a fuel station canopy as there are extraordinary and exceptional conditions that apply to the property, particularly the fact that the property was laid out a long time ago and things were very different in that area, that do not generally apply to other property.

It would prohibit or unreasonably restrict the use of the land. It would also create safety problems if the variance were not granted. This will not be of substantial detriment to the adjacent property, the public good, or the character of the district. It is the minimum necessary to achieve these goals. It is in harmony with the general purpose and intent of the Zoning Ordinance, and not injurious to the neighborhood or otherwise detrimental to the public welfare. In addition, granting of the variance is conditional upon the applicant and the owner's willingness to be bound to the Good Neighbor Plan.

Motion simultaneously seconded by Mr. McKnight and Mr. Salley. Request for variance granted 5-0.

10. 15-023-SE Dist. 4 198 Newland Road (TMS# 25600-03-21) Special Exception to expand a towing service (Chris Schroeder, Schroeder's Towing) (M-1)

Chris Schroeder, applicant, shares the property with Summit Collisions, with plans to purchase an additional lot. There is existing screening with shrubbery on the property which will be expanded across the new lot. Vehicles are picked up within two to seven days; after five days, paperwork is implemented for disposal. No repair work will be done on-site. The area is surrounded by car dealerships and businesses. Fort Jackson cemetery is up the road, however because the lot will be screened, cars will not be visible from the road. There will be lighting on the lot at nighttime for safety issues, but there will not be light pollution to Summit Collision, Carolina Paint and Body Shop or anyone else. The screening is green cloth mesh with shrubbery between the fence and road which will go all around the perimeter of the property. The shrubbery will be maintained. Mr. Schroeder agreed the Board could accept his application as testimony. He provided a drawing of the proposed landscaping for the property.

No one spoke in favor or opposition of the request.

Testimony closed for Board discussion.

Motion by Mr. Hubbard to approve the request for variance for 198 Newland Road to expand a towing service based on the testimony provided. In addition, approval is conditional upon the following:

- 1) There will be no repairs, crushing, dismantling of the vehicles towed.**
- 2) There will be the fence as described in the testimony today.**
- 3) There will be maintained shrubbery in front of the fence, meaning between the fence and Percival Road.**

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

IV. OTHER BUSINESS

For clarification, Mr. Cook stated the Good Neighbor Policy applies only to a special exception as it pertains to convenience stores.

Election of Board officers

Motion by Mr. Hubbard to re-elect Mr. Cromartie as chairperson. Nomination accepted.

Motion seconded by Mr. Hubbard, Mr. McMeekin, Mr. Salley, and Mr. McKnight. Motion approved.

Motion by Mr. Salley to re-elect Dr. Hubbard as vice-chairperson. Nomination accepted.

Motion seconded by Mr. Cromartie, Mr. McMeekin, Mr. Salley, and Mr. McKnight. Motion approved.

V. ADJOURNMENT

There being no further business, motion by Mr. Cromartie to adjourn the March 10th, 2015 meeting. Meeting adjourned at 11:32 a.m.

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