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**CITY OF COLUMBIA**  
**BOARD OF ZONING APPEALS MINUTES**  
**July 14, 2015- 10:00 AM**

**City Council Chambers**  
**1737 Main Street, 3<sup>rd</sup> Floor • Columbia, SC**

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

**Out:** Patricia Durkin

**Staff:** Brian Cook, Andrew Livengood, Andrea Wolfe

**I. CALL TO ORDER and DETERMINATION OF QUORUM**

Ernest Cromartie, chairperson, called the meeting to order at 10:05 AM, and introduced the members of the Board of Zoning Appeals (BOZA) and staff.

**II. CONSENT AGENDA**

**A. APPROVAL OF MINUTES**

**Approve June 9, 2015 minutes**

**A. OLD BUSINESS**

**None.**

**B. NEW BUSINESS**

- 1. 15-052-SE Dist. 3 2640 Gervais Street (TMS# 11415-08-01)** Special Exception for shared parking to establish a physical fitness facility (Neil Derrick, Personal Fitness by Neil Derrick) (C-2)

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 Minutes, and 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 6-0.***

**III. REGULAR AGENDA**

**A. OLD BUSINESS**

- 2. 15-046-SE Dist. 2 2501 Millwood Avenue (TMS# 11410-13-01)** Special Exception to operate a drinking establishment (Regan Smith, Black Box One Stop Bar and Grill) (C-3)  
**Withdrawn**

**B. NEW BUSINESS**

- 3. 15-050-SE Dist. 3 7474 Garners Ferry Road (TMS# 16316-01-05)** Special Exception to construct a 180' monopole Wireless Communication Facility (Cell Tower) (Nicole Scott Ewing for Branch Communications) (C-3)

The applicant proposes to construct a 180 ft. new monopole cell tower, also known as a wireless communication facility (WCF). The proposed WCF is within a 2,500 sq. ft. compound, to the rear of a commercial parcel containing the Kenneth Shuler School of Cosmetology.

Nicole Ewing, attorney with Nexus Pruitt, represented the applicant Branch Communications. Ms. Ewing stated they had just received a letter from Robert Fuller, Columbia attorney, regarding his objection to the application. She spoke with T-Mobile representatives to determine if it would be the best course of action to ask if the application should be held or move forward. She asked the Board if it would be possible to move to the next agenda item to allow her time to consult with her client, and then present on the request.

**Motion by Mr. Cromartie to allow the applicant to consult with their client and move forward with the following case.**

***Motion seconded by Mr. Young. Motion to defer the request approved 6-0.***

**Request deferred to the end of the Agenda. Next case presented.**

- 4. 15-051-V Dist. 3 2617 Devine Street (TMS# 11316-14-08(p))** Variance to the parking requirements for a restaurant (Jody Kreush, The Devine Cinnamon Roll Deli) (C-2)

The proposed business, *The Devine Cinnamon Roll Deli*, is a bakery and restaurant. Prior to the redevelopment of the site, there were three buildings on a single lot. One of the buildings has been demolished and the lot has been subdivided; a new 9-space parking lot is being constructed in place of the demolished building.

Jody Kreush, applicant, presented on the request. Ms. Kruesch said she is very community-oriented and is working with different organizations downtown, such as CFP and Oliver Gospel Mission, to deliver leftover food. The parking spaces are the maximum that can be placed on the lot. Ms. Kruesch brought letters of support from neighbors and the surrounding community.

Ms. Kruesch reviewed the criteria required for a variance request.

- ***Already addressed was criteria 4 - 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.***
- ***Because of the existing types of businesses in the area, Ms. Kruesch felt the uniqueness of the property is that her concept is needed there, and will add to the community and property values in the area.***

Hours of operation will be 7:30 am until 4pm. If there is community demand, they would like to stay open until 6 – 7pm to provide dinner in the future. Ms. Kruesch is allowing the USC graphic arts department to use her inside walls

to display art work. Thirty percent of proceeds from all events will go back to different organizations that feed homeless, assist women's shelters, etc. She is very much of a community activist.

*Some of the extraordinary conditions are due to slope of the property, narrow access, and challenges with ingress/egress as stated by staff.*

*Those restrictions are unique to the property because of the configuration of the property, where parking is planned, and where the building will be located.*

*Based upon staff review of the property, it is the minimum request necessary.*

*Based upon additional testimony, it will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.*

Mary Sparrow, real estate agent and Columbia business owner, spoke in strong support of the request.

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

**Motion by Mr. Hubbard to approve the request for variance. As review by the chair has indicated in the testimony, and also indicated in documents submitted for the record, the requirements are clearly satisfied.**

**Two things that are not the basis of the motion: it is great that the owner will provide community service, which is the individual owner. What is being approved is a restaurant that may have multiple owners in the future, and it cannot be required that all the future owners provide community service. This is wonderful, but is not part of the motion whatsoever. In addition, the easement is not in record and it is difficult to know how the easement will be enforceable in the future. Nothing is presented, therefore whether or not there is an easement is not a condition that this is granted**

**Motion seconded by Mr. Salley to approve the request. Request for variance granted based upon staff comments and testimony 6-0.**

Mr. Cook stated that the prior applicant wished to move forward with their request.

