
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
November 14, 2017 - 10:00 AM

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

In attendance: April Brown, Gene Dinkins, Jr., Reggie McKnight, Marcellous Primus, Chuck Salley, Josh Speed

Absent: Calhoun McMeekin

Staff: Brian Cook, Rachel Bailey, Hannah Slyce, Stephen Green, Willie Wilson, Michael Lizewski, Andrea Wolfe

I. CALL TO ORDER and DETERMINATION OF QUORUM

Chuck Salley, chair, called the meeting to order at 10:00AM. 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.

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

II. CONSENT AGENDA

A. APPROVAL OF MINUTES

1. Approve October 10, 2017 Minutes_

B. OLD BUSINESS

NONE

C. NEW BUSINESS

- | | | | |
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| 2. | 2017-0091-V | Dist. 3 | 1015 Rosewood Drive (TMS# 11203-05-04), Variance to fence height requirement (Andrew Rogerson, Garvin Design Group) (C-3) |
| 3. | 2017-0092-V | Dist. 1 | Performance Parkway (TMS# P/O 14500-02-24), Variance to parking requirement for warehouse/packaging use (Allan Speicher, The Ritedose Corporation) (M-1) |
| 4. | 2017-0093-V | Dist. 3 | 2519 Devine Street (TMS# 11316-15-10), Variance to parking requirement for an office with a warehousing accessory use (Chris Carney, DCR Music) (C-2) |
| 5. | 2017-0099-V | Dist. 3 | 2700 Devine Street (TMS# 11316-12-01), Variance to buffer transition yard requirement (Charlie Baker, Architectural Concepts, Inc.) (C-2, RG-2) |

No one requested that any item be removed from the Consent Agenda.

Motion by Mr. Salley to approve the Consent Agenda subject to stipulations in the application by staff.

Motion seconded by Mr. McKnight. Motion approved 6-0.

III. REGULAR AGENDA

A. OLD BUSINESS

6. 2017-0073-V Dist. 2 1603/1605 Bull Street (TMS# 11402-01-04) Variance to parking requirements for a proposed commercial use (Sam Fiorini, Metro Realty Group) (C-4, -DD)

WITHDRAWN

B. NEW BUSINESS

7. 2017-0072-V Dist. 3 621/623 Saluda Ave. (TMS# 11308-11-08), Special exception to establish a parking lot in a residential district (Scott Lambert, Architecture and Construction Services) (RG-2, -DP)

DEFERRED TO DECEMBER

8. 2017-0074-SE Dist. 1 3611 Marsteller Street (TMS# 09213-05-04), Special exception to establish a residential care facility (Julian Swygert, Health Services) (RG-2)

DEFERRED BY APPLICANT

9. 2017-0094-V Dist. 3 2700 Devine Street (TMS# 11316-12-01), Variance to parking requirement for retail use (Charlie Baker, Architectural Concepts, Inc.) (C-2, RG-2)

Mr. Cook introduced the request for variance to the parking requirements for retail use. Ten parking spaces are required for this type of use and the applicant is proposing four spaces instead.

Charlie Baker, Architectural Concepts, was available for comments.

Evans Hobbs, property owner, spoke on the request saying plans consist of keeping the existing space and enhancing additional space on the building to allow for the move of an existing business, *Copper Penny*, in Five Points to this location. It is felt this move would make this area of retail and restaurant stronger.

Communication has been held with some of the neighbors in the area, the existing ingress and egress will remain, and landscape requirements have been met, as well as a buffer wall will be installed.

Mr. Hobbs reviewed the criteria required for a variance request.

- *Extraordinary and exceptional conditions pertain to the subject property as the lot is on the corner of Woodrow and Devine Street with the building extending the entire length to sidewalk on Woodrow does not allow a work-around, therefore two different parking lots are required.*
- *The conditions noted above do not generally apply to other property in the area.*
- *Because of the conditions noted above, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property. The number of parking spaces will be downsized for this use as a clothing store from a restaurant requiring less parking.*
- *Approval of the variance would not be of a substantial detriment to adjacent property or to the public good as there will be no alterations to hinder the properties at the rear and side of the property.*
- *The variance request is the minimum necessary.*
- *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. Landscaping will improve the neighborhood, and the use of a clothing store will be less intensive as a restaurant.*

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

Motion by Mr. Salley to approve the request for variance based on the testimony of the applicant and the written application with the criteria that they applicants will put some signage on the property to note the egress/ingress easement is a no parking area, and subject to any other comments from staff in the application.

Motion seconded by Ms. Brown. Motion approved 6-0.

10. 2017-0095-SE Dist. 3 2227/2229 Wheat Street (TMS# 11312-10-12), Special exception to change to another nonconforming use (Phillip and Cheryl Lucas) (RS-2, -CC)

Recusal from discussion and vote by Mr. Dinkins, Jr.

