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

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

In attendance: Tyler Gregg, April Jones, Chuck Salley, Regina Williams

Absent: Gene Dinkins, Jr., Reggie McKnight, Calhoun McMeekin

Staff: Brian Cook, Tabitha Proffitt, Andrea Wolfe

I. CALL TO ORDER and DETERMINATION OF QUORUM

Chuck Salley, chairperson, called the meeting to order at 10:00AM. Members of the Board of Zoning Appeals (BOZA) were. Staff introduced. Quorum was confirmed.

II. OTHER BUSINESS

Election of Chair and Vice-Chair

Motion made by Mr. Tyler to defer the election of chair and vice-chair to the February meeting to allow for quorum of full Board. *Motion seconded by Ms. Williams.* Motion approved 4-0.

Brian Cook, Zoning Administrator, briefed the conduct and order of the meeting. Mr. Cook noted changes to the agenda since publication and proceeded with review of the Consent Agenda.

III. CONSENT AGENDA

A. APPROVAL OF MINUTES

1. Approve December 13, 2016 Minutes

B. OLD BUSINESS

None.

C. NEW BUSINESS

2. 2016-0112-SE Dist. 2 413 Pendleton Street (TMS# 08911-01-07) Special Exception to permit an alternative parking surface. (Fred Delk, Columbia Development Corporation) (MX-2, -ID)

No one spoke in favor or opposition of the requests, or requested removal for discussion.

Motion by Ms. Williams to approve the Consent Agenda as presented subject to staff comments with regard to 413 Pendleton Street.

***Motion seconded by Ms. Jones.* Motion approved 4-0.**

IV. REGULAR AGENDA

A. OLD BUSINESS

None.

B. NEW BUSINESS

3. 2016-0063-V Dist. 3 1420 Hagood Avenue (TMS# 13902-01-18) Variance to the parking requirements for a single-family residence. (John McLean)(RS-3, -DP)

Brian Cook, Zoning Administrator, introduced the request for a variance to the parking requirements for a single-family residence in a design development overlay district.

The applicant is proposing to subdivide the lot into two separate parcels in order to construct a new single-family residence. The property is a +/- 32,427 sq. ft. flag shaped lot with an existing +/- 2,932 sq. ft. detached single-family private household. There are currently two off-street parking spaces accessed off of the Webster Street right of way, and two parking spaces in the right-of-way along Hagood Avenue.

Basically, a portion of the existing home on one lot will be removed and a completely new home will be built on the other lot. Two off-street parking spaces would normally be required. The applicant is proposing a private access easement in conjunction with the pending lot subdivision, thus providing a shared driveway between the two lots. This would provide access to provide access to a total of four off-street parking spaces in the rear of the properties; two off-street parking spaces behind the new single-family residence on the subdivided lot, and two off-street parking spaces behind the modified single-family residence on the remaining portion of the existing lot.

While ultimately tied together, this request is not for an approval of a proposed subdivision, but a regulatory request to provide zero parking spaces.

John McLean, applicant, presented the request. Mr. McLean provided additional background on the request saying the property was purchased in early 2013 as his family's primary residence. Since early 2015, there have been frequent discussions with city staff as to how a subdivision of this very unusual lot could be made. The new house proposed will be the homeowner's primary residence upon completion.

Bob (Robert) Fuller, Columbia attorney, represented the client. Mr. Fuller spoke on the unusual design and layout of the lot.

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

Those speaking in opposition of the request voicing concerns regarding traffic and parking:

Marlene Mackey, neighborhood resident - Ms. Mackey also presented a neighborhood petition in opposition of the request

Jay Bender, adjacent landowner

Hal Stevenson, neighborhood resident

Pam Hopkins, neighborhood resident

Fred Easley, president of Melrose (Heights) Neighborhood Association

Martha Fowler, neighborhood resident

Jaime White, neighborhood resident

Mr. McLean commented on concerns made by the public, saying he would agree to all staff recommendations/conditions for approval of the request. He said that additional changes on the existing house would require interior changes he preferred not to do, and would not be allowed by the D/DRC.

Staci Richey, preservation planner, said as the existing house is a non-contributing structure any changes requested by the BoZA can be done at staff level review.

Mr. McLean proceeded with review of the criteria required for a variance request.

