
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
March 8, 2016 - 10:00 AM

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

In attendance: Pat Hubbard, Tyler Gregg, Reggie McKnight, Calhoun McMeekin, Preston Young

Absent: Chuck Salley

Staff: Brian Cook, Andrew Livengood, Andrea Wolfe

I. CALL TO ORDER and DETERMINATION OF QUORUM

Pat Hubbard, vice-chairperson, called the meeting to order at 10:02 AM, introduced the members of the Board of Zoning Appeals (BOZA), and introduced staff.

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

II. CONSENT AGENDA

A. APPROVAL OF MINUTES

1. Approve February 9, 2016 Minutes

B. OLD BUSINESS

None.

C. NEW BUSINESS

None.

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 February 9, 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 5-0.

III. REGULAR AGENDA

A. OLD BUSINESS

None.

B. NEW BUSINESS

- 2. 16-006- SE Dist. 3 120 Atlas Court (TMS# 16306-07-06)** Special Exception to establish a recycling center (Kevin Bailey, Pratt Recycling, Inc.) (M-2)

The applicant has described the facility as a baling plant and has stated that the "primary intended use of the property will be the collection, sorting and baling and distribution of recyclable paper and corrugated paper products."

There is an existing +/- 37,800 sq. ft. warehouse building on the site, and the applicant has indicated that there would be a truck scale, open top containers, compactor boxes, and staging and parking areas outside of the building. In the materials included with the application, the applicant has indicated that they would comply with Section 17-273 of the Zoning Ordinance.

Should the Board be inclined to approve this request, staff asks that the following item be considered as a condition for approval: *The approved recycling center shall operate in substantial conformance with the application, submitted materials, and testimony before the board regarding its operation, and shall conform to all relevant city development regulations including but not limited to screening, landscaping, and buffer yard requirements.*

Kevin Bailey of Pratt Recycling introduced Scott Brancell, regional sales manager of the southern area, who spoke on the request.

Mr. Brancell provided a brief history and background for Pratt Recycling. A door will be added in the center at the very back of the building to allow trucks to unload and load.

- Traffic is anticipated at seventeen loads per day inbound, via front end loader trucks and small trucks bringing in three to five tons.
- Outbound will be five trucks a day, in 20 ton truck loads which are 53' tractor trailer trucks.
- Noise level is comparison to 500 feet distance train whistle
- A mister will be used for the paper
- There will be one-two tractors, and three to four front-end loaders, bins for storage with no outside storage
- All activity and equipment will be contained on the undeveloped side of the building

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

- There will be no impact on air quality/activity vibrations as there is no grinding
- Will mainly use a mix of paper and corrugated paper, tests will be run for air quality, no respirators are needed, have met all OSHA requirements on air and noise
- There will be no impact or increase on traffic other than existing
- This is a clean environment/clean materials – no contaminated materials are used, all is conducted in a lawful manner
- This will be a benefit to the community
- There will be seven employees, about 17 incoming trucks, no outside traffic customers as they do not buy from the public
- All activities will be self-contained in the building
- There will be no change in the orientation/spacing of the building; only change will be addition of a door centered at the back of the building
- There will be no impact on public safety or create nuisance conditions. The undeveloped area can be fenced in and/or shrubbery added to make the area aesthetically pleasing

- There is not a concentration of this type of business in the area; this is mainly industrial use – it is a box manufacturer
- The request is compatible with the district as a whole, and is in the public interest to have this facility on-site.

Regarding the six additional requirements for a recycling center, Mr. Brancell stated:

- They will comply with all six requirements as conditions for approval
- What has been described will be what is installed
- The lease is in place and ready.

Mr. Bailey said with regard to air quality, the mister is designed to keep dust down.

Robert Fuller, Columbia attorney, represented opposition on behalf of the next door business owner, Sensor Electronic Technology, Inc. (SETI).

Emmanuel Lakios, CEO of SETI, and Max Shatakivm senior director of SETI, spoke in opposition of the request voicing concerns with disturbance from large truck vibrations, dust/particles from the box materials, issues with acoustic noises, types of trucks that will be used, and possible traffic issues.

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

Mr. Bailey gave a brief background on Pratt Industries, saying he hoped they would receive consideration for the request and they will abide by all regulations / rules required.

Mr. Brancell responded that this is not a waste paper plant which is a connotation of trash, this is a recycle plant.

