
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
JANUARY 13, 2015- 10:00 AM

City Hall Council Chambers
1737 Main Street • Columbia, SC

In attendance: Ernest Cromartie, III, Patricia Durkin, Reggie McKnight, Calhoun McMeekin, Chuck Salley, Preston Young

Absent: Dr. Pat Hubbard

Staff: Brian Cook, Andrew Livengood, Andrea Wolfe

I. CALL TO ORDER and DETERMINATION OF QUORUM

Ernest Cromartie, chairperson, called the meeting to order at 10:02 AM, and introduced the members of the Board of Zoning Appeals (BOZA).

Brian Cook, Zoning Administrator, reviewed the Consent Agenda as presented.

II. CONSENT AGENDA

A. APPROVAL OF MINUTES

Approve December 9, 2014 Minutes

B. OLD BUSINESS

None.

C. NEW BUSINESS

1. **15-004-SE Dist. 2 2638 Two Notch Road (TMS# 11516-09-21)** Special Exception to establish a drive-through pharmacy (Brad Moore, BRR Architecture) (C-3)

2. **15-005-SE Dist. 2 2638 Two Notch Road (TMS# 11516-09-21)** Special Exception to establish a gasoline service station with convenience store (Brad Moore, BRR Architecture) (C-3)

No one spoke in favor or opposition of the requests, or requested that they be removed for discussion.

Motion by Mr. Young to approve the December 9, 2014 Minutes 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. Salley.

After approval of the motion, Alex Furgess, a member of the public, requested discussion of Consent Agenda items 1 and 2.

Chairperson Cromartie held the current motion in abeyance, and sought a new motion to reopen the Consent Agenda.

Motion by Mr. Young to reopen the Consent Agenda to remove items 1 and 2 for discussion; motion seconded by Mr. McMeekin.

Motion approved 6-0.

As these items were moved to the Regular Agenda, Mr. Cromartie explained the process for Ms. Furgess stating the applicant would present the items, and then the public would have the opportunity to speak or ask questions.

Mr. Cook announced the cases for the record. The cases will be presented concurrently on the Regular Agenda under New Business.

III. REGULAR AGENDA

A. OLD BUSINESS

None.

B. NEW BUSINESS

- 1. 15-004-SE Dist. 2 2638 Two Notch Road (TMS# 11516-09-21)** Special Exception to establish a drive-through pharmacy (Brad Moore, BRR Architecture) (C-3)

- 2. 15-005-SE Dist. 2 2638 Two Notch Road (TMS# 11516-09-21)** Special Exception to establish a gasoline service station with convenience store (Brad Moore, BRR Architecture) (C-3)

Brad Moore, BRR Architecture, presented on the requests for Special Exception to establish a drive-through pharmacy and a gasoline service station with convenience store which will be located on the same lot with the same address. As all of the criteria required for a special exception were clearly addressed in the application, Mr. Moore addressed community concerns regarding what specifically would be placed at the site, and how it will impact the area.

This property is located at the intersection of Covenant and Two Notch Road. The applicant is proposing to demolish a portion of the existing strip commercial center, and construct a 41,000 sq. ft. grocery store with a drive through pharmacy and adjoining six-bay gasoline station with a 740 sq. ft. kiosk. The kiosk will be for cash customers. Under the City of Columbia Ordinance, kiosk center falls under convenience store language.

For clarification, Mr. Cook stated the larger retail grocery store is permitted outright on the property. The drive through pharmacy, the gasoline service station, and the small building where one pays for gas or can get a snack classified as a convenience store; will all require a special exception. The small building and gasoline station are tied together because they meet the definition. The larger building (grocery store) does not require a special exception and will be the chain for the accessory uses.

Mr. Salley felt the application was one of the most thorough addressing each criterion of the special exception since he has been on the Board.

Ms. Furgess voiced concerns with the grocery store and large number of convenience stores in the area. She was unaware of any contact being made with the neighborhood to ask their opinions regarding the proposals, and voiced opposition to the requests.

Arthur Butler, resident, voiced concerns regarding the requests for special exception.

Diane Wiley, President of the Belvedere Neighborhood Association, spoke in opposition of the request.

Curtis Kounts, resident, spoke in opposition of the request.

Carl Frederick represented the Edgewood/Read Street Community Improvement Cooperative Council. Mr. Frederick said the property was posted, but felt the signage was not noticeable. Mr. Frederick questioned if these would be separate businesses, and asked where the gas tanks would be located

Mr. Cook stated the property was properly posted. This is one project. The 41,000+ sq. ft. retail store with the attached pharmacy, and the accessory convenience store/kiosk with the gas pumps are all tied together under one project according to the application, documents have been submitted that will be retained as one cohesive development that will remain as such.