- 3. 15-050-SE Dist. 3 7474 Garners Ferry Road (TMS# 16316-01-05) Special Exception to construct a 180' monopole Wireless Communication Facility (Cell Tower) (Nicole Scott Ewing for Branch Communications) (C-3)**

Nicole Ewing, attorney representing Branch Communications, thanked the Board for allowing the change in agenda order to allow her time to meet with her clients to address the concerns noted in the letter presented by Mr. Fuller.

Mr. Cook again presented the case for the record. In addition, the letter of opposition with attachments from Robert F. Fuller regarding the wireless communication facility being presented was submitted.

Ms. Ewing reviewed the criteria for special exception as well as addressing the issues noted in the letter.

- **Proposed special exception will not have a substantial adverse impact on vehicular traffic or vehicular and pedestrian safety.** The facility will be unmanned and the site will not be accessed by the general public.
- **Proposed special exception will not have a substantial adverse impact on adjoining properties in terms of environmental factors.** The equipment required to support the tower will create minimal, if any, noise and vibration, and will not general glare, fumes, odors, and litter. The less than 200 foot monopole will not be lit, and the slender width will not obstruct air or light.
- **Proposed special exception will not have an adverse impact on the aesthetic character in the surrounding area.** The tower will be located in a commercial area on a parcel surrounded by other commercial zoned properties, and the site is over 700 feet from the nearest residential area.
- **Proposed special exception will not have a substantial adverse impact on public safety or create nuisance conditions detrimental to the public interest.** The site will be enclosed by an 8' fence to keep unauthorized persons from accessing the site. The tower will be unmanned and unaccessible to the public.
- **Establishment of the proposed special exception will not create a proliferation or concentration of the same or similar types of development.** There are no other towers within 1,000 feet of the proposal; the closet tower is about 3,400 feet away.
- **Proposed special exception is consistent with the character and intent of the underlying district.** This is a commercial use area surrounded by commercial. Towers are permitted as a special exception in C-3 zoning if compliant with City's zoning ordinance requirements. The proposal will meet those Zoning Ordinance Requirements.
- **Proposed special exception is appropriate for its location and compatible with the permitted uses.** This is appropriate as it is commercial use.
- **Proposed special exception will not adversely affect the public interest.** This will benefit the public as it will provide better cellular reception in the area, which will positively affect the public interest, and will have minimal impact upon the area. .

In addition to the standard criteria required for a special exception, Ms. Ewing spoke to the additional standards required for WCF's.

- The proposed WCF would not endanger the safety of residents, employees, or travelers, as demonstrated by the included material from Bennet & Pless, Inc. and Ambor Structures as all codes are met, if the tower should fall, it will crumble upon itself.
- The proposed WCF will not substantially detract from aesthetics and neighborhood character or impair the use of neighboring properties as it will be located in a commercial area surrounded by commercial properties, and is more than 300 feet from a residential area.
- The proposed tower is not located within 1,000 feet of another communication tower.
- The applicant has attempted to locate upon existing wireless communication towers however co-location is not possible as it could not support their needs.
- The proposed user will allow other users to co-locate on the property. A letter from Blake Hooper of Branch Communication was enclosed to support the co-location issues and concerns.

Ms. Ewing then addressed the issues in Mr. Fuller's letter of objection.

- regarding criteria 5 for special exception, concentration of similar use. City Council set a limit of 1,000 feet location from another communication tower, and the proposed tower exceeds that limit.
- at the time that the applicant submitted their application, no alternate site had received approval.

Contact has not been made with the Pembrose site regarding co-location as they were not aware of the site at the time of location.

Robert Hill, site developer for T-Mobile said the proposed location is a good location for infill and coverage. The tower will fill in the area not supported by the co-location tower.

Robert Fuller, Columbia attorney, spoke in opposition representing a local property owner located about ½ mile away from the proposed site. Mr. Fuller referenced criterion 5 regarding concentration or proliferation of the same or similar types of special exception use, and the detriment of such use to the development or redevelopment of the area. At the time of the application, there was possibly no tower, however currently there is a tower which puts two in close proximity if the request for special exception is approved. He feels it may be a benefit to have, but it is not a necessary. As the applicant was unaware that the tower was to be placed, co-location was not possible.

He felt some of the testimony and/or arguments should probably go to City Council as the Board of Zoning Appeals is quasi-judicial and must adhere to City Ordinance. He felt the arguments regarding the proximity of greater than 1,000 feet were not valid in this situation.

Ms. Ewing stated all approval needed had been received and they were not within 1,000 feet of the other tower. The height of the tower has not been determined for the coverage area, and the coverage area has not been determined.

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

Mr. Salley and Mr. McMeekin voiced opposition to the request.

**Motion by Mr. Hubbard to approve the request for special exception as all requirements of the City Ordinance have been satisfied.**

***Motion seconded by Mr. McKnight. Motion approved 4-2 with Mr. Cromartie, Mr. Young, Mr. Hubbard, and Mr. McKnight in favor of approval and Mr. Salley and Mr. McMeekin in opposition.***

#### **IV. OTHER BUSINESS**

#### **V. ADJOURNMENT**

**There being no further business, Mr. Cromartie adjourned the July 14<sup>th</sup>, 2015 Board of Zoning Appeals meeting at 11:41 a.m.**

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