- Lease requirements are that the building be put back into the same shape as acquired, therefore there will be no leasing to someone else.
- With regard to business competition, Pratt has been in the area for years, and wishes to be part of the community with a permanent location as the previous was a sublease location.
- The decibel reading is inside an insulated building.
- Most of the property is unpaved and trucks will be backing into a paved, therefore transference of vibration by the trucks is unforeseen. Mr. Brancell said it appears there may be some opposition to whatever may go into the building because of opposition to trucks.
- Trucks will not be cueing up on the street as shipments are minimal; trucks will be incoming to the property.
- There will be nine unloading docks to load where trucks can be moved in and out.
- There will be no dump trucks or personal vehicles coming in, vehicles will be mainly front end loaders and some run off containers which are both enclosed. All of the 53 foot trailers are enclosed.
- Unloading of deliveries will be done inside of the building. Trucks back up to a loading dock where materials will be placed inside. Each dock has a rubber cushion seal around the opening.
- In a past position, the air quality was measured within the plant and not outside as everything is contained within the plant, and OSHA guidelines for air quality were met.

Mr. Fuller again voiced opposition to the request for special exception referencing §17-273, Subsection 6 of the Ordinance.

Testimony closed for Board discussion.

Motion by Mr. McMeekin to deny the request for special exception for 120 Atlas Court (TMS# 16306-07-06) as he feels it does not meet criterion #7 in that this proposed use, though a permitted use, is not compatible for its location, particularly with the adjacent

business at 110 Atlas Road, and with reference to §17-273, Subsection 6 of the Ordinance.

Motion seconded by Mr. Hubbard. Motion to deny passes 5-0.

Brief recess taken at 11:45am with the meeting resumed at 11:55 AM.

3. 16-007-V Dist. 2 948-950 Harden Street (TMS# 11405-07-01 and -25)

Variance to the parking requirements for a mixed use development (Bill Owen, Harden Street 1, LLC and LMB Investments, LLC) (MX-1, -5P)

The applicant is proposing to renovate the existing buildings and construct a second story addition with patio. Based upon the submitted documents, up to 35 parking spaces would be required; the applicant is proposing to provide zero (0) instead.

Scott Lambert, architect for the project, presented on the request and proposed parking variance. Mr. Lambert reviewed the four criteria which must be satisfied to meet the requirements of a variance:

- **Extraordinary and exceptional conditions pertain to the subject property.** The building was built in 1949 with a zero lot line, and there has never been any on-site parking.
- **These conditions do not generally apply to other property in the area.** Many other properties in the area have on-site parking.
- **Because of these conditions, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property.** Without a variance, the business cannot exist because parking requirements would not be met. A Certificate of Occupancy or business license cannot be issued without the variance.
- **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 variance will facilitate the restoration of the property and improve the area, and would not be of substantial detriment to adjacent property or the public good.

The variance is the minimum, and is in harmony with the purpose and intent of the Zoning Ordinance as it is mixed use.

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

For the record, Mr. Cook stated that Mr. McMeekin left the meeting before this case, however quorum was retained.

Motion by Mr. Hubbard to approve the request for variance based upon the extraordinary and exceptional conditions shown by testimony, these conditions do not generally apply to other properties. In addition to testimony and knowledge of the Five Points area, denial would prohibit or unreasonably restrict the use of the property. Rather than being a detriment to the character of the neighborhood, this will be an improvement. This is the minimum necessary, and 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 4-0.

4. 16-008- SE Dist. 2 3207 Piedmont Avenue (TMS# 11508-17-10 and -11)
Special Exception to reestablish a religious organization (Jafari H. Callaham) (RS-3)

This request for Special Exception is to allow the reestablishment of a religious facility previously damaged by fire and ultimately demolished. The applicant proposes to construct a building of approximately the same size of 988 sq. ft. on this RS-3 parcel.

The proposed facility is subject to parking, and landscaping and buffer transition yard requirements which will need to be met.

Bishop James Callaham, applicant, presented on the request. Bishop Callaham reviewed the criteria required for a request for Special Exception:

- Will not have a substantial adverse impact on traffic or public safety;
- Will not have a substantial adverse impact on adjoining properties in terms of noise, lights, glare, vibration, fumes, odors, obstruction of air or light as the day care facility will be established within an existing building;
- Will not have a negative impact on the aesthetic character of the area;
- Will not have a negative impact on public safety or create nuisance conditions;
- The establishment of the proposed special exception does not create a concentration problem of the same or similar types of use;
- Is consistent with the character of the neighborhood;
- It is in the public interest to grant the request for special exception.

Mr. Callaham agreed to meet all parking, landscaping and side yard requirements.

