
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
January 12, 2016 - 10:00 AM

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

In attendance: Ernest Cromartie, III, Reggie McKnight, Chuck Salley, Preston Young

Out: Dr. Pat Hubbard, Calhoun McMeekin

Staff: Brian Cook, Andrew Livengood, Andrea Wolfe

I. CALL TO ORDER and DETERMINATION OF QUORUM

Ernest Cromartie, III, chairperson, called the meeting to order at 10:08 AM, and introduced the members of the Board of Zoning Appeals (BOZA) and staff.

Mr. Salley recused himself from case #4, 7316-7340 Garners Ferry Road request for special exception; case #7, 942-946 Harden Street request for variance; and case #8, 7316-7340 Garners Ferry Road request for variance.

Chairperson Cromartie stated there is quorum with four members present, however with Mr. Salley's recusal, only three members of the Board will be able to make a ruling on the respective case. He wished to give the applicants the opportunity to have those cases deferred to the February 9th meeting to allow for a full quorum of the Board, or the applicants could request to move forward with a three-member vote as quorum for the Board had been established for this meeting.

Applicants for all three cases requested to move forward and have cases heard at this meeting.

II. CONSENT AGENDA

A. APPROVAL OF MINUTES

1. **Approve December 8, 2015 Minutes**

B. OLD BUSINESS

None.

C. NEW BUSINESS

None.

Motion by Mr. Young to approve the minutes of the December 8, 2015 meeting with the following corrections – for Consent Agenda and case #5, approval of the motion should be 4-0, not 5-0. Motion seconded by Mr. McKnight. Minutes approved 4-0.

IV. REGULAR AGENDA

A. OLD BUSINESS

None.

A. NEW BUSINESS

- 2. 15-080-SE Dist. 3 2000 Rosewood Drive (TMS# 11309-13-01)** Special Exception to expand a convenience store (Gurminder Singh) (C-3)

Gurminder Singh, applicant, presented on the request for Special Exception to allow for the expansion of an existing convenience store on this property.

Mr. Singh reviewed the criteria required for a special exception:

- ***Proposed special exception will not have a substantial adverse impact on vehicular traffic or vehicular and pedestrian safety. This small addition will not change the store volume of the business at all.***
- ***Proposed special exception will not have a substantial adverse impact on adjoining properties in terms of environmental factors such as noise, lights, glare, vibration, fumes, and odors, obstruction of air or light, and litter. This small addition will not change any of the site parameters.***
- ***Proposed special exception will not have a substantial adverse impact on the aesthetic character in the surrounding area, to include a review of the orientation and spacing of buildings. The aesthetics will remain the same.***
- ***Proposed special exception 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 addition will not have an impact on public safety.***
- ***The establishment of the proposed special exception does not create a concentration or proliferation of the same or similar types of use, which concentration may be detrimental to the development or redevelopment of the area. The additional space will reduced the number of deliveries on a weekly basis.***
- ***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. Yes.***
- ***Proposed special exception is appropriate for its location and compatible with the permitted uses adjacent to and in the vicinity of the property. Yes.***
- ***Proposed special exception will not adversely affect the public interest. This will support the public interest.***

In December of 2014, City Council passed an ordinance (§17-297) requiring special exception approval to establish or expand a convenience store. This ordinance asks the board to find that—in addition to the standard criteria—the applicant has committed to a “Good Neighbor Plan”. The ordinance requires that these conditions be made a part of any approved Special Exception.

a. Good Neighbor Plan

1. *Loitering control program.*
2. *Litter control program.*
3. *Sign pledge program.*
4. *Crime prevention and awareness program.*
5. *Neighborhood Communication Program.*

Mr. Singh agreed to comply with the five additional criteria of the Good Neighbor Plan and continue to comply with those criteria knowing that continued compliance is precedence to having the additional space.

As additional conditions for approval, Mr. Singh agreed that the additional space would be used for storage only and the convenience store shall operate in substantial conformance with the application, submitted materials, and testimony given today.

As no one spoke in favor or opposition of the request, testimony was closed for Board discussion and/or a motion to be made.

Motion by Mr. Salley to approve the request for special exception based on the applicant's testimony and written response subject to the provisions provided in the application by staff.

Motion seconded by Mr. McKnight. Request for special exception as presented granted 4-0.

