
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
February 9, 2016 - 10:00 AM

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

In attendance: Ernest Cromartie, III, Pat Hubbard, Tyler Gregg, Calhoun McMeekin (arrived at the beginning of the first case under the Regular Agenda), Preston Young

Out: Reggie McKnight, Chuck Salley

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 10:018 AM, introduced the members of the Board of Zoning Appeals (BOZA), welcoming new member, Tyler Gregg, as this was his first meeting, and introduced staff.

Brian Cook, Zoning Administrator, confirmed quorum for the meeting as there were four members in attendance at this time, and proceeded with review of the Consent Agenda.

II. CONSENT AGENDA

A. APPROVAL OF MINUTES

- 1. Approve January 12, 2015 Minutes**

A. OLD BUSINESS

None.

B. NEW BUSINESS

- 2. 16-001-SE Dist. 3 3900 Live Oak Street (TMS# 13707-04-01)** Special Exception to establish a day care facility (Brandy Pomeroy) (RS-3)
- 3. 16-004-SE Dist. 1 2428 and 2434 Main Street (TMS# 09113-13-01)** Special Exception to allow an alternative parking surface (Wes Lyles, NOMA Properties, LLC) (MX-1, -NC)
- 4. 16-005-SE Dist. 1 512 Lakeside Avenue (TMS# 09212-09-07)** Special Exception to establish a day care facility (Mary G. Randolph) (RS-3)

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

Motion by Mr. Hubbard to approve the January 12, 2016 Minutes and 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; motion seconded by Mr. Young.

Motion approved 4-0.

IV. REGULAR AGENDA

A. OLD BUSINESS

5. 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 with storage containers (Habib Adly, Tire Kings, LLC) (C-3)

This application for Special Exception was deferred from the January 12 meeting of the Board of Zoning Appeals in order to allow the applicant to address aesthetic concerns, including screening and display, as well as the storage containers that would be utilized to store inventory.

The applicants met with staff regarding the request. They were referred to the Office of Business Opportunities (OBO) and are working with OBO staff on screening, as well as façade grant money which may or may not be available. The funds would potentially tie into the aesthetics of the front of the building and signage. Contact information for the neighborhood leaders in the area was provided to the applicant, however it is not known if any meetings took place.

Habib Adly, applicant, provided an update on his request since the presentation at last month's meeting with regard to aesthetics, screening, fencing, use of storage containers, and the OBO funding status.

Chairperson Cromartie recognized Councilman Ed McDowell for his attendance at the meeting.

At this time, those speaking in favor or opposition of the request were recognized.

Benny Clark, business owner on the Two Notch Road corridor, spoke on behalf of businesses and communities. Mr. Clark said there were notified of the changes/updates late Friday afternoon and had not had a chance to meet to discuss, so he cannot say if they are in favor of the request or not. The issues from the previous meeting are still of concern, it is felt there is still a concentration of similar businesses in the area, and requested a continuance of request until the community can meet to discuss.

Councilman McDowell voiced concerns that the proposed special exception will have a substantial adverse impact on the aesthetic character of the area, and felt there is a high saturation of these types of businesses in the area. He requested the Board vote for a continuance of the request.

Alex Furgess, neighborhood resident, echoed Mr. Clark's concerns and comments.

Mr. Adly addressed concerns voiced by the community saying there are only two similar businesses in the area, plans are to do upgrades for the property, the meeting was advertised and he felt anyone feeling the issue of importance could attend, the behavior of the former tenants should have no impact on his request, the proposed fencing will cover the containers, the façade program address all parts of the property visible from the front of the road and visible from the right of way, employees will be hired from within the community, all standards will be up to code, of fencing will be taken care of; he feels this will be a positive thing for the area.

Testimony closed for Board discussion. Board members voiced concerns not knowing the certainty for availability and amount of the façade grant money; whether or not the request is consistent with the character and compatibility; concentration of the use in the area; that meetings have not been held with the neighborhood; and what is attainable for the future with what is current and proposed.

