
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
May 12, 2015- 10:00 AM

City Council Chambers
1737 Main Street, 3rd Floor • Columbia, SC

In attendance: Ernest Cromartie, III, Patricia Durkin, Dr. Pat Hubbard, Reggie McKnight, Calhoun McMeekin, Chuck Salley, 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 10:07 AM, and introduced the members of the Board of Zoning Appeals (BOZA).

Brian Cook, Zoning Administrator, noted changes to the agenda since publication. Item 4, **1200 Whaley Street**, and item 6, **1219 Wayne Street and City of Columbia Wayne Street Parking Lot** were withdrawn at request of the applicant. He proceeded with review of the Consent Agenda.

II. CONSENT AGENDA

A. APPROVAL OF MINUTES

Approve April 14, 2015

A. OLD BUSINESS

None.

B. NEW BUSINESS

- 1. 15-038-V Dist. 1 914 Abbeville Street (TMS# 09012-11-04)** Variance to the rear yard setback requirements to construct an addition (Jeremy Rowe) (RG-2, -DP)

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 items 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. Young. Motion approved 7-0.

Motion by Mr. Cromartie to approve the March 10, 2015 minutes.

Motion seconded by Mr. McKnight. Minutes approved 7-0.

III. REGULAR AGENDA

A. OLD BUSINESS

None.

B. NEW BUSINESS

- 2. 15-019-SE Dist. 2 818 Tree Street (TMS# 11414-17-13)** Special Exception to permit a residential care facility (Clarence Portee) (RG-2)

Application for special exception to allow the establishment of a 14-bed (seven-bedroom) residential care facility; specifically request for approval of a half-way house for recovering addicts and alcoholics run by Second Chance Housing, an incorporated non-profit entity. Item 7, also under consideration, is a variance request to the parking requirements for this residential care facility.

For the purposes of efficiency, item 7 request for variance was heard following this request for special exception as both cases are on the same property.

Clarence Portee, Executive Director of Second Chance Housing, reviewed the criteria required for special exception:

- *Proposed special exception will not have a substantial adverse impact on vehicular traffic or vehicular and pedestrian safety. There is very little traffic in the area and no parking on the street. There will be no impact or change in traffic.*
- *Proposed special exception will not have a substantial adverse impact on surrounding properties in terms of noise, lights, or environment. No one has every protested or complained. There are rules and criteria [for the facility], no one wanders around; the house shuts down at 8:30 – 9:00 pm.*
- *Proposed special exception will not have a substantial adverse impact on the character of the area. The area has not changed. Most of the residents are working during the day with only a few Veterans remaining in the house during the day.*
- *Proposed special exception will not have a substantial adverse impact on public safety or create nuisance conditions detrimental to public interest. Everyone in the area likes what [Second Chance] does. Senior citizens are fed each year, and the home is opened up the community to get involved, churches bring food on holidays. Communication has always been held with the neighborhood.*
- *Establishment of the proposed special exception will not create a proliferation or concentration of the same or similar types. Since their start in 2002, no other facilities wanting to help recovering addicts and/or alcoholics have been seen in the area. As of this date, in attendance at all the neighborhood meetings, Mr. Portee has not heard of any proposals to create a recovery house or group home, or residential care facility in that area. He can assume that no one else is interested in doing that type of work in the area.*
- *Proposed special exception is consistent with the character and intent of the underlying district. There is no building in the area or reconstruction of homes, so there will be no impact on the area in any kind of way that would be detrimental to the area. Mr. Portee feels Second Chance Housing is "the best thing going in that area". Second Chance Housing is really vital to the area, giving people a chance and opportunity to get their life together.*

- *Proposed special exception is appropriate for its location. Most of the surrounding area is composed of empty lots. The adjacent neighbor is completely satisfied with the facility. Mr. Portee provided a petition with 164 signatures in support of the project.*
- *Proposed special exception will not adversely affect the public interest. No complaints have been received regarding Second Chance Housing since its creation in 2002. The neighborhood is totally and absolutely satisfied; he can only speak for the community in which he serves and lives, he cannot speak for the outside neighborhood.*

Mr. Cromartie stated that if the Board is inclined to approve the request for special exception, there are three conditions the Board would like have considered and applied to the special exception:

- *The first is that the residential care facility shall operate in substantial conformance with the applicant submitted and testimony provided.*
- *Second, the halfway house will comply with all state and local requirements, including but not limited to the building code.*
- *Third, following vacancy, abandonment, or discontinuance of this use for a period of 12 consecutive months, the special exception shall be considered completed and shall expire.*

Mr. Portee objected to the term of residential care facility and the criteria and mandates that govern residential care facilities.