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

Motion by Mr. Gregg to approve the request for Special Exception to reestablish a religious organization.

Motion seconded by Mr. Young.

Testimony re-opened to allow public input.

Regina Williams, president of the Booker Heights Washington Neighborhood Association, asked the applicant if he had spoken with neighborhood members prior to the meeting, as the church had been empty prior to the fire, and there have been nuisance issues with vagrancy. Ms. Williams questioned plans for revitalization of the church and participation in the community.

Mr. Callaham said the church had never been empty, and there were no problems with vagrancy or anyone sleeping inside the church. Services are held on Sunday mornings and in the afternoon with no services held late at night as with other churches. Mr. Callaham does not know who Ms. Williams is, stating there have been no issues with the church, and he has been a member since 1972. The church will be used for church services and no one will be sleeping inside.

Ms. Williams invited Pastor Callaham to join the ministerial alliance with Bibleway on Piedmont, St. Johns Baptist, and the CME Church.

As no one else wished to speak, testimony was reclosed.

Motion on the floor by Mr. Gregg. *Motion seconded by Mr. McKnight.*

Mr. Hubbard spoke in support of the motion saying testimony has shown the eight criteria required for a special exception have all been satisfied.

Mr. McKnight felt it was a good opportunity to be in the neighborhood. He graduated from Benedict College and feels this will 'enlighten' the community.

Motion approved 4-0.

- 5. 16-009-V Dist. 3 2013 Greene Street (TMS# 11405-09-13)** Variance to the parking requirements to expand a restaurant (Stan Panos, All-In Restaurant Group, SC, LLC dba: Publico Kitchen & Tap) (MX-1, -5P)

The applicant is requesting a variance to the parking requirements for an existing restaurant, Publico, for an addition at the rear of the building. The deck will be approximately 700 sq. ft. and would require 5 additional parking spaces to be provided; whereas the applicant is proposing 0 (zero) instead. There is an existing parking lot to the rear on the applicant's property which is used for their customers.

Stan Panos and Michael Dubinier, applicants, were available for questions.

Breon Walker of Gallivan, White and Boyd Law Firm, represented the applicants All-In Restaurant Group, dba Publico Kitchen and Tap. The addition is for a patio and seating area which will not take away from existing parking. Ms. Walker has been in conversations with John Spade of City Parking Services who is in favor of the request.

As everyone knows, parking in the Five Points area is difficult. The applicants approached neighbors in the area to seek additional parking which was not possible. There is existing parking across the street which consists of 34 spaces, which includes handicapped parking. Publico customers could park in this lot while dining which would open up additional parking spaces without requiring Publico to find five additional spaces.

Ms. Walker reviewed the criteria required for a request for a variance:

- **Extraordinary and exceptional conditions pertain to the subject property.** One of the main reasons the applicants chose this location is the availability of the back area and outdoor seating which is also available to other restaurants in the area. There is no additional parking to be gained from anywhere in the area.
- **These conditions do not generally apply to other property in the area.** Other properties in the area have a wider source of parking.
- **Because of these conditions, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property.** Without a variance, the business will not be able to expand and have the back patio.
- **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 variance will allow the use of parking directly across the street which is what Five Points is about, it is an 'uber and walk' area.

No one spoke in favor or opposition of the request.

Motion by Mr. Hubbard to grant the request for variance because of the extraordinary and exceptional conditions that apply to the property. They do not generally apply to other parts of Five Points of same settings and situations in terms of options for parking and outdoor eating. It would unreasonably restrict the use and the context of Five Points not to be able to proceed the proposal

without a variance. It will not be a detriment to the area or the public interest. It is the minimum necessary given the problems that this and other people have faced. It will be an improvement, and thus an enhancement, of Five Points. Also, as the applicant points out in their application, a great deal of pedestrian traffic is coming there, and this does not necessarily detract to keep people from walking to Five Points generally or from parking.

Motion seconded by Mr. Young. Motion approved 4-0, variance granted.

IV. OTHER BUSINESS

Election of Chair

Motion by Mr. McKnight to nominate, in his absence, Chuck Salley, as Chair of the Board of Zoning Appeal.

Motion seconded by Mr. Gregg. Motion approved 4-0.

The vice-chair position is already filled.

New member of the Board of Zoning Appeals, Regina Williams, was welcomed as she was in attendance at the meeting. Ms. Williams will be seated at the April meeting.

V. ADJOURNMENT

There being no further business, Mr. Hubbard adjourned the March 8, 2016 Board of Zoning Appeals meeting at 12:23PM.

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