
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
June 14, 2016 - 10:00 AM

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

In attendance: Chuck Salley, Pat Hubbard, Reggie McKnight, Regina Williams, Preston Young

Absent: Tyler Gregg, Calhoun McMeekin

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 noted changes to the agenda since publication. Quorum was confirmed, he proceeded with review of the Consent Agenda.

II. CONSENT AGENDA

A. APPROVAL OF MINUTES

1. **Approve May 10, 2016 Minutes**

B. OLD BUSINESS

None.

C. NEW BUSINESS

2. **16-018-SE Dist. 2 1911 and 1929 Gervais Street; 1922 Lady Street (TMS# 11406-14-07, -12, -15 through -19, -26)** Special Exception to expand a religious organization (Mirza Baig, Islamic Center of Columbia) (RG-3 and C-3)

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 May 10th 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 5-0.

III. REGULAR AGENDA

A. OLD BUSINESS

3. **16-006-SE Dist. 3 120 Atlas Court (TMS# 16306-07-06)** Rehearing of Special Exception to establish a recycling center (Kevin Bailey, Pratt Recycling, Inc.) (M-2)
Deferred until 7/12/16

A. NEW BUSINESS

- 4. 16-019-SE Dist. 3 2000 Rosewood Drive (TMS# 11309-13-01)** Special Exception to establish a liquor store (Gurminder Singh, Cayce Investments, LLC) (C-3)

This application for Special Exception is to permit the establishment of a +/- 560 sq. ft. liquor store within an existing building. In January of this year, this Board approved a Special Exception to allow expansion of the convenience store with the condition that the space be used for storage only. This proposed liquor store would include this previously approved storage expansion and a portion of the existing convenience store.

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

1. The liquor store 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 building code and landscaping/buffer yard requirements.
2. 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.

Kathleen McDaniel, attorney, presented on behalf of property owner, Gurminder Singh of Cayce Investments, LLC.

Ms. McDaniel reviewed the eight criteria required for a Special Exception.

Members of the public who spoke in opposition of the request:

- Alisa Wolfram, neighborhood resident
- Tad Lewis, neighborhood resident
- Ruth Ann Dean, resident

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

Motion by Mr. Hubbard to deny the request for Special Exception for failure to satisfy criterion 7, it is not appropriate for its location and it is not compatible with permitted uses adjacent to and in the vicinity of the property. It does not comply with item 8. The proposed special will adversely affect public interest in terms of development along Rosewood, and the neighborhoods on either side.

Motion seconded by Mr. McKnight. Motion to deny carries 5-0.

- 5. 16-020-SE Dist. 3 7609 Garners Ferry Road (TMS# 16315-03-03)** Special Exception to establish a liquor store (Gurminder Singh, Cayce Investments, LLC) (C-3)

This application is the first of three requests for Special Exception at the same address, each of which will be heard separately.

This request is to permit the establishment of a +/- 2,500 sq. ft. liquor store within a +/- 6,700 sq. ft. building, adjacent to a proposed gas station which is the second request for Special Exception, and the convenience store which is the third request for Special Exception at this location.

Kathleen McDaniel, attorney, presented on behalf of property owner, Gurminder Singh of Cayce Investments, LLC.

The proposed liquor store is to be located on the side closest to the day care located adjacent to the property. Specific plans were discussed thoroughly with the day care owner who sold the property to the applicant and voiced no objections to the establishment of the liquor store.

Ms. McDaniel reviewed the eight criteria required for a Special Exception.

No letters in opposition of the request were received, and no one in attendance spoke in favor or opposition of the request.

Testimony closed for Board discussion.

Motion by Mr. Hubbard to approve the request for Special Exception.

Ms. Williams voiced strong opposition to the day care being adjacent to the liquor store, and felt it could be re-located to the other side of the building.

Mr. McKnight agreed and voiced opposition of the location of the liquor store.

Ms. McDaniel spoke with the applicant who agreed to relocation of the liquor store to the other side of the building away from the day care.

Mr. Hubbard returned to his motion to approve the request for Special Exception saying the main difficulty dealt with criterion 7 and criterion 8 which have been resolved to a considerable extent by the possibility of moving the liquor store to the other end of the building.

Motion to approve the request for Special Exception subject to the condition that the liquor store is indeed moved to the other end because the relocation will satisfy the criteria, and Ms. McDaniel's testimony where that issue has now been addressed, indicates the criteria are satisfied.

Motion seconded by Ms. Williams. Motion to approve granted 4-1 with Mr. McKnight in opposition.

- 6. 16-021-SE Dist. 3 7609 Garners Ferry Road (TMS# 16315-03-03)** Special Exception to establish a convenience store (Gurminder Singh, Cayce Investments, LLC) (C-3)

This application is the second of the three requests for Special Exception at the same address to permit the establishment of a +/- 4,200 sq. ft. convenience store within a +/- 6,700 sq. ft. building.

The "Good Neighbor Plan" contains additional criteria required for a request for a convenience store, and requires that these five conditions be made a part of any approval for Special Exception.