Joseph Henry Portee also voiced concerns with having to comply with different regulations that may be more restrictive than what currently applies to the Home.

Staff said industry code places a halfway house under the umbrella of a residential care facility. There will be no change in the use of the property; the only difference is the terminology as defined for state categories versus city categories as they apply to the Zoning Ordinance.

Board members complimented the applicant and the way the program is run, as well as the neighborhood for embracing this type of program. Mr. Portee was commended for reaching out to the community as the Board feels neighborhood involvement is very important, and approved of the strong support he received for his program.

Weston Pugh, local attorney in the area, spoke in support of the applicant and use of the facility saying the place is orderly and the men are respectful.

As no one else spoke in favor or opposition, testimony was closed for Board discussion.

Motion by Mr. Hubbard to approve the request for special exception for 818 Tree Street. The terminology used for this special exception is terminology used by the City of Columbia Zoning Code. That terminology is used only because it has to be used to satisfy the conditions in the City Zoning Code; it has no other purpose or intent to go beyond what is faced today in terms of the request for special exception. It should have no impact in any other regulatory scheme as to the nature of what is going on. The nature of what is going on should be based on what Mr. Portee is doing, not on what the Board might call it today.

The testimony has indicated no negative impact on vehicular or pedestrian safety; no negative affect on environmental factors; no negative affect on aesthetics, it seems to be a nicer part of the neighborhood in some ways; no negative affect on public safety, no nuisance conditions

whatsoever; no problems with concentrations of similar uses; will be consistent with the character, particularly the evidence shown on how it is conducted; it is compatible with the neighborhood, consistent with the evidence on how it has been conducted; and it is clearly in the public interest, both in terms of the neighborhood and in terms of the greater community in terms of the lives affected by this very wonderful program.

Motion seconded by Mr. McMeekin. Motion approved 7-0.

As the additional conditions for approval were omitted from the motion, Motion by Mr. Cromartie to reopen approval of the special exception.

Motion seconded by Ms. Durkin. Motion to reopen approval of the special exception approved 7-0.

Motion amended by Mr. Hubbard to include the three conditions as set forth in the materials to repeat that the halfway house should operate in substantial conformance with the submitted materials and testimony before the Board today; secondly, it will comply with all state and local requirements, including but not limited to the building code, nothing the Board does today will affect in any way how these other state and local requirements are applied; and finally, following vacancy, abandonment, or discontinuance of this use for a period of 12 consecutive months, this special exception shall be completed and shall expire.

Motion seconded by Mr. McMeekin. Amended motion to approve the special exception approved 7-0.

7. 15-036-V Dist. 2 818 Tree Street (TMS# 11414-17-13) Variance to the parking requirement for a residential care facility (Clarence Portee) (RG-2)

Clarence Portee, owner, spoke to the criteria for the request for variance:

- *Extraordinary and exceptional conditions pertain to the subject property because of the configuration of the house on the property which limits the available area for parking.*
- *The requested variance is the minimum necessary to achieve the requested variance.*
- *This condition does not apply to other parcels as the adjacent properties are vacant.*
- *Approval of this variance would not be of substantial detriment to adjacent property or the public good, and the character of the district.*
- *The driveway is currently in very good condition and will be maintained as such.*

As no one else spoke in favor or opposition, testimony was closed for Board discussion.