Mr. Cook introduced the request for special exception to change to another nonconforming use for an existing lot of record which has three dwellings on it, a single-family home and two duplexes. The main house caught fire in March 2017, leaving it uninhabitable. The zoning district permits one home per lot in this area, whereas this is a non-conforming situation with three homes on one lot.

§17-202(a) allows the board of zoning appeals to permit a change in use for a nonconforming use or structure, or characteristic of use to another nonconforming use by permitting another nonconforming use.

Whereas previously the applicants had three dwelling units on the property, what they are requesting today is for two dwelling units to remain. The applicants are hoping to change to another nonconforming use by rebuilding the main house at the front of the lot and leaving only one unit in the back. They believe by rebuilding the main house at the front of the lot and removing one unit from the rear, the property will maintain the character of the district and be consistent with surrounding properties.

The board is authorized to permit this as a special exception with the finding that the use or characteristic of use is more in character with the uses permitted in the district.

Phillip and Cheryl Lucas, property owners, presented the request. Mr. Lucas spoke on the damages to the property and the proposed construction. The existing duplex footprint is to remain with a storage/parking area below and a single residence above.

Mr. Lucas 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 elimination of one of the two apartments at the rear of the property will lessen the intensity of the use, and there is no intention of renting the property so traffic will not be an issue.
- *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.* It is an existing property and one of the units at the back of the property will be removed.
- *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 home will be rebuilt where it stood similar to properties in the area.
- *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* Removing on unit from the back will lessen the number of units on the property.
- *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. Existing grandfathered property.

- *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 applicants are aware of the community character overlay and intent to uphold the requirements.

Member of the public were invited to speak.

James C. Harrison, Jr., resident, spoke on behalf of the neighborhood who are in support of the request. Mr. Harrison felt all the criteria required for a request for special exception has been fulfilled by the applicants. The statute states the board may permit this request. In stepping down the use, it is less intensive and more consistent with RS-2 zoning, and the applicant fulfils all the requirements of the criteria. The neighborhood all recommend approval of the request as they are very happy with the choice the Lucas have made instead of alternatives which could be detrimental to the neighborhood.

Mr. Sally stated for the record that Mr. Harrison adequately described criterion 7 and 8 which he had been remiss in reviewing with the applicants.

Matt Swinney, resident, spoke in support of the request.

Robert Key, resident, spoke in support of the request saying the extensive conversations have been held with the Lucas regarding their plans.

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

Motion by Mr. Salley to approve the request for special exception based on the testimony and the application, subject to any comments recommended by staff.

Motion seconded by Ms. Brown. Motion approved 5-0.

Mr. Dinkins, Jr. resumed seated position on board.

11. 2017-0096-SE Dist. 1 3810 River Drive (TMS# 09103-05-04), Special Exception to establish a convenience store (Pargan Dhillon, CK Acquisitions) (C-3)

Mr. Cook stated that items 11 and 12 are at the same location however they are two different requests for special exception. For the purpose of testimony, testimony may be heard as one however two separate votes will be required as one is a request for special exception to establish a convenience store and the other is a request for special exception to establish a gasoline service station.

Mr. Cook introduced the request for special exception to establish a convenience. The property currently contains an older retail building about 5,000 square feet which the applicant plans to demolish and replace with a 3,536 square foot convenience store with a four pump gas canopy.

Conditions contained in §17-297 require that prior to approving a special exception to establish or expand a convenience store, the Board must find that – in addition to the standard criteria---the applicant has committed to a "Good Neighbor Plan" which consists of a loitering control program, a litter control program, a sign pledge program, a crime prevention and awareness program, and a neighborhood communication program.

The applicant has provided written confirmation that they intend to operate under these conditions, however the board should review each of these conditions with the applicant in addition to review of the regular criteria required for a request for special exception.

Tom Britt with HB Engineering spoke on behalf of the applicant, Pargan Dhillon, who was in attendance. Mr. Britt presented the request to establish a convenience store. The current property does not comply with the existing landscape ordinance, and minimum parking requirements are not being met, SCDOT access standards are not being met which creates unsafe standards. If this request is approved, all of these issues will be corrected.

Communication has been made with two neighborhoods in the area, Broad River Heights and Riverview Terrace. A meeting was held last night with Riverview Terrace who expressed no concerns regarding the request. As Broad River Heights informed Mr. Britt that they do not meet routinely, handouts showing existing conditions and the proposed project were provided for distribution to the neighborhood; no calls were received from that neighborhood.

The owner has committed to the "Good Neighbor Plan" consisting of consists of loitering control, litter control, a signage pledge, a crime prevention and awareness program, and a neighborhood communication program. This was emphasized with the Broad River Heights neighborhood that there will be a direct line between the neighborhood and the business owner.