Kathleen McDaniel, attorney, presented on behalf of property owner, Gurminder Singh of Cayce Investments, LLC.

Included in Board packets was a letter from Mr. Singh laying out each of the elements of the Good Neighbor Plan, signed and dated as of May 11th. All elements are five elements are included.

Copies of the letters and emails sent to the Neighborhood Association were included in Board packets. The proposed convenience store will be located on the end closest to the day care center, and the liquor store will be furthest away.

As the responses for the criteria for this request for Special Exception were the same as those required for the liquor store, Ms. McDaniel did not have to repeat them.

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

Motion by Mr. Hubbard to approve the request for Special Exception referring to the discussion already held for the criteria in terms of the site, especially as a convenience store is much easier to see as a Special Exception at this site than a liquor store. This is subject to the condition that The Good Neighbor Plan be followed as was sketched in Ms. McDaniel’s testimony that, in fact, they will be followed.

Ms. Williams voiced opposition when she learned there would be beer and wine sold in the convenience store as there would still be alcohol next to day care center.

Motion seconded by Mr. Salley. Motion fails 2-3 with Ms. Williams, Mr. Young and Mr. McKnight in opposition.

Mr. Cook asked for a motion by the Board to move item 11 up on the agenda as it was the third item to be heard at this address.

Mr. Young stated the agenda should remain as it, if changes were to be made, they should have been made at the beginning of the meeting.

Before proceeding with the next case, Chairperson Salley called for a brief recess to be taken at 11:00AM. The meeting resumed at 11:08AM.

The Chair moved item 11, 16-026-SE to be heard next as this request is located at the same address as the two previous cases.

Moved **11. 16-026-SE Dist. 3 7609 Garners Ferry Road (TMS# 16315-03-03) Special Exception to establish a gasoline service station (Gurminder Singh, Cayce Investments, LLC) (C-3)**

This application for Special Exception is to permit the establishment of a gasoline service station associated with a proposed +/- 4,200 sq. ft. convenience store (16-021-SE) within a +/- 6,700 sq. ft. building, adjacent to a proposed liquor store.

Kathleen McDaniel, attorney, presented on behalf of property owner, Gurminder Singh of Cayce Investments, LLC.

The location of the canopy and gas tanks for the proposed gas station will be located in front of the previously requested convenience store.

Ms. McDaniel reviewed the criteria required for this request for Special Exception.

No one spoke in favor or opposition of the request. Testimony closed for Board discussion.

Mr. Salley felt the applicant had shown that they do meet the criteria for Special Exception. the property is located at a stoplight corner on Garners Ferry Road, so egress and ingress into the facility should not affect the traffic flow in the area, and it is an appropriate use for this property.

Ms. Williams voiced concerns with the proximity of the gas tanks to the day care center.

Ms. McDaniel stated for clarification that the tanks are underground tanks that must be properly permitted by DHEC and must go through the UST program application. It is DHEC's responsibility to ensure the safety of the tanks in conjunction with the location and other uses.

Motion by Mr. Salley to approve the request based on the testimony of the applicant and the written application. It is felt the applicant has shown that they meet all the criteria of a Special Exception based on the testimony of the applicant's attorney. Approval is also subject to any comments and conditions created by staff.

Motion seconded by Mr. Hubbard. Motion approved 4-1 with Ms. Williams in opposition.

Motion by Dr. Hubbard to reconsider the decision in items 5 and 6, the convenience store and the liquor store, to allow the applicant the opportunity to decide whether to keep the liquor store or the convenience store, with an understanding that it must be one or the other, not both. Item 6, request to establish a convenience store, to be reconsidered first.

Motion seconded by Mr. Salley. Motion approved 5-0.

Item 6, **16-021-SE**, Special Exception to establish a convenience store at **7609 Garners Ferry Road** to be reconsidered.

Kathleen McDaniel, attorney, responded to concerns voiced by Ms. Williams regarding the sale of alcohol at the convenience store and provided new testimony regarding the request. If a choice must be made, Mr. Singh was willing to choose the convenience store over the liquor store, and as a condition for approval, the convenience store would be located on the side opposite of the day care.

Motion by Mr. Hubbard to approve the request of a +\- 4,200 convenience store in the building subject to the condition that it not be located in the building next to the day care center, but on the other end of the building. Also, subject to the condition that the Good Neighbor Plan be observed in operating of the convenience store.

Motion seconded by Mr. McKnight. Motion carries with 3-2 with Ms. Williams and Mr. Young in opposition to approval.

Brief recess taken at 12:00PM with meeting resumed at 12:10PM.

To clarify whether a motion was made with regard to **16-020-SE, 7609 Garners Ferry Road** request for Special Exception to establish a liquor store, Dr. Hubbard restated the earlier motion.

Dr. Hubbard stated his motion included both item 5 and 6 as one. Motion by Dr. Hubbard to reconsider the decision for item#5, the liquor store part of the request, 16-020-SE.