- 3. 15-081-SE Dist. 2 2405 and NX2405 Two Notch Road (TMS# 11511-11-05 and -09) Special Exception to establish an automotive repair facility (Habib Adly, Tire Kings, LLC) (C-3)**

Habib Adly, applicant, presented on the request for Special Exception to permit the establishment of an automotive repair facility upon the property. In addition to automotive repairs, the applicant indicated that tires and automobiles will be sold at this location.

Mr. Cook requested that should the Board be inclined to approve this request, four additional criteria noted in the case summary be included in the motion as conditions for approval.

Mr. Adly summarized the criteria required for a special exception:

- ***The request is to open an automotive repair facility on the existing property. It had been used in this fashion previously, but was not properly zoned.***
- ***The sidewalks, traffic and all else is okay for pedestrian traffic.***
- ***There are entryways for traffic and there is good lighting and signage.***
- ***There is plenty of room to operate safely, and to pull vehicles in and out.***
- ***The use is consistent with the area and other businesses that are nearby.***

Mr. Cromartie stated there are four additional conditions recommended by staff for approval of the request. He reviewed each criterion asking if the applicant agreed to each as a condition for approval.

1. The approved automotive repair facility shall operate in substantial conformance with the application, submitted materials, and testimony before the board regarding its operation. **Mr. Adly agreed.**
2. This approval is not for the operation of a junk/scrap yard and abandoned, derelict, inoperable, dismantled or wrecked vehicles shall not be stored on site. **Mr. Adly concurred with all four conditions, however asked for clarification on condition #2 as they are a repair business for inoperable vehicles. Mr. Cromartie stated that vehicles are not stored on-site long term or for an extended period of time, or for salvage. Staff said they will work with the applicant on this to ensure reasonable measures for timeliness and aesthetics of the site – no outside storage or tires, or long term storage of vehicles for repair.**
3. The existing freestanding sign shall be dismantled and removed in its entirety or brought into conformance with the maintenance requirements of the sign ordinance (§17-403) within six months of the date of mailing of the order of the board for this special exception. **Mr. Adly agreed stating the freestanding sign will be brought into compliance.**
4. 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. Adly agreed.**

With regard to areas not visible from the streets or sidewalks, vessels containing stagnant water (i.e. improperly stored tires) are also prohibited. Mr. Adly said old tires are scheduled to be picked up every

two weeks for recycling. In the 6+ years he has had a business, there have not been any issues of this type.

Benny Clark spoke on behalf of the Merchants Association of Two Notch and Beltline, and the twelve communities surrounding the area. They met and reviewed the applicant's request saying they are in favor of businesses expanding and new businesses in the area. He voiced concerns with traffic, impact on the community for the safety of children and neighborhoods, outside tires stored in view, plans for the existing underground tanks on the property, plans for landscaping/buffer zone, and plans for being a good neighbor. It is felt there is a concentration of similar businesses in the area, and voiced opposition to the request.

Mr. Adly stated there were issues previously with the former business owner however he is a new owner, and will not run his business in the manner of the previous owner. There are other businesses in the area however they are different types of businesses. There are plans for landscaping, plans are to paint the building and bring the signage into compliance. New tires will be displayed outside and put away in the evenings, not to be stored on the outside of property. Old tires will be stored behind the property, out of view and consistently stacked, until they are picked up every two weeks.

Alex Furgess, resident, voiced opposition to the request stating the same concerns as Mr. Clark.

As there were numerous concerns regarding the use for this property, Mr. Cromartie stated though he does not like deferrals, he felt there should be a better presentation made to meet the needs of the business owner as well as the community. He felt specifics noted by staff could be presented to the applicant who would discuss what he could and could not do with staff; the applicant could then work with the neighborhood on his request; and then present to the amended request to the Board. This would require deferral of the request.

Mr. Cromartie asked Mr. Adly if he would be willing to defer the case to the next meeting to work with staff. Mr. Adly agreed to request for deferral.

Motion by Mr. Cromartie to accept the request for deferral.

Motion seconded by Mr. McKnight. Request for deferral granted 4-0.

Mr. Cromartie felt that for the point of efficiency as both the request for special exception and the request for variance are for the same property, and contain the same set of facts, both requests could be heard together however each request would have a separate motion.

He asked if anyone from the remaining cases to be heard was opposed to having item #8 moved forward to be heard at the same time. No one voiced opposition to the request.

