
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
September 12, 2017 - 10:00 AM

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

In attendance: Gene Dinkins, Jr., Reggie McKnight, Calhoun McMeekin, Chuck Salley

Absent: April Brown, Tyler Gregg

Staff: Brian Cook, Rachel Bailey, Andrea Wolfe

I. CALL TO ORDER and DETERMINATION OF QUORUM

Chuck Salley, chair, called the meeting to order at 10:10AM. Members of the Board of Zoning Appeals (BOZA) were introduced along with Staff. Quorum was confirmed. Applicants and others who wished to speak were sworn in.

Motion by Mr. Salley to go into Executive Session for receipt of legal advice by attorney-client privilege pursuant to §30-4-70(a)(2) regarding 1237 Washington Street.

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

II. EXECUTIVE SESSION

1. **The receipt of legal advice related to matters covered by attorney-client privilege pursuant to §30-4-70(a)(2).**

***1237 Washington Street**

Motion by Mr. Salley to come out of Executive Session.

Motion seconded by Mr. Dinkins, Jr. Motion approved 4-0.

For the record, Mr. Salley stated that no action was taken during Executive Sessions.

Regular meeting resumed at 10:54AM

Brian Cook, zoning administrator, proceeded with review of the Consent Agenda.

III. CONSENT AGENDA

A. APPROVAL OF MINUTES

2. **Approve August 8, 2017 Minutes**

B. OLD BUSINESS

None

C. NEW BUSINESS

3. **2017-0068-SE Dist. 4 5480 Forest Drive (TMS# 16710-02-01)** Special exception to establish a drive-through facility for a restaurant (Walker Hoge, Integrity Engineering & Development Services, Inc.) (C-3, -FTJAX)
4. **2017-0070-SE Dist. 2 2513 Gervais Street (TMS#11411-10-08)** Special exception to establish a covered enclosure for growing food crops (Jacqueline Williams, City of Columbia Parks and Recreation Department) (C-1)

There was no call for an item on the Consent Agenda to be removed for discussion.

Motion by Mr. Salley to approve the Consent Agenda as presented pursuant to the application and subject to all of the terms and conditions recommended by staff. Motion seconded by Mr. McKnight. Motion approved 4-0.

IV. REGULAR AGENDA

A. OLD BUSINESS

- 5. 2017-0062-V Dist. 2 1500/1505 Garden Plaza (Formerly Gonzalez Gardens) (TMS# 11411-04-01, 11411-05-01, et al)** Variance to parking requirements for a multifamily development (Columbia Housing Authority Development, Inc.) (RG-2)

Recusal by Mr. Dinkins, Jr. as Cox and Dinkins, Inc. is the engineer/surveyor for the project.

Mr. Cook stated that with said recusal, quorum is no longer retained, therefore the item will be placed on the October agenda barring a special called meeting. The applicant has been informed of this and will again be reminded by staff.

B. NEW BUSINESS

- 6. 2017-0065-SE Dist. 2 2330 Two Notch Road (TMS#11510-04-10)** Special exception to establish an automotive service facility (Tire Kings, LLC) (C-3)

Mr. Cook introduced the request for special exception to establish an automotive service facility. The subject property consists of 2 buildings, +/- 8400 sq. ft. and +/- 3936 sq. ft., upon a +/- 33,066.90 sq. ft. lot. The use will generally focus on tire sales and tire installation. All installation and associated work will be conducted indoors. Both buildings have been abandoned for some time, and the applicant would like to move the business into that location.

Habib Adly, applicant, presented the request.

Mr. Adly reviewed the criteria for a request for special exception:

- *Will not have a substantial adverse impact on vehicular traffic or vehicular and pedestrian safety, how adequate provisions are made in the proposed exception for parking, and for loading and unloading.* The building is located on the corner near a natural crosswalk, and does not cater to walk-in traffic. There is more than adequate parking, and the rear is setup to accommodate the small 3 to 4 truck shipments daily. There are two customer entrances and there is designated customer parking.
- *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 and litter.* The air compressor is the only piece of equipment that is capable of making loud noise. It will be located inside a closed room in the second building.
- *There will be no substantial adverse impact on the aesthetic character of the area, to include a review of the orientation and spacing of buildings – the state is doing road work and responsible for upfit to the roads and property to include landscaping.*
- *There will be no 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 – having the business present there will prevent loitering on an empty property. There will be security cameras installed onsite and part of the property will be fenced.*
- *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 in which the special exception use is proposed to be developed – there are no other shops in this area that concentrate on new and used tires. There are body shops, paint shops, window tint shops, radio shops, and some shops that have new, however this will be the only shop that will concentrate on new and used tires in this area.

- *The 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* – the building recently received a total upgrade of painting with the help of the City façade program. Landscape improvements will include the addition of two trees and shrubbery, and a fence will be added to the rear of the property with a variance request to the buffer yard at the rear of the property.