Staff reiterated that the majority of the existing building will be demolished and will be a brand new retail grocery store. The proposed six-bay gas station will be an accessory to, but affiliated with the retail business. The 740 sq. ft. convenience store/kiosk where one can go in to pay for gas, and get some snack will be up toward Two Notch Road. A large portion of the existing building will be gone, and landscaping will be provided. Again, this is a cohesive project where the convenience store will tied to the retail store, and the drive through pharmacy will be between the gas station and the retail store. Visually it will certainly look better.

Mr. Moore addressed issues raised by community members, the gas station/convenience store, and difference between a kiosk and convenience store. Typically, a convenience store is a large area that sells a multitude of things, actually has aisles in it, a large cashier area, and is a small version of a grocery store.

The 740 sq. ft. rectangular kiosk area has a cashier area with a counter, a small office behind the cashier counter, a public restroom, a desk-sized beverage area in the center of the building, small stands on the perimeter have chips and candy bars, there are two cooler cases that have ice, cans, six packs and cases of drinks, milk, and some limited beer. The grocery itself is where one will stock on groceries and food items.

The pharmacy is within the footprint of the grocery store. The drive through lane pulls up through the western wall to allow the customer to pick up/pay for prescriptions without getting out of the car.

Customer research was not done typically in the area. This development is a prototypical design coast-to-coast, so the nationwide research was done to show what is typically desired in an area.

Most of the existing grocery shopping center will be removed and the new structure built that will meet City landscaping requirements, and will conform to all City requirements, and adhere to the Good Neighbor Plan as well.

For clarification, Chairperson Cromartie restated the shopping center will contain a mainline grocery store; the

drive through pharmacy will allow vehicles to pull up along one side of the grocery store to pick up prescriptions, or people can go inside the grocery store; and then there is the area where one can pump gas. He confirmed with staff that the use of the term 'convenience store' was because there is no kiosk language. Therefore it is not a convenience store in the regular sense, but is a place to pay for gas so you do not have to swipe your card at the pump. This will also allow someone to get a coke or pick up something small instead of going to the grocery store.

The gas tanks will be underground storage tanks as regulated by SCDHEC. And are stored underground to allow for fuel trucks to maneuver around.

Mr. Cook referred to a letter received from Mr. Moore, dated December 31, 2014, acknowledging full compliance / engagement of the Good Neighbor Plan. The five points being: Loitering Control Program, Litter Control Program, Sign Pledge Program, Crime Prevention & Awareness Program, and Neighborhood Communication Program. The key component is the Neighborhood Communication Program, and staff can serve as a liaison between the proposed business and the neighborhoods that may have interest if this does move forward. If the business is not being run as it should be based on the Good Neighbor Plan, the owner acknowledges that they will work with the neighborhood association to address and rectify those situations. The neighborhood and owner representatives can be given contact information for any issues they have that may impact adjacent neighborhoods and area. Staff can provide a copy of this letter to the neighborhood association and anyone that is interested.

Chairperson Cromartie said if the request is approved based on the criteria for special exception, and including the Good Neighbor Plan as an additional criterion, he would strongly encourage the applicant to provide his contact information and maintain contact with stakeholders in the neighborhoods to remain in conformance with the Good Neighbor Plan.

With regard to the issues with posting, if staff will ensure posting is compliant with regulations and more in the forefront to be helpful with communities in future instances.

Additional comments were taken from the community.

Ms. Furgess again voiced concerns that Mr. Moore did not contact the neighborhoods or surrounding areas regarding the requests, and questioned which specific grocery store would be placed at the location.

Ms. Wiley said Mr. Moore did not contact her regarding the requests as proposed. She does not want any other convenience stores in the area.

Chairperson Cromartie asked if the terminology of the difference between a convenience store, in the traditional sense, and a kiosk was clear. His understanding is the word convenience store is being used because that is the only category in which what is being placed there will fit. Convenience store is probably a misapplication, but in terms of the categories in the code, convenience store is the only category for what the applicant is proposing that will fit. What the applicant stated is that a kiosk will be there. By kiosk meaning a 740 sq. ft. building with a restroom, a cash register, and a few stands for soda and chips.

He understands the frustration of the neighborhood with the three or four convenience stores in the traditional sense that are there. They are large and sell beer, wine and gas. By testimony of the applicant, the only thing the Board is allowed to approve is a small 740 sq. ft. structure where, if someone does not want to swipe their credit card, can walk up to a window and pay for gas, and pick up a bag of chips or soda.