Motion by Mr. Hubbard to approve the request for variance for 818 Tree Street, incorporating by reference all the testimony brought in by the record today from the discussion of the special exception to be treated as part of the variance. The record, testimony and evidence show that exceptional conditions apply because of pre-zoning development; they do not generally apply to other property in the vicinity; this will not be a substantial detriment to adjacent property or to the public good, and the character of the district will not be adversely affected; this is the minimum necessary to allow the applicant to make a reasonable use of his property; and it will be in harmony with the purposes and intent of the Ordinance and not injurious to the neighborhood, or to the public welfare. Approval of the variance is conditioned up on the maintenance of the driveway in good condition.

Motion seconded by Mr. McKnight. Request for variance approved 7-0.

- 3. 15-031-SE Dist. 1 3506 Main Street (TMS# 09112-06-08)** Special Exception to establish a liquor store (Cheryl M. Qualls, Capitol Sales, Inc.) (MX-1, -NC)

Cheryl M. Qualls, applicant, was not in attendance for the request. Mr. Livengood said the applicant was contacted via email the day before the meeting and provided with a packet of information, and the property was properly posted with the meeting date. Acknowledgement was not received from the applicant.

Chairperson Cromartie stated the request for special exception to establish a liquor store would move forward as the applicant was notified of the hearing, members of the public were in attendance to hear the request, and the property was properly posted; testimony would be taken from anyone wishing to speak with regard to the request.

Steve Gentino, neighborhood resident, spoke in opposition of the request.

Sabrina Odom, Executive Director of the North Columbia Business Association voiced opposition to the request.

Michael Park, president of the Hyatt Park/Keenan Terrace Neighborhood Association, spoke in opposition of the request. Mr. Park said no contact was made by the applicant with any of the neighborhood residents.

Lyman Munson, vice president of the Hyatt Park Neighborhood Association, spoke in opposition of the request.

Ellen Fishburne Triplett, neighborhood resident and member of Concerned Citizens of Eau Claire and North Columbia spoke in opposition of the request.

Angela Whitehead, program director at the Women's Shelter, spoke in opposition to the request.

Jimmy Braddock, program director at Providence Home, voiced adamant opposition to the request.

Patrician Brown, president of the Northwood Neighborhood Association, said the neighborhood association voiced opposition to the request.

Gareth Fenley, resident and one of the founders of the Concerned Citizens of Eau Claire and North Columbia was sworn in, and spoke in opposition to the request.

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

As neither the applicant and/or property owner was present, testimony had been taken, and proper notice had been given, testimony was closed for Board discussion.

Motion by Mr. Hubbard to deny the request for special exception at **3506 Main Street as the criteria are not met. The vehicular and pedestrian safety requirement perhaps is not a particular problem but given the higher level of pedestrian uses in this part of Columbia; the applicant does not make it particularly clear why there is no additional light or noise; the impact on aesthetics or orientation and spacing of buildings does not appear to be too much of a problem; it will have an adverse impact on public safety and create nuisance conditions detrimental to the public**

interest or conditions likely to result in increased law enforcement response; there is no concentration in the area though there are others in some distance; this is not consistent with the character and intent of the underlying district as indicated in the zoning district description, with any applicable zoning overlay districts and requirements, and is supported by testimony given, the application provided does not refer to the overlay goals; testimony has shown that this is not compatible with the existing uses in the adjacent area; and it will adversely affect the public interest and testimony clearly supports this.

Motion seconded by Mr. McKnight. Request to deny special exception approved 7-0.

4. **15-033-SE Dist. 1 1217 Florence Street (TMS# 09110-01-07)** Special Exception to permit a residential care facility (Paula Griffin, Grounded Space) (RG-1, -DP)

Withdrawn

5. **15-034-V Dist. 4 104 through 110 Percival Road (TMS# 16706-02-01, -02 and -04 through -07)** Variance to the maximum allowable sign display surface area for a retail development (E. Coke Mann IV, CRP-Fort Jackson, LLC) (C-3)

Planning Commission approved request for common group development signage on May 4, 2015. Fort Jackson received notification of the meeting and had no opposition to the request.

David Brandes, representing the applicant, reviewed the property and spoke on the request.