- 4. 15-082-SE Dist. 3 7316-7340 Garners Ferry Road (TMS# 16409-01-01) Special Exception to establish an automotive repair facility (Charles Gantt, Cross Development CC Garners Ferry, LLC) (C-3)**

Charles Gantt, Cross Development CC Garners Ferry, LLC, presented on the request for special exception is to allow the establishment of an automotive repair facility. Mr. Gantt presented a proposed site plan of the request.

He then proceeded with review of the criteria required for a special exception:

- ***Proposed special exception will not have a substantial adverse impact on vehicular traffic or vehicular and pedestrian safety. The proposed use will generate less vehicular traffic than many other uses allowed. A meeting was held with SCDOT. Of the five existing curb***

cuts, all will be closed except one which will be moved so it will not align with the curb cut across the street.

- **Proposed special exception will not have a substantial adverse impact on adjoining properties in terms of environmental factors such as noise, lights, glare, vibration, fumes, and odors, obstruction of air or light, and litter.** Client is on the leading edge of environmentally friendly products for auto body repair; this is more of a repair and replace facility, with minimal noise. There will be no adverse impact in terms of environmental factors.
- **Proposed special exception will not have a substantial adverse impact on the aesthetic character in the surrounding area, to include a review of the orientation and spacing of buildings.** Renovations will improve the aesthetics of the area.
- **Proposed special exception 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.** Locked access and controlled gates will be provided.
- **The establishment of the proposed special exception does not create a concentration or proliferation of the same or similar types of use, which concentration may be detrimental to the development or redevelopment of the area.** As far as applicant is aware, there are no other same classifications or uses in the area.
- **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.** Yes.
- **Proposed special exception is appropriate for its location and compatible with the permitted uses adjacent to and in the vicinity of the property.** Yes.
- **Proposed special exception will not adversely affect the public interest.** This will enhance the area and add a valuable service that is currently unavailable.

He agreed to have as an extra condition that the storage of inoperable, unused, dismantled or wrecked vehicles would be no longer than 30-days as it is expressly prohibited within the C-3 district.

Should the Board be inclined to approve this request, staff asks that additional conditions be made as part of the approval.

1. **Mr. Gantt agreed that the use of this facility shall operate in substantial conformance with the application as testified to today.**
2. **Mr. Gantt agreed that screening would be provided to include a privacy fence on the hotel side and plantings to be coordinated with the City of Columbia Land Development Planner.**
3. **Mr. Gantt agreed that the driveway opening onto Asbury Drive shall be for emergency vehicle use only and shall remain gated and locked, with a Fire Department approved locking mechanism. Gate shall provide an opaque screen and be maintained in good condition.**
4. **Mr. Gantt agreed that this approval is not for the operation of a junk/scrap yard and abandoned, derelict, inoperable, dismantled or wrecked vehicles shall not be stored on site.**
5. **Mr. Gantt agreed that 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.**

Motion by Mr. Cromartie to approve the request for special exception based upon the testimony given and submissions made by the applicant, based upon the conditions, numbers 1 through 5, which were stated and listed in the packet. Also with respect to the fact that the applicant has met with DOT and will comply with DOT's recommendation regarding curb cuts, and that no point and time shall a vehicle be stored on property in excess of 30 days.

Motion seconded by Mr. Young. Request for special exception granted 3-0 with Mr. Salley recused from voting.

- 8. 15-086-V Dist. 3 7316-7340 Garners Ferry Road (TMS# 16409-01-01)**
Variance to the parking requirements for an automotive repair facility (Charles Gantt, Cross Development CC Garners Ferry, LLC) (C-3)

Charles Gantt, Cross Development CC Garners Ferry, LLC, presented on the request for a variance to the parking requirements for a proposed automotive repair. Seventy eight parking spaces are normally required and the applicant is proposing to provide 52 parking spaces instead. In addition to these provided parking spaces, the site plan shows 23 spaces that may not be counted towards the parking requirements because they do not meet the design standards within the ordinance for parking as they are double stacked to be used for temporary storage of cars not to exceed 30 days.