Mr. Butler questioned the actual location of the proposed grocery store, which staff verified.

Mr. Frederick felt these businesses would be a replica of the convenience stores and gas stations in the area, and there is a proliferation of them in the area. The neighborhoods would like a better feel of what is being proposed for the location that will have an impact on their community for a lifetime.

Chairperson Cromartie asked the applicant for a final response to the community. As a public statement this discourse is representative of two things: 1) this is the public forum in which one can come forward and ask questions of the applicant. He commended everyone who took time out from their jobs and other activities to protect and defend their community. 2) This discourse is a prime example of why applicants should reach out to communities prior to zoning. A lot of these questions could be addressed and concerns allayed prior to this meeting. It is not required, it is a courtesy and that is why there are these venues to ask questions. He asked that some of those concerns be addressed, and then move forward in whatever way the Board sees as the best way to meet the needs of the City.

Mr. Moore said the community has a vested interest in this area and this is a good opportunity to bring things to this area. The proposed business owner has every intention to be a very good neighbor. The property has not been closed upon at this time pending outcome of this meeting. If the special exception requests are granted, it is presumed the property will be closed on, and a public announcement can be made at that time. Mr. Moore said they will be more than willing to have dialogue and share information with anyone who has any concern. It was felt it was too premature to do that prior to this meeting and not have the visual information available to present, just having a 'descriptive dialogue' over the telephone.

He stated this is a traditional national chain grocery store; it is not an alcohol sales business, and he feels the Board can place any type of restrictions to prevent that.

In response to issues raised by the community, Chairperson Cromartie said that he understood there is a pending closing and some issues with confidentiality, so the specific name of the store cannot be named. He also heard that it may have been premature to have too much community involvement because the closing has not transpired.

He asked staff to what extent the testimony of the applicant could be relied upon to be a good neighbor and comply with these issues in the Good Neighbor Plan. The applicant has voluntarily included this; but he questioned how it could be ensured that this is part of the application, and becomes paramount to what their responsibility is as the applicant with the special exceptions being granted. Part of the chairperson's expectation, if approved, is that the applicant will reach out and do this. They will establish some sort of community involvement, discussion and discourse.

Mr. Cook stated that because of the recently passed Good Neighbor Plan (which came about in conjunction with a meeting with a lot of community members and Councilman Davis and other Council members to help craft the Ordinance), it is just like the Special Exception criteria - part of the special exception approval under the Good Neighbor Plan. It is required by the City Ordinance. The Good Neighbor Plan covers loitering, litter, signage, crime prevention and awareness, and the neighborhood communication program which is the most important key element today. If the proposal is approved and the applicant chooses to ignore any of the five elements of the Good Neighbor Plan, they will be in violation of the Special Exception criteria; thus voiding the approval. Therefore the 'conditions do have teeth' and can be enforced by the City.

Chairperson Cromartie stated that he asked that question to get an answer as he wanted both the applicant and the community members to hear that part of the application is the Good Neighbor Plan. He said he wanted the community to get familiar with the Good Neighbor Plan, if they are not familiar with it, and ensure that this applicant or any applicant complies. It is a new Ordinance and what the City is requiring when someone comes into the communities. It works both ways, and states when one comes into the community, they must communicate and be a part of it. He wanted to ensure that the applicant heard this and that the community

members also heard that there are 'some teeth' in the special exception that require discourse and discussion to ensure that corporate entities are good neighbors in the communities and neighborhoods of the City of Columbia.

Testimony closed for Board discussion.

Ms. Durkin felt there was good community turnout and discussion at the meeting. Throughout the discussion, she heard there are many churches in the neighborhood. Churches do not pay taxes as businesses do; and she feels more viable tax paying businesses are needed in the area. Ms. Durkin suggested the community get with their local representative regarding concerns with signage issues. With regard to the kiosk, perhaps a common ground can be found if there is no sale of alcohol.

Mr. Salley said if this development moves forward, it will be the first concept of this kind in the City of Columbia. It is interesting that the first concept was chosen for this location as it is an extremely nice concept. He felt it gave some privilege to the neighborhood to have been chosen as first to bring it here.

Councilperson Cromartie asked staff what the proper protocol for a motion would be, whether each item should have a separate motion or one motion made for both.

Staff advised it best to have a separate motion for each request in the event one motion fails.