Mr. Brandes reviewed the criteria for a variance:

- *There are three extraordinary and exceptional conditions pertain to the subject property - the site is a very oddly shaped triangular piece of property, the topography is makes it very difficult to access, and the site has two fronts doubling the need for signage because of these two conditions;*
- *These conditions do not generally apply to other properties in the area;*
- *Because of these conditions, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property;*
- *Approval of the variance would not be of substantial detriment to the adjacent property or to the public good, and the character of the district would not be harmed;*
- *The variance request is the minimum necessary; and*
- *The proposal is in harmony with the purpose and intent of the Zoning Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The development of this parcel will provide a viable commercial project and additional revenue to the City of Columbia.*

As no one spoke in favor or opposition of the request, testimony was closed for Board discussion.

Motion by Mr. Hubbard to grant the request for variance for 104 through 110 Percival Road as the applicant has indicated in his testimony and exhibits that there are extraordinary and exceptional conditions that pertain to this property that do not generally apply to other property in the vicinity; it will prohibit or unreasonably restrict the development of the property to deny the request; it will not be a substantial detriment to the adjacent property or to the public good, and the character of the district would not be harmed; testimony has indicated to grant the request will make it possible to charge more money and thus have better businesses, which is preferred on Forest Drive; the reasons set forth in the application justify granting the variance and are the minimum necessary; and they will be in harmony with the purpose and intent of the Zoning

Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

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

Mr. Cromartie called for a brief recess at 11:45 AM; meeting called back to order at 11:53 AM

- 6. 15-035-SE Dist. 2 1620 Broad River Road (TMS# 07308-02-14) Special Exception to establish a liquor store (David Smith, Kings Beverage LLC) (C-3)**

Mr. Hubbard left the meeting at 11:54 AM for a prior engagement. Quorum remained with six members in attendance.

David Smith, applicant, reviewed the criteria for a special exception:

- *Proposed special exception will not have an adverse impact on vehicular traffic or vehicular and pedestrian safety as there will be no change in traffic. It is proposed to add fifteen additional parking spaces on the parking with the demolition of an existing structure on the property.*
- *Proposed special exception will not have a substantial adverse impact on surrounding properties or environmental factors in terms of noise, lights, or environment. No loitering signs will be posted, loitering is not anticipated as this is strictly a liquor store.*
- *Proposed special exception will not have a substantial adverse impact on the aesthetic character of the area as the area is zoned commercial. The existing house structure on the center of the lot will be removed to increase parking.*

Mr. Cromartie stated for the record that the applicant submitted a detailed site plan identifying new proposed parking, future building expansion, existing parking, the location of the retail store. Entered into the record as **Applicant's Exhibit A.**

- *The proposed use of the building will be a retail establishment at the front of the building and the back area will be used for storage to warehouse the liquor. The back portion may possibly be refaced in the future to create another retail unit for a separate type of business. Mr. Smith had an interior layout of the store available.*
- *Establishment of the proposed special exception will not create a proliferation or concentration of the same or similar types. There is an existing liquor store about 1 mile away on either side of the property.*
- *Proposed special exception is consistent with the character and intent of the underlying district.*
- *Proposed special exception is compatible for the area.*
- *Proposed special exception will not adversely affect the public interest.*

Should be the Board be inclined to approve the request, one of the conditions for approval is to address the landscaping issues, specifically that a landscape street protective yard be provided along Broad River Road as a protective area.

- *Mr. Smith owes a landscaping firm and has done work with the City. He will work with staff to address the landscaping issues and ensure they are taken adequately taken care of.*

No one spoke in favor or opposition of the request, testimony closed for Board discussion.

Motion by Mr. McMeekin to approve the request for special exception for 1620 Broad River Road conditioned upon testimony given and what was set forth in staff comments. By granting the special exception, there will be no impact on vehicular and pedestrian safety, environmental factors, aesthetics, public safety, nuisance conditions, there does not seem to be a concentration in the area, it is not out of character with the area, it is compatible, and there is no adverse effect to the public interest.

Motion seconded by Mr. Salley. Motion to deny the request approved 6-0.

