
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
May 8, 2018 - 10:00 AM

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

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

Absent: None

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

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.

Rachel Bailey, zoning administrator, noted changes to the agenda since publication. Due to a request received, item #3, originally on the Consent Agenda, was placed on the Regular Agenda. Item #6 was deferred to the June meeting at the request of the applicant.

She then reviewed the meeting format, use of timers and consent agenda.

II. CONSENT AGENDA

A. APPROVAL OF MINUTES

1. Approve April 10, 2018 Minutes

B. OLD BUSINESS

NONE

C. NEW BUSINESS

2. **2018-0030-V** **4101 Roundtop Road (TMS# 13910-05-08)** Variance to the fence height requirements (Edgar Walters) (RS-1)
3. **2018-0032-SE** **902 Harden Street & 926 Harden Street (TMS# 11405-08-02 & 11405-07-17)** Special exception to lease remote parking (Anthony [redacted] Business-Forest Drive Crossfit) (MX-1, -5PU)
4. **2018-0033-V** **126 Atlas Court (TMS# 16310-05-84)** Variance to the off-street parking requirements (Hoyt Burnett, The Landplan Group South) (M-2)
5. **2018-0034-SE** **2917 Rosewood Drive & 2909 Rosewood Drive (TMS# 11314-07-08 & -09)** Special exception to lease remote parking (Megan Keatley, Base10 Fitness, LLC) (C-3)

6. 2018-0035-SE 3421, 3423, 3423 ½ N. Main Street (TMS# 09112-08-03, 04, & 05)
Special Exception to expand an existing residential care facility (Providence Home) (John Powell) (MX-1, -NC)

DEFERRED

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

Motion by Mr. McMeekin to approve the April 10, 2018 Minutes as well as New Business items 2, 4 and 5 as provided in the recommendations of staff.

Motion seconded by Mr. Dinkins, Jr. Motion passes 6-0.

Recusal by Mr. Salley from item 8, 3006 Devine Street, and item 12, 3006 Devine Street and 3014 Devine Street, as his company is involved in this property. Vice-chairperson, Calhoun McMeekin, will chair for this case.

III. REGULAR AGENDA

A. OLD BUSINESS

7. 2018-0019-SE 1732 Heyward Street UTIL A Special exception to establish a Wireless Communication Facility (cell node) (Doug Fulcher, Agent MasTec Network Solutions by Agent Dougherty Design Builders, AT&T Mobility Corporation) (RS-3, -C)

DEFERRED

12. 2018-0036-SE 3006 Devine Street & 3014 Devine Street (TMS# 13804-16-02 & -03) Special exception to lease remote parking (Frank Cason, Cason Development Group) (C-2)

Moved to be heard with item #8

Rachel Bailey, zoning administrator, introduced the request, as well as item #12, 2018-0036-SE, special exception to lease remote parking, which is an associated item. She stated that if the Board wished to do so, a motion could be made to hear those items simultaneously.

Motion by Mr. McMeekin to hear case 2018-0013-Variance for 3006 Devine Street, as well as 201-0036-Special Exception for 3006 Devine Street and 3006 & 3014 Devine Street. The items will be heard together however findings and approval will be done separately.

Motion seconded by Mr. McKnight

Ms. Bailey provided background to the Board regarding the special exception which is to lease remote parking at the neighboring parcel for ten spaces which will be exclusive for the restaurant during the time of the lease.

The special exception will be enforceable by the City. The variance is being applied for the 18 spaces available onsite as that lease is not for the full hours of operation. That is the reason both requests could be heard together.

Frank Cason of Cason Development Group, applicant, presented the request for special exception and reviewed the proposal.