Motion by Mr. Salley to approve the request for special exception at 2638 Two Notch Road to establish a drive-through pharmacy based on the information provided by the applicant in regards to vehicular and pedestrian safety, environmental factors, aesthetics, public safety, concentration of this particular type of establishment, consistent with the character of the development, compatibility of the development for the neighborhood, and also the public interest as stated in the applicant's written application.

Motion seconded by Mr. McMeekin. Request for special exception granted 6-0.

Mr. Cook reminded the Board that in addition to the Special Exception criteria for this request, items 1 through 5 of the Good Neighbor Plan needed to be addressed in the motion for the convenience store request.

Motion by Mr. Salley to approve the request for special exception at 2638 Two Notch Road to establish a gasoline service station with convenience store based on the written response from the applicant in regards to vehicular and pedestrian safety, environmental factors, aesthetics, public safety, concentration of this particular type of establishment, character of the development, compatibility of the development within the neighborhood, and in the public. Approval is also conditioned upon the applicant establishing the Good Neighbor Plan.

Motion seconded by Ms. Durkin. Request for special exception granted 6-0.

Motion by Mr. Young to approve the December 9, 2014 Minutes. *Motion seconded simultaneously by Mr. McMeekin and Mr. McKnight. Motion approved 6-0.*

Mr. Cook added that those from the community wishing further information from the applicant should provide their contact information to Deputy Zoning Administrator, Andrew Livengood.

Recess taken at 11:15 a.m. Meeting resumed at 11:21 a.m.

3. 15-001-V Dist. 2 3 and 11 New York Avenue (TMS# 11510-03-13) Variance to the parking requirements for dwelling units (Live Oak Place, LLC) (RG-1)

Tom Runge, applicant, presented on the request to locate four affordable housing units on a 20,000 sq. ft. long rectangular lot. Two units will be placed up front and two placed in the back. In order to best develop the lot, there will be no on-site parking. Parking will be located on the adjacent property, which is St. Lawrence Place, the parent company.

This will be a consistent product with a more efficient use of the property. Parking on the adjacent property will allow at least 18 marked spaces for the Live Oak Project. It will also remove parking off the project, remove cars traversing over and across the lot between units and ingress and egress to Waites Road, it will provide a safer parking area, and provides better access to the units. To place the parking spaces on the Live Oak Place property will interfere with its ability to develop to its best and highest use, as well as require a substantial amount of impervious surface and paving, as well as creating a safety hazard with four families on this very small parcel. Parking on the St. Lawrence Place property will parking directly in front of the four units, and allow for nice access to the parking area for the residents. Relocating the spaces will not cause any issues in the neighborhood as it is felt that Live Oak Place is an extension of St. Lawrence Place and the shared parking is a nice solution to the challenges of getting the affordable housing units on the property. It is in harmony with the neighborhood and single residences across the street.

Chairperson Cromartie said should the Board be inclined to approve this request, staff requested that no curb cuts are allowed on Waites Road from the subject property unless providing access to the parking spaces serving the two duplexes as a condition of approval.

Mr. Runge agreed saying it is their preference to avoid any access on Waites Road to the property as it will remove vehicular use from the property and make it a safer environment for the residents. He agreed to this as a condition for approval.

No one spoke in favor or opposition to the request.

Testimony closed for Board discussion.

Motion by Mr. Salley to approve the request for variance for 3 and 11 New York Avenue to the parking requirements for dwelling units based on the applicants testimony that there are extraordinary and exceptional conditions pertaining to this specific property. These conditions do not generally apply to other properties in the area. The authorization of this variance will have no substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed. It is believed that the applicant is asking for the minimum necessary for this variance and it will be in harmony with the general purpose and intent of the Zoning Ordinance. Approval is conditioned upon the applicant agreeing not to have a curb cut on Waites Road as stated by Staff in the application.

Motion seconded by Mr. McMeekin. Request for variance approved 6-0.

4. [15-003-SE](#) Dist. 3 7451 Garners Ferry Road (TMS# 16312-01-09 and 16312-01-08) Special Exception to establish a mini-warehouse (Zulema Longoria, Amerco Real Estate Company/U-Haul International Company) (C-3)

Bill Stern, property owner, presented on behalf of the applicant, U-Haul International/Amerco Real Estate. The request for Special Exception is for redevelopment of the vacant former Piggly Wiggly grocery store and vacant lot into a combination warehouse/mini-warehouse storage and rental display area, with a covered RV storage area on the side.

A preliminary site plan has been submitted. If the request is approved, a subsequent site plan will need to be submitted and reviewed. Staff will need to work out details regarding the fence/wall requirements of §17-260(b)2. Pending the site plan and fence requirements, all other criteria appears to have been met.