- 7. 15-036-V Dist. 2 818 Tree Street (TMS# 11414-17-13)** Variance to the parking requirement for a residential care facility (Clarence Portee) (RG-2)

Request heard with item 2 as cases were related.

- 8. 15-037-SE Dist. 2 817 through 825 Main Street and 1120 College Street (TMS# 11304-07-05 and -06)** Special Exception to exceed maximum density per acre for a student housing development (Rodney J. King, EdR) (C-4, -DD)

Standard criteria for special exception are required, as well as additional criteria for a private dormitory to exceed the maximum density of 100 beds per acre in C-4 which will be required for approval of the request for special exception.

Rodney King, applicant, presented on his request saying he felt the density is in keeping with the C-4 zoning. Mr. King reviewed the criteria for special exception.

- *Proposed special exception will not have a substantial adverse impact on vehicular traffic or vehicular and pedestrian safety. A traffic study has been commissioned and delivered to the City's traffic engineer. The results of the study show minimal impact with minor modifications that will be incorporated into the development.*

A copy of the study was not available or presented to the Board or staff. The request will present to the D/DRC for site plan review and preliminary indications by the traffic engineer are the plan is okay.

- *Proposed special exception will not have a substantial adverse impact on surrounding properties. Resident parking will be located inside the buildings garage wrapped by units, not visible from Main and College Streets. The amenity space will be located above the garage on the amenity deck.*
- *Proposed special exception will not have a substantial adverse impact on the character of the area. It is believed the project will actually improve the aesthetic character of the area. The project is located in the -DD and all recommendations will be followed.*
- *Proposed special exception will not have an adverse impact on public safety. An operations and management plan has been submitted that includes the 24-hours/day, 7-day/week management plan. The manager will be onsite, in addition to a community-assistant program, off-duty law enforcement and/or security services will be provided to the facility during non-business hours.*
- *Establishment of the proposed special exception will not create a concentration or proliferation of the same type or similar uses. This project is unique in its location and has C-4 zoning.*
- *Proposed special exception is consistent with the character and intent of the underlying district as indicated. It is consistent with the intent of the C-4 zoning which has no height limitation. It is felt the request for density exception is in keeping with the C-4 zoning of no height limitation.*

- *Proposed special exception is appropriate for its location and compatible with the permitted uses adjacent to and in the vicinity of the property. It is felt this is the prime location for this type of use adjacent to the university and adjacent to the entertainment district of the City of Columbia.*
- *Proposed special exception will not adversely affect the public interest. It is consistent with the intent of the zoning district and has adequate infrastructure. It will not create any nuisance issues, and is complementary to the surrounding buildings and therefore does not affect public safety.*

Mr. Cromartie and other Board members voiced concerns regarding public safety as putting a large number of additional individuals on an area calls for additional law enforcement. The applicant touched on the security plan, however usually with these types of applications there is a separate security plan; and Mr. Cromartie asked if a separate security plan could be provided.

Mr. King said a plan is available, however they wish to keep it private and proprietary as they do not want it to be part of the public record. It is a large, lengthy document that can be made available to the Board.

Mr. Salley left for a personal appointment at 12:14PM. Quorum was still maintained with five members present.

Several attempts were made to communicate with the University however necessary meetings have not been held. Conversations have been held and the University has been neutral regarding the project. The CFO has not expressed any negative opinions.

Board members voiced concerns regarding public safety issues, stating they would like to see the separate security plan in order to make a fully informed decision; as well as a public safety document and agreement with the University.

The applicant requested a deferral to the June meeting to allow for the provision of requested documentation by the Board. He will work with staff to address the issues based on comments made today.

As the applicant requested a deferral, move to grant a deferral by Mr. Cromartie for the request to the June meeting. Deferral granted 5-0. The request will be the first item heard on the agenda at the next month's meeting.

IV. OTHER BUSINESS

V. ADJOURNMENT

There being no further business, motion by Mr. Cromartie to adjourn the May 12th, 2015 Board of Zoning Appeals meeting at 12:25 p.m.

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