Mr. Cason reviewed the criteria required for a proposed special exception:

- Will not have a substantial adverse impact on vehicular traffic, or vehicular and pedestrian safety because the necessary and required amount of parking this use is provided on an existing parking lot.
- Will not have a substantial adverse impact on adjoining properties in terms of environmental factors such as noise, lights, glare, vibration, fumes, odors, obstruction of air or light, and litter as the proposal is to use existing parking lots.
- Will not have a substantial adverse impact on the aesthetic character of the area, to include a review of the orientation and spacing of buildings as it is consistent with the aesthetic character of the area; no buildings will be moved as the existing structures will be maintained.
- Will not have an adverse impact on public safety or create nuisance conditions detrimental to the public interest or conditions likely to result in increased law enforcement as the existing parking lots are connected to the building and behind the existing building.
- Does not create a concentration or proliferation of the same or similar types of special exception 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 as other properties in the area do not have a special exception for leased offsite parking.
- 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 as the proposed special exception does allow the utilization of the property to its best use that the zoning allows; the current zoning allows for a restaurant use.
- Is appropriate for its location and compatible with the permitted uses adjacent to and in the vicinity to the property due to the lack of onsite parking, the proximity to other restaurants, and this property has more onsite parking than any other restaurant in the area with the exception or Urban Cookhouse next door.
- The proposed special exception will not adversely affect the public interest. It is felt that it will benefit the public interest by providing more parking than is onsite and a new restaurant to the area.

Members of the public were then invited to speak in favor or in opposition of the request.

Bob Hallman, Shandon resident, opposed
 Lyn Phillips, Shandon resident, opposed
 Tom Carlisle, Oakwood Court president, opposed
 Susan Craig, resident, opposed
 Leah Lake, resident, opposed
 Donnie Turner, resident, opposed

Cantzon Foster, business owner and resident, support
 Anthony Carboni, business owner, support
 Emile DeFelice, resident, support

As no one else spoke in favor or opposition of the request, the applicant was allowed time for rebuttal of comments made by the public.

Testimony closed for board discussion.

Ms. Bailey reminded the Board that two separate motions were required; one for the request for special exception and one for the request for variance.

Motion by Mr. McMeekin to approve the request for special exception for 3006 and 3014 Devine Street, case #2018-036-SE, to include all the information provided by staff in the staff comments on pages one and two of the packet, to give the applicant the ability to lease 10 offsite parking spaces.

It is Mr. McMeekin's opinion that by granting this special exception, there will be no adverse impact on vehicular traffic or pedestrian safety, the applicant has made provision

to alleviate that; no adverse lighting to the environment; there will be no adverse impact on adjoining properties in terms of the environmental factors or aesthetics; there is no adverse impact on public safety, or create nuisance conditions or conditions likely to result in increased law enforcement; this does not create a concentration or proliferation of this type of use in the area; it is a good use and is within the character and intent of the zoning district description; and there will not be adverse impact on public interest, but to the contrary is a good thing for the Devine Street corridor and for Columbia as a whole.

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

- 8. 2018-0013-V 3006 Devine Street (TMS# 13804-16-02)** Variance to the off-street parking requirement for proposed restaurant use (Frank Dougherty, Cason Development Group) (C-2)

Frank Cason of Cason Development Group, applicant, presented the request for variance and reviewed the proposal.

Mr. Cason reviewed the criteria required for a proposed variance.

- There are extraordinary and exceptional conditions that pertain to the subject property as the property is in an extremely dense area (Devine Street) so there is limited parking, especially with the parking requirement being so high.
- The conditions noted above do not generally apply to other property or structures in the vicinity as there are other properties that do not require as much parking based on their uses and some have access to leased off-site parking.
- Requirements of the Zoning Ordinance would effectively prohibit or unreasonably restrict the utilization of the subject property if upheld as it would not allow this use, which is the best use for this property.
- Granting of the variance will not be of substantial detriment to adjacent property or to the public good. Additionally, the granting of the variance will not harm the character of the district. Devine Street district is pedestrian friendly, so if people need to park and walk to the building, it will be no different than some of the other properties in the district, and will add to the character of the district.
- The variance request is the minimum necessary as the request acknowledges the use of all 18 on-site parking spaces available so it is the minimum necessary.
- The proposal is in harmony with the purpose and intent of the Zoning Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The intent of the Zoning Ordinance, from the applicant's perspective, is to ensure there is enough parking for each specific use and with the agreements that has been worked out with a nearby parking lot, it is believed enough parking has been provided for this use.