Motion seconded by Mr. McKnight. Motion passes 4-1 with Mr. Salley in opposition.

Dr. Hubbard stated the reason for reopening the request was to consider the denial of the request for the liquor store.

Ms. McDaniel added to preserve the record in this matter, the applicant objected to the procedure. It was unanticipated that the applicant should choose between the convenience store and the liquor store procedure as approval for the liquor store was properly done to reconsider the convenience store application. Noted for the record, the applicant disagreed with that process and objected to the reconsideration of the liquor store application.

Dr. Hubbard clarified the reason for the motion due to the square footage requested and involved in the request which would not allow for both the liquor store and convenience store to remain. He felt the request for the liquor store should be reopened and denied as it cannot be located within the same square footage of the building as the convenience store.

As the request was now reopened, Motion by Dr. Hubbard to deny the request for special exception for the liquor store.

Motion seconded by Mr. McKnight.

Motion revised by Dr. Hubbard to state the vote to reconsider and rescind the approval and thus deny the special exception for the liquor store.

Revised motion seconded by Mr. McKnight. Motion carries 4-1 with Mr. Salley in opposition.

As Mr. Salley is a principal and partner in Colliers International which is a partial owner of LCK, the acting project manager on this request, he recused himself as Chair and turned the Chair over to Dr. Hubbard.

- 7. 16-022-SE Dist. 2 1433 Gregg Street and 1827 Hampton Street (TMS# 11406-01-05 and 11403-10-11)** Special Exception to allow leased remote parking for individual and family social services (Julie Ann Avin, MIRCI) (C-1)

This application for Special Exception is to allow offsite parking within an existing parking lot at 1827 Hampton Street in order to accommodate the required parking for the existing clinic office at 1433 Gregg Street. This is allowed under §17-345(b)(2) of the Zoning Ordinance and subject to certain conditions.

Julie Ann Avin, President and Executive Director of MIRCI, a mental illness recovery center, presented on the request. Ms. Avin provided a brief history of MIRCI.

Michael Wenzinger of The Boudreaux Group, reviewed the criteria required for special exception.

Elizabeth Marks, president of the Robert Mills Historic District, spoke in opposition to the request.

Wanda Breedlove, neighborhood resident, voiced opposition to the request.

Mr. Wenzinger responded to comments made by the public.

No one else spoke in favor or opposition of the request. Testimony closed for Board discussion.

Motion by Mr. McKnight to approve the request for special exception as it meets all the criteria outlined in the criteria required for special exception, and as staff has indicated that all criteria required for remote parking has been satisfied.

Motion seconded by Dr. Hubbard. Motion carries 4-0.

- 8. 16-023-SE Dist. 2 1813 Washington Street (TMS# 11406-01-10)** Special Exception to establish a residential care facility (Julie Ann Avin, MIRCI) (C-1)

The request to establish a proposed facility which is a “transitional housing program for unaccompanied youth aged 17-24” with 8 to 12 residents in the facility and it would be staffed by professional social workers/counselors 24 hours a day.

Julie Ann Avin, President and Executive Director of MIRCI, a mental illness recovery center, presented on the request. Ms. Avin provided a brief history of MIRCI.

Michael Wenzinger of The Boudreaux Group, reviewed the criteria required for special exception.

Members of the public who spoke in support of the request:

- Jeffery Williams, licensed professional counselor and counselor supervisor and Director of Outpatient care with Palmetto Health
- John Artz, Housing Coordinator at MIRCI
- Jennifer Moore, Senior Director with United Way of the Midlands
- May Kirby, licensed professional counselor and former outreach coordinator

Members of the public who spoke in opposition of the request:

- Elizabeth Marks, president of the Robert Mills Historic District
- Wanda Gail Breedlove, neighborhood resident

Ms. Williams left the meeting at around 1:30 PM.

No one else spoke in favor or opposition of the request. Testimony closed for Board discussion.

As it was found quorum was no longer available, a vote could not be taken and no action could be taken by the Board.

Motion by Mr. Young to hear this matter at the next meeting. Motion seconded by Mr. McKnight. Motion granted 3-0.

- 9. 16-024-V Dist. 3 1210 Atlas Road (TMS# 16306-07-02) Variance to the vehicular surface area interior landscaping requirements (The Underbrush Company d/b/a Advantage Self Storage) (M-1)
- 10. 16-025-V Dist. 3 1210 Atlas Road (TMS# 16306-07-02) Variance to the required density factor for the site (DFS) for tree coverage (The Underbrush Company d/b/a Advantage Self Storage)(M-1)
- 11. 16-026-SE Dist. 3 7609 Garners Ferry Road (TMS# 16315-03-03) Special Exception to establish a gasoline service station (Gurminder Singh, Cayce Investments, LLC) (C-3)

IV. OTHER BUSINESS

V. ADJOURNMENT

There being no further business, Mr. Hubbard adjourned the June 14, 2016 Board of Zoning Appeals meeting at 1:48 PM.

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

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