Motion by Mr. Hubbard to deny the request for special exception as conditions could be imposed on the request for special exception, however they will be the minimum that can be imposed with no certainty as to whether any of the necessary improvements would occur; there is a problem with a concentration of similar uses that would not go away unless there

was some assurance that this use would be an improvement above merely meeting code; and it will adversely affect the public interest in light of where we as a community want Two Notch to be.

Motion seconded by Mr. Cromartie. Request for Special Exception denied 4-1 with Mr. McMeekin in opposition.

B. NEW BUSINESS

6. 16-002-SE Dist. 3 **1104 Atlas Road (TMS# 16311-02-03)** Special Exception to establish an automotive service facility (John William Harris III and Richard Campbell Harris, John Harris Body Shops) (C-3)

This application for Special Exception is to allow the establishment of an automotive repair facility in a building previously occupied by a party supply rental business. The properties immediately adjacent to the southeast of the subject property are zoned RG-2 and are residences within the Eastlake subdivision.

John Harris, applicant, reviewed the criteria for special exception.

- ***Proposed special exception will not have a substantial adverse impact on vehicular traffic or vehicular and pedestrian safety, and adequate provisions are made in the proposed exception for parking and for loading and unloading.*** The parking lot provides adequate space for business work flow and secure area to hide any mobile vehicles.
- ***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.*** All operations will be performed indoors. There will be paint booths with filtration systems on them.

Campbell Harris, applicant, stated waterborne paint which is environmentally friendly will be used.

- ***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.*** There will be minimal change to the outside aesthetics. The majority of changes will be on the interior of the building. The existing container on-site will be removed.
- ***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.*** There will not have an impact on public safety. All immobile cars will be inside the fence.
- ***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.*** There are no other similar businesses on Atlas Road. Insurers said there is a need in this area to meet their customer demand.
- ***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. John Harris Body Shops do not buy salvaged vehicle or parting out of cars. They try to repair vehicles which have been in accidents, and if they cannot be repaired, are removed. There may be abandoned vehicles that require acquisition of a license before they can be removed. This can take up to 90 days and the processing which can take no longer than four months. This is not a common practice, and most of the business is insurance related.
- ***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. It is felt this will assist the insurers who have a need and do not have a relationship with any other vendors in this market.***

Should the Board be inclined to approve this request, staff asks that the applicant consider the following items as conditions of your approval:

1. The approved automotive repair facility shall operate in substantial conformance with the application.
2. Landscaping and street protective yard materials shall be restored, including the continuation of the shrubbery along the perimeter of the parking lot and driveway
3. The property is not to be used for the operation of a junk/scrap yard and abandoned, derelict, inoperable, dismantled or wrecked vehicles.
4. That vehicles are not allowed upon unimproved surfaces.
5. 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. Harris agreed to the additional five conditions.

A letter in opposition was received with regard to landscaping and maintaining the yard. Based upon testimony of the applicant, landscaping and the yard will be maintained, and the grass will be cut and trimmed. The letter also voiced concern that this would be a junk yard which the applicant addressed in his testimony as well.

George Govoni, president of East Lake Homeowners Association, spoke in opposition of the request.

Bill Dolley, East Lake resident, wrote the letter in opposition, and apologized for the misuse of improper terminology in the letter. He feels this is a well-run business, however it is not appropriate for the area.

Nick Stomski, NAI Avant, spoke in favor of the request. Noise will be confined internally; there will be no odors or fumes, only biodegradable materials will be used; he feels the use is appropriate for the area; the applicants will adhere to screening and improve with additional landscaping; vehicles will not be parked on unimproved surfaces; and there is a 60' buffer consisting of a wooded area between the impervious surfaces and parking area.

Mr. Harris said the intent is to work with the doors closed; doors will be opened to remove cars to wash before they are released. The building will have air-conditioning inside for summer use. Though there will not be major exterior changes, there will be significant improvements to increase the value of the property.

As no one else spoke in favor or opposition of the request, testimony was closed for Board discussion. Members voiced concerns regarding noise and fumes, separation with the use and adjacent area, the entry way to the property, and decrease of the buffer for expansion of parking.