Chairperson Cromartie stated for the record that it is the opinion of staff that the information provided by the applicant complies with the criteria for special exception in respect to:

The proposed special exception will not have an adverse impact on vehicular traffic or pedestrian safety.

The proposed special exception will not have an adverse impact on adjoining properties.

The proposed special exception will not have a substantial adverse impact on vehicular traffic or pedestrian safety.

The proposed special exception will not have an adverse impact on adjoining properties in terms of environmental factors such as noise, lights, glare, vibration, fumes, odors, obstruction of air or light.

The request will not have a substantial adverse impact on the aesthetic character of the area.

The request will not have a substantial adverse impact on public safety or create nuisance conditions.

The establishment of the proposed special exception will not create a concentration or proliferation of the same or similar types of special exception.

The proposed special exception is consistent with the character and intent of the underlying district.

The proposed special exception is appropriate for this location.

The proposed special exception will not adversely affect the public interest, excluding the discussion regarding fencing.

Staff agreed saying it is up to the Board to make that determination. Based on the information that staff has been provided, they are comfortable with the use being approved for special exception, pending any specific items that need 'ironing out' as far as site plan and actual construction, fencing, landscaping, building code; standard issues required for any site plan review.

Mr. Stern reviewed the preliminary site plan. The RV park area will be screened in. The front area facing Garners Ferry Road is where they would like consideration on for no fencing. It has been determined in the last 3 ½ years that fencing does not need to be used at any U-Haul locations.

- they use state-of-the-art fencing,
- have 24-hour manned security,
- each individual unit has a keycard that gives the occupant the ability to enter the unit
- the manned operator has the ability to view the individuals entering the unit/see how long they are in the unit/when they lock the unit,
- the manned security has the ability to lock the unit remote, if left unlocked, and can call the owner of the unit if needed.

U-Haul has found when a fence is put around the area, it draws attention to the facility; having people hang

around the area or break into the area. They are trying to create more of a safe environment. All of the doors open to the inside of the units, with no doors opening out.

They are willing to put vegetation for beautification in lieu of fencing. The vegetation would be quick growing hedges to screen the area. There will be units inside of the large unit, and some stand-alone units.

Staff stated a special exception is required to establish the use for mini-warehouse, and a supplemental condition of that approval is to have a fence or wall around the open perimeter of the project, probably for security. The wording 'open perimeter' leaves some room for interpretation. If the Board is inclined to approve the request, approval should be conditioned upon the additional landscaping to be added along Garners Ferry Road to provide screening.

The applicant agreed stating a landscape architect can be hired to work with staff with regard to the appropriate landscaping to be used for screening, fast growing shrubbery. The islands will be landscaped and the shrubbery will provide the screening.

Brian Stern, applicant, said the screening will be landscape shrubbery; some type of hedge or vegetation. The RV storage area will have a 6' fence area. Plants and shrubbery will be much more aesthetically pleasing.

No one spoke in favor or opposition of the request.

Testimony closed for Board discussion.

Motion by Mr. Salley to approve the request for special exception for 7451 Garners Ferry Road to establish a miniwarehouse based on applicant testimony.

The proposed special exception will not have an adverse impact on vehicular traffic or pedestrian safety.

It will not have an adverse impact on environmental factors.

The aesthetic and character will actually be improved by this rather than by installing a fence.

As stated by the applicant, this will not create a public safety or create nuisance conditions.

The establishment will not create a concentration of this type of establishment in a specific area.

The character will be consistent with the area.

The proposed special exception is compatible with the location and proposed use.

The proposed special exception is in the public interest.

Approval of the special exception is also conditioned upon staff comments that the applicant is required to comply with all development regulations, including but not limited to the Landscape Ordinance, building code, etc.

For clarity because of the lengthy discussion regarding landscape screening and or additional screening, Chairperson Cromartie asked that the motion be amended to include more specific language to that affect, and that the applicant work with staff.

Motion amended by Mr. Salley to include that the applicant shall agree to work with staff regarding any landscape screening of the property, and that it will comply with all development regulations, the Landscape Ordinance, building code, etc.

Motion seconded by Mr. Cromartie. Request for Special Exception granted 6-0.

IV. OTHER BUSINESS

Election of Board officers

Motion by Mr. Cromartie to defer the election of Board officers to the February meeting to allow for a full Board.

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

V. ADJOURNMENT

There being no further business, motion by Mr. Cromartie to adjourn the January 13th, 2015 meeting. Meeting adjourned at 12:00 p.m.

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