No contact has been made with surrounding residents however correspondence was made with surrounding businesses in the area and favorable responses were received. Positive responses and support has been received for the past eight years from surrounding neighbors at the previous business location further up Two Notch Road.

As no one spoke in favor or opposition of the requests, testimony closed for board discussion.

Motion by Mr. McMeekin to approve the request for 2017-0065-SE, 2330 Two Notch Road, contingent upon conditions and staff comments being met. It is found that the criteria have been met. There will not be any impact on vehicular traffic or vehicular and pedestrian safety, environmental factors, aesthetics; granting of the special exception will not create a nuisance condition, or a threat to public safety; there is not a concentration; it is in character and is compatible within the surrounding area; it will be in the good of the public interest; and would not adversely affect it.

Motion seconded by Mr. McKnight. Motion carries.

7. 2017-0066-V Dist. 3 Intersection of Canterbury Road and Devonshire Drive (TMS# 11415-04-08) Variance to front yard setback requirement to construct a single-family residence(John and Amanda McLean) (RS-1)

Mr. Cook introduced the request for variance to the front yard setback requirements in order to accommodate a single-family residence. This property presented previously on January, 2017 and March 2017 by other property owners/applicants. With this applicant, staff stressed the importance of a house plan.

As the applicant was not in attendance at this time, staff said the item could be moved to the end of the agenda if the Board desired.

Mr. Dinkins, Jr. noted that Cox and Dinkins had surveyed the property numerous times, and no discussions had been held with the owner or applicant since. He wanted to make the Board aware that his firm was hired by the applicants and he was not aware of this new request. Mr. Dinkins, Jr. felt he would not have a problem voting or participating in discussion on this request, but would recuse himself if any of the other Board members wished him to do so.

As there was no monetary gain involved, no other Board members requested his recusal.

Barbara Rackes, neighborhood resident, said Forest Hills met with the applicants. There are no historic overlays in the area, materials were discussed and approved by the neighborhood, and the applicants assured them that construction will be in keeping with the look and feel of the

neighborhood. As a neighborhood association, there is no objection to this request moving forward as long as it is understood that this is not setting a precedent for zoning changes of a similar setback nature for other properties in the neighborhood, each one must be done one at a time.

Mr. Salley thanked Ms. Rackes for her testimony. He felt with her testimony and the house plans that were now available, his concerns with the previous requests were met. Without this information, the previous requests were for an arbitrary setback and the Board could not determine if the requests were the minimum necessary as based on the criteria the Board must use for a variance request. Mr. Salley felt the Board could move now forward with a vote based on the application as it was shown to be the minimum necessary.

Mr. McKnight agreed with Mr. Salley.

Mr. Cook felt that could be done unless the Board wished to get the applicant on the record to confirm the request or answer any questions or concerns the Board may have.

At this time, the applicant arrived and was sworn in.

John McLean, property owner, reviewed the criteria required for a variance request.

- *Extraordinary and exceptional conditions pertain to the subject property* – the lot is very odd shaped having a very gradual curve on two sides which severely limits the buildable area.
- *Conditions noted above do not generally apply to other property in the area* – most of the surrounding properties appear to be rectilinear enough to comply.
- *Because of the conditions noted above, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property* – with the curved front yard setback of 35' and two side yard setbacks of 8', the buildable area is less than 39% of the total lot.
- *Approval of the variance would not be of a substantial detriment to adjacent property or to the public good, and the character of the district would not be harmed* – the proposed house design maximizes the space between the rear elevation of the proposed house and the adjacent neighbor's backyard, it will maximize the area behind the home for young children to play in, minimize earthworks, and minimize tree removal.
- *Is the variance the minimum necessary?* – Yes, the request is for only the minimum amount of the curved front yard to fit the home, not the entire street front.
- *Explain how the proposal is in harmony with the purpose and intent of the Zoning Ordinance, and will it not be injurious to the neighborhood or otherwise detrimental to the public welfare.* – The proposed home's design is in response to the intent of protecting and regulating the existing neighborhood's character of regularly spaced structures on wooded lots with reasonable separation between them. The proposed home location does not limit vehicular visibility, and has been reviewed by the two closest homeowners and posted to the neighborhood website with no objection to date.

Mr. McLean said if this request for variance is approved, he will volunteer to put three restrictions on the approval. The restrictions are:

- That the applicant and his family will move into the house.
- The house will be constructed essentially to the plans and elevations submitted in the application.
- No synthetic materials will be used will be used under any circumstances; no vinyl siding or synthetic stucco will be put on the exterior of the house.

Mr. McLean said after meeting with the neighbors, it is his understanding that if those three conditions were included as part of the approval, it would not be an issue. He will also preserve as many trees as possible based on conversations with the neighborhood.

Ms. Rackes said trees were discussed at some length and were not an issue.