Four criteria must be satisfied to meet the requirements of a variance:

- ***Extraordinary and exceptional conditions pertain to the subject property.*** Unique and exceptional conditions pertain to the property based upon the buildings on the property, trying to maintain the aesthetics, and given the unique use of the property in terms of limited storage
- ***These conditions do not generally apply to other property in the area.*** No, as this is an older area that was pre-developed prior to the Zoning Ordinance.
- ***Because of these conditions, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property.*** Yes, as parking would need to be placed in the front of the property.
- ***Approval of the variance would not be of substantial detriment to adjacent property or to the public good, and the character of the district would not be harmed.*** In the request for special exception, Mr. Gantt agreed to provide a screen, to include a privacy fence and plantings to be coordinated with the City of Columbia land development planner and agreed to this as a condition of the request for variance as well. It will not be a substantial detriment to the adjacent property.

The variance is the minimum necessary to maximize the aesthetic, and 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.

As no one else spoke in favor or opposition of the request, testimony was closed for Board discussion and/or a motion to be made.

Motion by Mr. Cromartie to approve the request for variance based upon the extraordinary and exceptional conditions pertaining to the particular piece of property that do not generally apply to other properties, and because of the conditions of the buildings and trying to minimize the amount of parking in the front or trying to maximize parking in the back. Based upon the testimony and the use of the double stacked parking for the purposes of short term parking and storage not to exceed thirty days. This is consistent with and will not be of substantial detriment to the adjacent property especially coupled with the fencing as testified to by the applicant. This is the minimum necessary and granting of this variance will be in harmony with the general purpose and intent of the Zoning Ordinance.

Motion seconded by Mr. Young. Request for variance granted 3-0 with recusal from Mr. Salley from voting.

5. **15-083-SE Dist. 3 4720 Devine Street (TMS# 13814-09-03)** Special Exception to establish an automotive service facility (oil change) (Bill Owen, Owen Investments Company, LLC) (C-3, -FP)

Bob Fuller, Columbia attorney, represented applicant Bill Owen, Owen Investments Company, LLC. Mr. Fuller presented on the request for special exception is to allow the construction of a three bay oil and lube facility on the property.

- **Proposed special exception will not have a substantial adverse impact on vehicular traffic or vehicular and pedestrian safety.** *The proposed building will be an improvement as it will be accessed for entry at the rear of the property, business will be conducted inside the building and patrons will depart from the front of the property. This will free up traffic congestion.*
- **Proposed special exception will not have a substantial adverse impact on adjoining properties in terms of environmental factors such as noise, lights, glare, vibration, fumes, and odors, obstruction of air or light, and litter.** *The area consists of existing established commercial facilities, and this is a similar use. Oil, lubricants or other materials which are removed from the vehicles are stored in containers and removed periodically from the property. There are no storage tanks or permanent facilities for storage on the property. All activity will occur in the building. Mr. Fuller testified that there are steps and methods in place to prevent oil seepage into the water system.*
- **Proposed special exception will not have a substantial adverse impact on the aesthetic character in the surrounding area, to include a review of the orientation and spacing of buildings.** *The new building will be pushed to the rear of the property to allow parking in the front which will better accommodate the orientation and provision of the site.*
- **Proposed special exception 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.** *This is a retail convenience facility that will not be high volume.*
- **The establishment of the proposed special exception does not create a concentration or proliferation of the same or similar types of use, which concentration may be detrimental to the development or redevelopment of the area.** *This will be another amenity for people in the neighborhood.*
- **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.** *Yes.*
- **Proposed special exception is appropriate for its location and compatible with the permitted uses adjacent to and in the vicinity of the property.** *Yes, this is a neighborhood convenience operation and needed in the area.*
- **Proposed special exception will not adversely affect the public interest.** *This use provides a service to anyone who owns a car and needs regular maintenance.*

Mr. Fuller stated the applicant agreed to the four additional items as conditions for approval of the request.

Dan Creed, Heritage Engineering, stated there is an easement to the rear of the property that is currently not included in the site plan, but it will be added.

Staff was comfortable with this agreement.

As no one else spoke in favor or opposition of the request, testimony was closed for Board discussion and/or a motion to be made.

Motion by Mr. Salley to approve the request for special exception based on the testimony of the applicant and the written application. They have shown this property qualifies for the special exception. Approval is conditioned upon the four recommendations by staff in the written application as a condition for approval.

Motion seconded by Mr. Young. Request for special exception approved 4-0.