Members of the public were then invited to speak in favor or in opposition of the request.

Bob Hallman, Shandon resident, opposed
Michael Drennan, Shandon Neighborhood Council, opposed
Sally Turner, resident, opposed
Lyn Phillips, resident, opposed
Tom Carlisle, resident, oppose
Alice Parrot, business owner, opposed

Cantzon Foster, business owner and resident, support
Brett Warren, resident, support

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

Motion by Mr. Dinkins, Jr. to approve the variance to parking requirements for an eating place at 3006 Devine Street subject to all staff comments.

Motion seconded by Mr. McKnight.

Motion restated by Mr. Dinkins, Jr. as there are extraordinary and exceptional conditions as the subject property is in an extremely dense area (Devine Street) and there is limited parking, there are many different modes of transportation in the area and many reductions in parking have been granted as people are finding alternate ways to get to alternate sites; it is felt these conditions do not generally apply to other properties or structures in the vicinity, it is an unique site; by not granting this variance, it would prohibit or unusually restrict the utilization of the property, the current Zoning Ordinance allows for the use of a restaurant in this area; granting of the variance will not be of substantial detriment to adjacent property; it is the minimum necessary, as all the spaces on site will be used as well as obtaining ten adjacent parking spaces to lease; it is in harmony with the purpose and intent of the Zoning Ordinance, it is a commercial district with a lot of restaurants and shops, and is felt to be a good fit.

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

Chair resumed by Mr. Salley.

Motion by Mr. Salley for a short break at 11:30AM. Motion seconded by Mr. McKnight. Motion carries 6-0.

Motion by Mr. Salley to resume the meeting at 11:38AM. Motion seconded by Mr. McMeekin. Motion carries 6-0.

9. **2018-0028-SE 3126 Two Notch Road (TMS# 11614-07-09)** Special exception to establish an automotive service use (Anthony Hunter, Hunter Construction) (C-3)

Rachel Bailey, zoning administrator, introduced the request for special exception.

Anthony Hunter, applicant, presented the request on half of the business owner to establish a tire change and repair facility in an existing building on the property.

Mr. Hunter reviewed the criteria required for a special exception.

- Will not have a substantial adverse impact on vehicular traffic, or vehicular and pedestrian safety because there is sufficient parking onsite to handle the business.
- Will not have a substantial adverse impact on adjoining properties in terms of environmental factors such as noise, lights, glare, vibration, fumes, odors, obstruction of air or light, and litter as the property owners own three of the four adjoining buildings, and the fourth building is currently vacant. All services offered can be done inside of the buildings.
- Will not have a substantial adverse impact on the aesthetic character of the area, to include a review of the orientation and spacing of buildings as the buildings will all be part of an aluminum glass storefront facility.
- Will not have an adverse impact on public safety as there are three existing curb cuts on the property as well as a traffic light at one of the curb cuts.
- Does not create a concentration or proliferation of the same or similar types of special exception use as there adequate in and out ways so it is felt there will not be congestion of traffic flowing in and out of the parking lot.

- Is consistent with the character and intent of the underlying district as indicated in the zoning district description as there is no tire service of this kind of business in the area.
- Is appropriate for its location as this is a service that can actually serve the community quickly and efficiently.
- The proposed special exception will not adversely affect the public interest. It is felt this business will bring and adverse effect to the area, it will be something welcome. It is felt there is a sufficient need for this kind of business in the area. The business will for tire operations only: tire changing, balancing, selling of new and used tires, and offering a warranty for the new tires.

The only type of work to be done at the facility is tire work. There will be no outside storage or display of any type or tires on the outside property. There is an empty building at the rear of the property where tires can be stored if needed. It is felt that this type of business is certainly better suited for the area than the previous business.

Members of the public were then invited to speak in favor or in opposition of the request.