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

Mr. Cook recommended the Board not include occupancy of the building as a condition for criterion as staff does not want to be involved in who will or will not occupy a building. To do so may open the door for fair housing questions and issues; it would be best to adhere to the criteria required for a variance. The applicant can include [occupancy] as a private deed restriction if they desire to do so.

Motion by Mr. Salley to approve this application based on the applicant's testimony and the written application, subject to comments of staff, and to include the two stipulation: that the house will be built in substantial compliance with the plans and elevations presented to this Board, and that the applicant shall not use vinyl siding and/or synthetic stucco on the exterior of the house during construction.

Motion seconded by Mr. McKnight. Motion carries.

8. 2017-0067-V Dist. 2 2321 Marshall Street (TMS# 11504-20-06) Variance to front yard fence height requirements (Larry Rumph) (C-3)

Mr. Cook introduced the request for variance to the front yard fence height requirements. The property is zoned general commercial. It has been used in the past as a carwash and drive-up self-serve carwash. Should the Board be inclined to approve this request, there are seven criteria that staff requests be made as conditions of the approval.

Larry Rumph, applicant, presented the request.

- *Extraordinary and exceptional conditions pertain to the subject property* – The property is constantly vandalized and too easily accessible for vagrancy issues.
- *Conditions noted above do not generally apply to other property in the area* – It is unique in that the security needed is generally outside as much as inside an enclosed building.
- *Because of the conditions noted above, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property* – the variance request makes the proposed development much safer and secure as the height restriction would not enable the opportunity for vagrancy and vandalization to the property and surrounding area.
- *Approval of the variance would not be of a substantial detriment to adjacent property or to the public good, and the character of the district would not be harmed* – it will be in line with existing properties in the area.
- *Is the variance the minimum necessary?* – Yes, a 6 foot fence will be more secure and enhance the area.
- *Is the proposal in harmony with the purpose and intent of the Zoning Ordinance, and will it not be injurious to the neighborhood or otherwise detrimental to the public welfare?* – Yes. The fence will be inside of the property line, it will prevent littering and loitering in the neighborhood, and greatly enhance the neighborhood.

As no one spoke in favor or opposition of the requests, testimony closed for board discussion.

Motion by Mr. Salley to approve the variance request subject to staff comments contained in the application.

Motion seconded by Mr. Dinkins, Jr. Motion carries.

9. 2017-0069-SE Dist. 2 2314 Pinehurst (3005 and 3007 School House Road)(TMS#11514-12-17, 18, & 22) Variance to parking requirements for a proposed senior living development (TN Development Corporation, Brownstone Construction Group) (RG-2)

Mr. Cook introduced the request for variance to parking requirements for a proposed senior living development.

Kenneth Whitted, applicant, presented. Mr. Whitted reviewed the criteria for a request for variance:

- *Extraordinary and exceptional conditions pertain to the subject property* - the shape of the site make it difficult to maintain the parking requirement. It is a very thin, narrow piece of property with a drainage easement on the site.
- *Conditions noted above do not generally apply to other properties or structures in the area* - there is a drainage easement that runs through the middle of the site which cannot have a roadway on top of it. The northern portion of the site is approximately 80' wide with setbacks which need to have a two-way traffic road along with greenspace which is not typical to other sites.
- *Because of the conditions noted above, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property* - this is a retirement community with age restrictions. The neighborhood has complained about the number of parking spaces that were submitted earlier. The greenspace has been increased as well as minimization of the heat island effect with the reduction of pavement.
- *Approval of the variance would not be of a substantial detriment to adjacent property or to the public good, and the character of the district would not be harmed* - since this is a retirement community, the need for vehicular traffic is minimized. The community has covenants being drawn up to establish requirements for number of non-community members to visit as well as to limit the length of time they can stay.
- *Is the variance the minimum necessary?* - Yes, the use is for 1.5 spaces per unit, the minimum requirement, which is still viable for the project.
- *Is the proposal in harmony with the purpose and intent of the Zoning Ordinance, and will it not be injurious to the neighborhood or otherwise detrimental to the public welfare?* - Yes. The board voted in favor of doing this in other cases such as Rosewood Hills. We feel as though this is not an unreasonable request to keep in harmony with the community. Instead of having two units with two parking spaces per unit, there will be 1.5 for a total of 78 parking spaces.

As no one spoke in favor or opposition of the requests, testimony closed for board discussion.

Motion by Mr. Salley to approve this variance request based on the totality of the applicant's written response including the agreement for covenants and restrictions on the property as described in the application and his testimony, subject to any comments made by staff in the application.

Motion seconded by Mr. McMeekin. Motion carries.

IV. OTHER BUSINESS

NONE

V. ADJOURNMENT

There being no further business, motion to adjourn by Mr. Salley. Motion seconded by Mr. McMeekin. Meeting adjourned at 11:53AM.

Respectfully submitted by Andrea Wolfe
Land Use Board Coordinator
Planning and Development Services Department
City of Columbia