A brief recess was taken at 12:00PM. Meeting resumed at 12:08PM

- 6. 15-084-V Dist. 3 15 Gibbes Court (TMS# 11405-16-06)** Variance to the side and rear setback requirements to construct a dwelling (Matthew and Beth Richardson) (RD, -DP)

Dale Marshall, architect for the project, presented on the request on behalf of the homeowners Matthew and Beth Richardson. The applicant is proposing to demolish the existing garage and construct in its place a carriage house with a two-car garage and office studio on the ground floor and a studio apartment above. As such, the applicant is requesting a variance proposing approximately 3 feet 2 inches for the side yard setback and 3 feet 9 inches for the rear yards. Both adjacent properties are not privately owned properties, but are University owned properties.

Four criteria must be satisfied to meet the requirements of a variance:

- ***Extraordinary and exceptional conditions pertain to the subject property.*** The property is adjacent to Capstone and does not back into a typical residential occupancy on either side or the rear.
- ***These conditions do not generally apply to other property in the area.*** The adjacency to the university and commercial university is an exceptional circumstance compared 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.*** This will allow for a more effective use of the property owners' yard and shields their yard from the commercial occupancy by moving the proposed structure into the corner.
- ***Approval of the variance would not be of substantial detriment to adjacent property or to the public good, and the character of the district would not be harmed.*** The property backs up to the Capstone loading dock which is not detrimental to the University.
- ***The variance is the minimum necessary to maximize the aesthetic, and 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.***

There is a large elevation drop in the topography which is unique to this property and does not generally apply to other property in the area, as well as being an extraordinary and exceptional condition. Currently, there is a small retaining wall that is part of the historic fabric of the house, and if the project were to be moved forward or to the right would require regarding the existing backyard and garden feature which would negatively impact the historic features of the area.

The request has been reviewed by the University Hill Neighborhood at their December meeting, and they voiced no opposition to the request.

As no one else spoke in favor or opposition of the request, testimony was closed for Board discussion and/or a motion to be made.

Motion by Mr. Salley to approve the request for variance based on testimony of the applicant. The applicant has proven that extraordinary and exceptional conditions do apply to the

property that do not generally apply to other properties in the area. To deny the request would unreasonably restrict the use of the property. Other testimony has provided by the applicant, and written testimony provided by the applicant, subject to any other conditions provided by staff in the written application.

Motion seconded by Mr. Cromartie. Request for variance granted 4-0.

- 7. 15-085-V Dist. 2 942-946 Harden Street (TMS# 11405-07-22)** Variance to the parking requirements for a mixed use development (942-946 Harden LLC) (MX-1, -5P)

With respect to the uniqueness of Five Points, Mr. Cromartie asked if there was an internal process with respect to variance regarding parking.

Mr. Cook stated that with certain uses such as retail that cover the entire property and additional square footage is added, a variance is not required for additional parking. For a higher traffic use such as a restaurant or drinking establishment, a variance would be required. This request for redevelopment of the property does not fall into that category.

Richard Burts, architect for the project, presented on the request for variance to the parking requirements for a proposed mixed use development on the subject property. Mr. Burts provided background on the buildings which will be restored and the property which is very odd shaped and limits use of the property. As there is and has not been any available parking for this building, patrons and staff will park in available spaces in the Five Points area. Adjoining property owners voiced support of the request.

JP Scurry, Colliers International, spoke in support of the proposed development as they feel it proposes good use of the block.

As no one else spoke in favor or opposition of the request, testimony was closed for Board discussion and/or a motion to be made.

Motion by Mr. Cromartie to approve the request for variance based upon the testimony of the applicant and that which has been submitted by the applicant. The Five Points area creates its own extraordinary and exceptional conditions that do not generally apply to other properties in the area. To require parking would unreasonably restrict and prohibit the use of the property. It seems the proposed use will be a benefit to the public good. It is the minimum necessary, and is in harmony with the purpose and intent of the Zoning Ordinance.

Motion seconded by Mr. McKnight. Request for variance granted 4-0.

- 8. 15-086-V Dist. 3 7316-7340 Garners Ferry Road (TMS# 16409-01-01)**
Moved to be heard with case #4 for efficiency and consistency Variance to the parking requirements for an automotive repair facility (Charles Gantt, Cross Development CC Garners Ferry, LLC) (C-3)

IV. OTHER BUSINESS

Election of officers

Motion by Mr. Cromartie to defer the election of offices until a full member Board is in attendance.

Motion seconded by Mr. McKnight and Mr. Salley. Motion approved 4-0.

V. ADJOURNMENT

There being no further business, Mr. Cromartie adjourned the January 12, 2016 Board of Zoning Appeals meeting at 12:56 PM.

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