- Diane Wiley, president of Belvedere Neighborhood, voiced opposition

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

Motion by Mr. Salley to approve the request for special exception based on the testimony of the testimony heard today as well as the written testimony. Approval is stipulated on the fact that there will be no outdoor display or storage of tires of any kind at the front of the building, tires must be stored in a covered, screened area at the rear of the property.

Motion seconded by Mr. McMeekin. Motion passes 6-0.

10. **2018-0029-SE 3132 Two Notch Road (TMS# 11614-07-07 & 11)** Special Exception to establish a convenience store (Anthony Hunter, Hunter Construction) (C-3)

Rachel Bailey, zoning administrator, introduced the request stating for the record that no Good Neighbor Plan was submitted to staff.

Anthony Hunter, applicant, requested withdrawal of the request to allow for a meeting with the community regarding the plans. He will speak to the owners and express this is the best thing to do at this time, and then reapply with a new request.

A. NEW BUSINESS

11. **2018-0031-SE 6401 Easter Street (TMS# 14302-04-01)** Special exception to establish a residential care facility (Dudley Newell, DKN&A Enterprises) (RS-2)

Rachel Bailey, zoning administrator, introduced the request.

Angela Staples, applicant, presented the request to use the property for temporary housing for homeless veterans. Ms. Staples said there will be house rules, background checks, monthly drug tests, and housing will be for no longer than six months.

Dudley Newell, property owner, spoke on the request. Staff made Mr. Newell aware of neighborhood concerns and provided him with the two individuals' names. Mr. Newell said three different attempts were made to contact each of the individuals without any responses received.

Mr. Newell reviewed the criteria required for a special exception.

- Will not have a substantial adverse impact on vehicular traffic, or vehicular and pedestrian safety because there is an existing driveway on the property to be used for loading and unloading, and it will not disrupt traffic as there will be only one vehicle at a time. There is public transport for residents.
- Will not have a substantial adverse impact on adjoining properties in terms of environmental factors such as noise, lights, glare, vibration, fumes, odors, obstruction of air or light, and litter as there will be no changing of anything on the outside, and all activities will be indoor activities only.
- Will not have a substantial adverse impact on the aesthetic character of the area, to include a review of the orientation and spacing of buildings as the buildings as the property will be used to house homeless veterans.
- Will not have an adverse impact on public safety or create nuisance conditions detrimental to the public interest or conditions likely to result in increased law enforcement as a staff member will be on the property.
- Does not create a concentration or proliferation of the same or similar types of special exception use, which concentration may be detrimental to the development or redevelopment of the area in which the special exception use is proposed to be redeveloped as there are no other such facilities in the area.
- 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 as this is a residential area and the proposal is for residential use.
- Is appropriate for its location and compatible with the permitted uses adjacent to and in the vicinity of the property as the area is underserved. Ms. Staples has spoken to the VA social workers who will recommend veterans in need.
- The proposed special exception will not adversely affect the public interest as this will take people off the street which will help the community.

Board members commended the applicants for their good intentions, however voiced their concerns with the proposal.

The applicants requested withdrawal of the request to again attempt contact with neighborhood residents, to return with a business plan, and to provide a copy of their house rules.

As a large number of individuals were in attendance for this case, Mr. Salley invited members of the public to speak in favor or opposition of the request.

Charmaine Pope-Clowney, resident, said most of the Greenview residents were opposed to this request

- 12. **2018-0036-SE** **3006 Devine Street & 3014 Devine Street (TMS# 13804-16-02 & -03)** Special exception to lease remote parking (Frank Cason, Cason

Moved to be heard with item #8

- 13. **2018-0037-V** **413 Pendleton Street (TMS# 08911-01-07)** Variance to the landscaping compliance and maintenance requirement for irrigation (Fred Delk, Columbia D

WITHDRAWN

Reggie McKnight, board member, left the meeting at this time, 12:32PM, quorum was still retained.

