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

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

In attendance: Chuck Salley, Tyler Gregg, Pat Hubbard, Reggie McKnight, Calhoun McMeekin, Regina Williams, Preston Young

Staff: Brian Cook, Andrew Livengood, Andrea Wolfe

I. CALL TO ORDER and DETERMINATION OF QUORUM

Chuck Salley, chairperson, called the meeting to order at 10:00 AM, introduced the members of the Board of Zoning Appeals (BOZA), and introduced staff.

Mr. Cook confirmed quorum and proceeded with review of the Consent Agenda.

II. CONSENT AGENDA

A. APPROVAL OF MINUTES

1. Approve April 12, 2016 Minutes

C.

B. OLD BUSINESS

None.

A. NEW BUSINESS

- 2. 16-015-SE Dist. 3 Adjacent to 195 Shop Grove Drive (TMS# 16202-03-03)**
Special Exception to reduce parking requirements for a proposed warehouse (Joe Wilczewski, Darnell W and Susan F Boyd Foundation) (M-1)
- 3. 16-017-SE Dist. 2 3737 Martin Street (TMS# 11713-02-11)** Special Exception to allow an alternative parking surface (Brian Parmeter, Carolina Custom Sawmill) (M-1)

No one spoke in favor or opposition of the requests, or requested removal for discussion.

Motion by Mr. Hubbard to approve the Minutes of the April 12th meeting 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. McKnight.*

Motion approved 7-0.

III. REGULAR AGENDA

A. OLD BUSINESS

- 4. 16-006-SE Dist. 3 120 Atlas Court (TMS# 16306-07-06)** Request to rehear Special Exception to establish a recycling center (John B. McArthur, attorney for Pratt Recycling, Inc.) (M-2)

Mr. Salley recused himself from this case as he is acting as the listing agent for 120 Atlas Court, and turned chairperson position over to vice-chair, Pat Hubbard.

The matter before the Board today is a request to allow a rehearing of the Special Exception to establish a recycling center at 120 Atlas Court that was denied by the Board at its March 8, 2016 hearing.

Today's matter is not whether the Special Exception shall be granted, but whether the request qualifies for rehearing. The Board of Zoning Appeals Rules of Procedure, in Article IV, Section 10. Rehearing states that:

No request to grant a rehearing within twelve (12) months of its denial by the Board shall be entertained unless the Board finds that substantial new evidence is submitted which could not reasonably have been presented at the previous hearing, or upon a finding of fraud, misrepresentation or other misconduct of a party.

Requests for rehearing shall be delivered to the Zoning Administrator in writing, setting forth plainly, fully, and distinctly why the decision of the Board is in error, and setting forth the new evidence. Unmeritorious requests for rehearing shall be denied. Testimony is allowed only by leave of the Board if necessary for the limited purpose of developing an understanding of the nature of the request.

Once the request for rehearing is placed on the agenda, the party requesting the rehearing shall be notified to appear before the Board. If a motion to grant a rehearing is approved, the case shall be put on the calendar for a hearing. Rehearing shall be subject to the same notice as original hearings.

Limited testimony to confirm or not confirm that a rehearing is necessary. The case will not be reheard at this time. If the Board decides that a re-hearing shall be granted, the case will be advertised, the property posted, and heard at the next meeting.

Mr. Hubbard stated this request is based on two requirements in order to request the rehearing:

- 1) That there is substantial evidence that could not have reasonably been known before; and
- 2) The reason why it was not presented at the prior hearing.

His understanding is the applicant has evidence indicating noise and dust that either is there or will be there as a matter of right from other uses, and may be greater than the applicant's impact. Therefore that evidence is substantial and should be reviewed by the Board before making a decision. The prior decision focused on compatibility of SETI with the applicant's recycling. In addition, the applicants could not have known, or done anything prior to today because they were only made aware of SETI's specific issues the day before the hearing in March.

John McArthur, attorney with Haynesworth Sinkler Boyd, represented on behalf of Pratt Recycling.

Kevin Bailey, Pratt Industries, was also in attendance.

Robert Fuller, attorney for Sensor Electronics Technology, Inc. (SETI), spoke in opposition of a rehearing.

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

Motion by Mr. Hubbard to grant the request for rehearing as there has been substantial evidence shown to hear the matter further, and there were good reasons why these were not presented the first time.

Motion seconded by Mr. Young. Motion approved 5-1 with Mr. McMeekin in opposition.

The rehearing will be scheduled for the June 14th Board meeting.

Mr. Salley resumed Chairperson Position.