Mr. Britt proceeded with review of 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 proposed project will improve vehicular traffic and safety by reducing access from River Drive from two full curb cuts to one right-in and right-out turn only. Full access will be located off Pearl Street which is accessible from an existing left turn lane on River Drive. The sidewalk on River Drive will be upgraded to include detectable warning stripes.
- *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 property will be well lit for safety purposes and meet all City Ordinance with regard to glare and pointing downward to prevent glare to the neighborhood.

Pargan Dhillon, applicant, responded to Ms. Brown saying beer and wine would be sold at the convenience store, however not for on-site consumption.

- *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 project will significantly improve the area and provide more landscaped area than previously. The abandoned block building adjacent to the property will be removed. All large trees at the rear of the property will be preserved.
- *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* The conditions of the Good Neighbor Plan will be adhered to. Communication has been made with the police department and the neighborhood regarding participation in a crime prevention program.
- *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 is not a proliferation of this type of businesses in the 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.* C-3 zoning discourages strip shopping centers, and this project will demolish a strip retail building to replace with a single use retail building. This use is allowed in C-3 zoning.

- Describe how the special exception is appropriate for its location and compatible with the permitted uses adjacent to and in the vicinity of the property. The proposed convenience store will be replacing an existing convenience store which is appropriate for the area. It will provide a good service and convenient access for the area.
- Explain how the proposed special exception will not adversely affect the public interest. Being a convenience store, this project will enhance public interest by providing the local residents with basic goods without having to travel out of their area.

Mr. Britt said in addition there will be underground detention that will include full water quality which will improve the environment.

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

Motion by Mr. Salley to approve the special exception based on the applicant’s testimony and written application subject to the criteria and conditions noted in the application by staff which includes conformity to the Good Neighbor Plan.

Motion seconded by Mr. Dinkins, Jr. Motion approved 5-1 with Ms. Brown in opposition.

12. 2017-0097-SE Dist. 1 3810 River Drive (TMS# 09103-05-04),
Special Exception to establish a gasoline service station (Pargan Dhillon, CK Acquisitions) (C-3)

Mr. Cook introduced the request for special exception to establish a gasoline service station at the same location as the previous case.

Mr. Salley stated as the basic criteria for a request for special exception at this location had been reviewed in the previous case, the applicant could provide a quick review of the criteria in the event any new information presented or questions arose from the board. He asked that all testimony made in the previous request for special exception for the convenience store case be applied to this request for special exception.

Mr. Britt proceeded with review of 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 proposed project will improve vehicular traffic and safety by reducing access from River Drive from two full curb cuts to one right-in and right-out turn only. Full access will be located off Pearl Street which is accessible from an existing left turn lane on River Drive. The sidewalk on River Drive will be upgraded to include detectable warning stripes.
- 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 project will improve the local environment by increasing greenspace on River Drive and Pearl Street, adding stormwater quality features to the drainage system; lights will be in accordance with City requirements and pointing downward to minimize glare; there will be no increase in noise that what is normally created by retail operation; there are no vibrations, fumes, odors, obstructions of air or light associated with the closed use, with the understanding that there were a gas spill, there would be fumes for short period of time. Litter control will be part of the written plan and will include multiple receptacles, daily pick up and pick up along sidewalks;
- The proposed special exception will not have a substantial adverse impact on the aesthetic character of the area, to include orientation and spacing of buildings – clusters of buildings currently facing River Drive will be separated and more greenspace will be created to make better use of the property and generally improving the property; including the removal of the abandoned building which is an eyesore on the property.
- 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. The convenience store itself and the gas pumps will not have any direct adverse impact on public safety. Loitering will be controlled as part of the written plan to be enforced by the owner, and the owner will take part in a crime prevention program with the City of Columbia.

- *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 is not a proliferation of this type of use in the 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.* C-3 zoning is intended for a variety of intended uses providing retail and office uses. Strip developments are not encouraged and this project will eliminate that.
- *Describe how the special exception is appropriate for its location and compatible with the permitted uses adjacent to and in the vicinity of the property.* The proposed convenience store will be replacing an existing convenience store which is appropriate for the area. The service will be improved and will be a convenience to the area.
- *Explain how the proposed special exception will not adversely affect the public interest.* Being a convenience store, this project will enhance public interest by providing the local residents with basic goods without having to travel out of their area. This will provide gasoline and pure products that is more convenient for 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 request for special exception subject to staff comments and based on the testimony and the written application given here today.

Motion seconded by Mr. Dinkins, Jr. Motion carries 6-1 with Ms. Brown in opposition.

IV. OTHER BUSINESS

NONE

V. ADJOURNMENT

There being no further business, motion to adjourn by Mr. Salley.

Motion seconded by Ms. Brown. Meeting adjourned at 11:12AM.

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