- 3. **2018-0032-SE** **902 Harden Street & 926 Harden Street (TMS# 11405-08-02 & 11405-07-17)** Special exception to lease remote parking (Anthony Carbone, Five Points Fitness-Forest Drive Crossfit) (MX-1, -5PU)

**Moved from
Consent Agenda
Board of Zoning May 8, 2018**

Rachel Bailey, zoning administrator, introduced the request for special exception to allow leased remote parking for a physical fitness center.

Anthony Carbone, applicant, presented the request and provided background on the proposal. Classes will be held in the early morning at 5AM, 6AM and 7AM at this facility, with the facility closed in the afternoon, and evening classes to be held at 5PM, 6PM and 7P Monday through Friday, with a request for special exemption to hold a 9AM class on Saturday and Sunday.

Mr. Carbone reviewed the criteria required for a special exception.

- Will not have a substantial adverse impact on vehicular traffic, or vehicular and pedestrian safety and adequate provision are made in the proposed exception for parking and for loading and unloading as an agreement has been made to lease the required ten spaces. The lease for parking is contingent upon approval of the request today.
- Will not have a substantial adverse impact on adjoining properties in terms of environmental factors such as noise, lights, glare, vibration, fumes, odors, obstruction of air or light, and litter. There will be music played for the workouts, however there is nothing adverse with the request.
- Will not have a substantial adverse impact on the aesthetic character of the area, to include a review of the orientation and spacing of buildings as the existing property will be used. It is an old building and a beautification of the premises is proposed if the request is approved.
- Will not have an adverse impact on public safety or create nuisance conditions detrimental to the public interest or conditions likely to result in increased law enforcement response as this will be an alternative use for students and young professionals for early morning and evening.
- Does not create a concentration or proliferation of the same or similar types of special exception use, which concentration may be detrimental to the development or redevelopment of the area in which the special exception use is proposed to be redeveloped because of the hours of operation for this business, concentration will be minimized.
- 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 as 5Points is moving away from cheap bars with underage drinking. The addition of Pure Barre and City Yoga has been great for the district, and it is felt this gym will continue that enhancement.
- Is appropriate for its location and compatible with the permitted uses adjacent to and in the vicinity of the property as the proposal has similar values with other businesses in the area.
- The proposed special exception will not adversely affect the public interest as this will provide a healthy option to 5Points to support marathons, neighbors and businesses. It is felt there will be no negative effects on the neighboring area.

Members of the public were then invited to speak in favor or in opposition of the request.

Nancy Alano, neighboring business (vet) owner, opposed

Brad Collins, university professor, opposed

Charles Thompson, area property owner, opposed

Stuart M. Lee, attorney for Heritage Investment Co., LLC, opposed

Mr. Carboni provided rebuttal to concerns regarding parking issues. He said there will be ten class maximum, signage for parking, and no outdoor activities.

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

Motion by Mr. Salley to approve the request for special exception based on testimony of the applicant and the written application with the following stipulations: on Monday through Friday, they will have only six group classes, three classes in the morning from 5AM, 6AM and 7AM in 45 minute duration each, and three classes in the evening at 5PM, 6PM and 7PM 45 minutes each with no more than ten clients in each class. The applicant will maintain control of ten off-site parking spaces in the general vicinity of the business at all times.

As there was no second, the motion fails.

Motion by Mr. McMeekin to deny the request for special exception for 902 Harden Street & 926 Harden Street, case 2018-0032 based on the eight criteria required for special exception. It is felt the request:

- **Will have an adverse impact on vehicular and pedestrian safety as there are no safeguards from the applicant to prevent that;**
- **With regard to public safety and nuisance conditions, this ties in with criteria 1 regarding public safety;**
- **With the potential to have not only people outside, but the risk of other business owners having to confront individuals on their private property;**
- **Is not compatible or appropriate for this location, or compatible with other uses adjacent to and in the vicinity of the property; and**
- **It will have an adverse impact on the public.**

Motion seconded by Mr. Dinkins. Motion carries 4-1 with Mr. Salley in opposition.

V. OTHER BUSINESS

None

V. ADJOURNMENT

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

Motion seconded by Mr. McMeekin. Meeting adjourned at 1:27PM.

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