B. NEW BUSINESS

- 5. 16-016-SE Dist. 4 919-921 True Street (TMS# 16408-01-03)** Special Exception to establish a residential care facility (Mike Ragin, Sonlight Resources Institute) (C-1)

This application for Special Exception is to allow the establishment of a residential care facility on the property which contains five existing commercial buildings of approximately 1600 sq. ft. each, an existing brick residential building of approximately 1400 sq. ft., and a detached garage. The property was most recently utilized for commercial offices and research business. According to the applicant, the proposed facility would provide housing and meals and care "as needed" for up to 30 veterans between 30 and 90 years old, with 3 staff persons and a company van to provide transportation. Adequate parking is provided on-site for the 30 residents proposed (One parking space is required for each four residents). Finally, the applicant has stated that one of the buildings on site would be used for chapel services and group functions as an accessory use for the residential care facility.

Should the board be inclined to approve this request for special exception, staff asks that you consider as conditions of approval the following four items:

- *The facility shall operate in substantial conformance with the application, submitted materials, and testimony before the board regarding its operation and shall have no more than 30 residents.*
- *The use of the chapel/group function building shall be accessory to the residential care facility unless the use is expressly permitted within the zoning district.*
- *The facility shall comply with all state and local requirements, including but not limited to the building code.*
- *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.*

Mike Ragin and Dr. Barbara Oliver, founder of Sonlight Resources Institute, presented on the request.

Mr. Ragin provided a description of the facility, and both he and Dr. Oliver spoke on the services to be provided.

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

- *Will not have a substantial adverse impact on traffic or public safety. Mr. Ragin noted a correction in the case summary saying the parking will be for staff only as the residents will not have vehicles. The parking will be for vehicles used for as many as three staff, for loading/unloading, and the company van used to transport residents.*
- *There will not be any 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;

- *There will be no change on the aesthetic character of the area.*

Dr. Oliver stated there will be natural healing and disease classes and therapy enhanced by nutrition, water therapy and natural air. No negative conditions are allowed. The facility is DHEC approved and staff are trained to manage the residents.

- *There will be no negative impact on public safety or create nuisance conditions;*
- *The establishment of the proposed special exception does not create a concentration of the same or similar types of use;*
- *The facility is compatible with the character of the neighborhood;*
- *It is in the public interest.*

Dr. Oliver agreed as conditions for approval that:

- *The use of the chapel/group function building shall be accessory to the residential care facility to be used only by residents.*
- *There will be fencing of some sort around the facility.*
- *There will be no more than 30 residents at the facility.*

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

Motion by Mr. Hubbard to approve the request for special exception. The criteria has been shown to be satisfied by testimony [provided]. Approval shall be subject to the following conditions:

- ***The facility shall operate in substantial conformance with the application, submitted materials, and testimony before the board regarding its operation and shall have no more than 30 residents.***
- ***The chapel shall be an accessory to the residential care facility and not a freestanding use.***
- ***The facility shall comply with all state and local requirements.***
- ***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.***
- ***There will be fencing consistent with testimony provided.***

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

IV. OTHER BUSINESS

Board of Zoning Appeals meeting dates and times

At the April BOZA meeting, Board members asked staff to investigate alternative dates and times for the meeting as it was felt there could be more community input if meetings were held later in the day.

Suggested dates and time for meetings are: the second Monday of the month or the second Wednesday of the month. The time for the meeting would be the decided by the Board.

Discussion ensued among Board members regarding positives and negatives of a meeting date and time change.

Motion by Mr. Hubbard to attempt to find a time for the meeting on the second Monday of

the month for a period of at least three months to see how it works.

Motion seconded by Ms. Williams. Motion fails 2-5 with Mr. Gregg, Mr. Young, Mr. Salley, Mr. McMeekin, and Mr. McKnight in opposition to the motion.

It was requested to allow input from the public regarding a possible change in meeting date and time.

Motion by Ms. Williams to request public input be gathered from the Council of Neighborhoods and others who attend the community meetings with regard to a change in the BOZA meeting date and time.

Motion seconded by Mr. Hubbard to request input from neighborhood associations and the Columbia Council of Neighborhoods whether to retain the current meeting date of the second Tuesday at 10:00 AM, or consider 5:00 PM on the second Monday of the month for the meeting.

To ensure developers, contractors, and all other involved individuals would be included, Mr. Cook suggested sending out a notice to everyone on the City distribution list as well.

Discussion again held regarding this motion.

Motion restated by Mr. Hubbard stating the Board of Zoning Appeals is considering the possibility of a change in meeting date and time to the second Monday of the month between 4:00PM - 5:30PM; and soliciting input from neighborhood groups.

He added, apart from the motion, this would be viewed as valuable input, and if it was decided the meeting date and time is proposed for change, it will be noticed to the public, posted on the agenda, and would require a vote by the Board of Zoning Appeals.

Mr. McKnight left the meeting at 11:38 AM.

Motion seconded by Ms. Williams. Motion fails 3-3 with Mr. Salley, Mr. Young and Mr. McMeekin in opposition of the motion.

V. ADJOURNMENT

There being no further business, Mr. Hubbard adjourned the March 8, 2016 Board of Zoning Appeals meeting at 11:40 AM.

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