Testimony reopened for additional comments.

Mr. Harris said the wooded area zoned RG-2 at the rear behind the detention pond will not be used. He would like to maintain the fence line, stating any existing green space will remain and not be touched.

Motion by Mr. Hubbard to approve the request for special exception subject to the following conditions:

- 1) ***The approved automotive repair facility shall operate in substantial conformance with the application submitted and testimony; explicitly with regard to collision repair and***

- painting, and all operations will occur within the building. They will conform to all relevant City development regulations not limited to, but including landscaping and buffer yards.*
- 2) *Landscaping and street protective materials will be restored on the current site.*
- 3) *There will be no junk yard and abandoned, derelict, inoperable, dismantled or wrecked vehicles; except as indicated in the testimony today.*
- 4) *Vehicles are not allowed upon unimproved surfaces.*
- 5) *Normal conditions following vacancy, abandonment, or discontinuance shall apply.*
- 6) *The current buffers and "L shape" on the back property as discussed, along Fountain Lake, will not be paved over and will be maintained as a green space during the operation as a special exception.*

Motion seconded by Mr. McMeekin. Request for special exception as presented granted 5-0.

Brief recess taken at 11:56AM, meeting resumed at 12:08PM.

7. 16-003-SE Dist. 2 1315 Calhoun Street (TMS# 09016-10-18) Special Exception to allow food crops grown within an enclosure with a refrigerated storage container (W. L. Harriford, Urban Fresh Farms) (C-4, -DD)

This application for Special Exception is to allow food crops to be grown within a former automotive parts building. The applicant also mentioned that one 40' refrigerated storage unit will be located at the rear of the site. The storage unit must meet accessory building setback and the exact location must be approved by the City Fire Marshal.

Chip Harriford and his son, Scott Harriford, of Urban Fresh Farms, applicants, presented on the request for special exception to grow food crops within a covered enclosure with a refrigeration container next door. The primary crop will be lettuces, which will be harvested close to the time of delivery. Storage will be in a refrigeration unit with pick up by customers. Delivery will be once or twice a week with minimal traffic. Crops are grown hydroponically, vertically and intensively.

Various facilities are being developed in other states, and this is the first one in Columbia. Employees will be hired locally. Meetings and conversations have been held with several neighborhood associations and two City Council members. Once concern raised was the growing of marijuana. Mr. Harriford spoke with staff and the community and ensured them that the facility would not be used for marijuana growing, and agreed to have the request for special exception conditional upon that as a condition. The intent is to grow only lettuce, and possibly some tomatoes and peppers.

This will be an Agra tourism center, which is a center for growing and learning as well. This location will serve as a bridge from the new Bull Street property to Main Street. This area is known as a 'desert' meaning there is no fresh produce available within a one-mile radius. Having a small retail component in the area will provide a service and amenity to the community.

Mr. Harriford reviewed the criteria required for a request for special exception:

- *Proposed special exception will not have a substantial adverse impact on vehicular traffic or vehicular and pedestrian safety, and adequate provisions are made in the proposed exception for parking and for loading and unloading. Deliveries will only be once or twice a week.*
- *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.* Scott Harriford said the process is very minimal when it comes to environmental effects. There is no wastewater or runoff. All lighting is artificial, but solar panels on the roof will be used to offset the cost. City water will

supply the plants. Once the reservoirs are filled, minimal topping off is required because of the process.

- ***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.*** Numerous improvements will be made to the façade of the building, with an outdoor garden planned to beautify the area. The outdoor refrigerated container will have the façade painted by local artists to add their own touch.
- ***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.*** There should be none, as most of the operations are held toward the back of the building.
- ***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 is the only business of its type in the area.
- ***Proposed special exception is consistent with the character and intent of the underlying district and is appropriate for its location and compatible with the permitted uses adjacent to and in the vicinity of the property.*** There are restaurants in the surrounding area and proposed restaurants on the Bull Street property which makes this very compatible for the area.
- ***Proposed special exception will not adversely affect the public interest.*** Because of neighboring schools, churches and neighborhoods, Mr. Harriford feels it is important to have businesses in the area that will have no or low impact on public safety, and businesses that do not encourage people to loiter or allow people to wander into unintended areas. This business has minimal impact and has a product that has no adverse effect that will be minimally noticed.

The refrigeration storage unit is about 50' wide and about 170' long and will sit at the back of the property. The front and very back will be visible from the street view, but barely visible if driving by on Calhoun Street. It will be well-maintained, and can be screened if necessary.

Mr. Cook stated screening is not required.

Mr. Harriford stated that someone will be on-site 24 hours a day, and there is a fence that surrounds the facility. Security presence will be available at all times. Larger trucks will be able to back in and be loaded, and smaller trucks/vans will be able to drive in. This facility is not designed to deal with large scale clients. Retail customers will be able to come in and pick up value added items and live lettuce at the back area of the store, though this is not the primary business which is serving restaurants and stores in the Columbia and Charlotte area. Parking will not be an issue for the retail customers as there is adequate parking and actually more than it appears to be.

Mr. Cooks said retail use is included in the request as a valid accessory use.

Mr. Harriford agreed to the following additional items as conditions for approval as they had already been discussed with members of the community:

- Construction, operation, and/or use shall be in substantial compliance with the documents placed on file in conjunction with this case.
- This special exception does not extend to any unlawful crops, and specifically excludes the growing, cultivation, or processing of marijuana.
- Screening proposed for the refrigerated storage unit must be structurally sound, and must not be unsightly in appearance; meaning it shall not be cracked, broken, bent, tattered, torn, rotted, peeling, chipped, faded, rusted or otherwise deteriorated.
- 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.

Elizabeth Marks represented the Robert Mills Historic District. Ms. Marks said the applicant spoke to all the neighbors in the area and the request was reviewed in detail. She spoke in favor of the request and stated the neighborhood voiced complete support of the request. This business fits in the area and the demand for fresh fruit and vegetables is there.

Mr. McMeekin praised Scott Harriford on behalf of his partnership in this project, stating he googled the applicants and found out this was part of Scott's senior project in high school.

Testimony closed for Board discussion.

Motion by Mr. Hubbard to approve the request subject to the following conditions:

1. *Construction, operation, and/or use shall be in substantial compliance with the documents placed on file in conjunction with this case;*
2. *If screening is used for the refrigerated storage unit, it must be structurally sound, and must not be unsightly in appearance; meaning it shall not be cracked, broken, bent, tattered, torn, rotted, peeling, chipped, faded, rusted or otherwise deteriorated.*
3. *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 seconded by Mr. McMeekin. Request for deferral granted 5-0.

Mr. Harriford said when they came to meet with zoning staff they were encouraged to talk with all of the neighbors in advance and to meet with them. He feels this made a 'world of difference'. They sent out all their information well in advance. In observing some of the cases today, Mr. Harriford felt if applicants followed staff advice, it would have been a much shorter day.

Mr. Cromartie thanked Mr. Harriford saying the Board takes important community concerns and more importantly corporate responsibility. If someone moves into a community to conduct business, one should know the community and reach out to them. He applauded the applicants for the way they conducted their request.

IV. OTHER BUSINESS

Election of officers

Mr. McMeekin nominated Mr. Cromartie as Chair. Nomination accepted.

Motion by Mr. Hubbard to nominate Mr. Cromartie as Chair until he is replaced by City Council. *Motion seconded by Mr. Young. Motion approved 4-0.*

Mr. McMeekin nominated Mr. Hubbard as vice-chair. Nomination accepted.

Motion by Mr. McMeekin to nominate Mr. Hubbard as vice-chair. *Motion seconded by Mr. Cromartie. Motion approved 4-0.*

V. ADJOURNMENT

There being no further business, Mr. Cromartie adjourned the February 9, 2016 Board of Zoning Appeals meeting at 12:38PM.

Respectfully submitted by Andrea Wolfe

Sr. Admin. Secretary

Planning and Development Services Department

City of Columbia