- *Extraordinary and exceptional conditions pertain to the subject property* – property is a one-acre, irregularly-shaped residential lot located within a neighborhood of typical ¼ acre lots.
- *Conditions noted above do not generally apply to other property in the area* – unique one-acre flag lot with northern boundary line formed by undeveloped right-of-way in a neighborhood of typical ¼ acre lots.
- Because of the conditions noted above, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property.
- *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.* To the contrary, by completing the rhythm of homes on narrow lots, the prevailing character of the district will be reinforced by this new construction.
- *Is the variance the minimum necessary?* – after joint discussion with development, preservation, and zoning staff, this variance requested was settle upon as the minimum necessary.
- *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?* – It will not be, the intent is to provide off-street parking in this historic neighborhood, not in front of homes, proposed shows the same, has been approved by preservation and if approved, subdivision is acceptable to development staff will not be detrimental to the public welfare of the district.

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

Motion by Mr. Salley to approve the variance based on the testimony heard here today and the applicant’s written and verbal testimony subject to and conditioned upon:

- **The easement shall be a mutual ingress and egress to the benefit of both parcels when subdivided, and shall run with the land;**
- **That the easement shall be enlarged and in compliance with the applicant’s site plan in the applicant’s application. And that such easement shall be enlarged to provide that four full-sized vehicles shall have adequate room to back out of the parking spaces shown in the applicant’s site plan in such a fashion to allow the vehicles to drive out of the driveway with the front of the vehicle facing Lincoln Street;**
- **That the 9’ driveway shall be constructed out of concrete in accordance with the recommended thickness, subsurface grading, lode bearing capacity of driveways in the City of Columbia;**
- **That the existing structure will be repaired in a good workman-like manner and in accordance with all building codes after demolition of a portion of the building, and the entire roof of that structure will be replaced with a new roof;**
- **That a mutual maintenance agreement requiring both property owners to maintain one-half the cost of the driveway in perpetuity;**
- **That part of the easement agreement will be in each deed and shall run with the land; and**
- **That any other criteria as recommended by staff shall be complied with the applicant.**

For clarification, Mr. Cook stated that because the condition of this variance for approval becomes part of this variance, if any condition is not met, it voids the variance.

Motion seconded by Mr. Gregg. Motion passes 4-0.

A short break was taken at 11:30AM with meeting resumed at 11:37AM.

Mr. Salley stated he would be leaving the meeting at 12:30PM for a previous engagement.

Mr. Cook as quorum would then be lost, the timers would could be used for all remaining cases to ensure they be heard in a timely fashion.

4. 2016-0073-SE Dist. 2 12 Brayton Alley (TMS# 11406-08-15) Special Exception to allow a rooming and boarding house. (Margaret T. Land) (RG-2, -DP)

Brian Cook, Zoning Administrator, introduced the request for a special exception.

This application for Special Exception is to allow a six-bedroom rooming house within an existing two-story, +/- 2,079 sq. ft. single-family residence on the property. The applicant has indicated that up to five residents would reside in the rooming house, and adequate parking is currently provided in the rear of the home.

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

1. This special exception is for a roominghouse for up to five individuals only.
2. Following vacancy, abandonment, or discontinuance of this use for a period of 12 consecutive months, the special exception shall be considered completed and shall expire.
3. The applicant will need to comply with all applicable City Of Columbia regulations.

Margaret Land, applicant/property owner, presented the request. Ms. Land said there are no surrounding neighbors around the property and it is located on a one-way street. The property is already being used as a boarding house for three residents.

Ms. Land reviewed the criteria required for a special exception:

- *Will not have a substantial adverse impact on traffic or public safety.* The property is in an area with low traffic volume and has its own private driveway for multiple cars to park.
- *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* as there are no other houses on Alley way.
- *There will be no change on the aesthetic character of the area* – 12 Brayton house is the only house on Alley Way.
- *There will be no negative impact on public safety or create nuisance conditions* – this is an established house and occupants are screened and living conditions monitored. Residents are working, tenured and do not create noise or nuisance.
- *The establishment of the proposed special exception does not create a concentration of the same or similar types of use* – this house is the only house on Brayton Alley and street is not surrounded by like houses.
- *The facility is consistent with the character of the neighborhood* – house was built with multiple bedrooms to accommodate many occupants and has been in the neighborhood for many years.
- *The proposed special exception is appropriate for its location and compatible with the permitted uses* – house is not adjacent to others and singular located for this special exception.
- *The proposed special exception will not adversely affect the public interest* – house is long established with tenants who observe rules and laws, and maintain employment to pay taxes.

Ms. Land was aware of letters of opposition received.

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

In opposition of the request:

- Frank Houston, president of the Historic Waverly Community
- James Baker, neighborhood resident
- Diane Wiley, neighborhood resident
- Ray Borders Gray, resident

Ms. Land said she was unaware of the code not allowing more than three unrelated individuals to live in the same dwelling. If her request is denied, she will still continue to use the house for the existing three residents as she will not displace them. She has not heard any negative comments regarding her boarding house, and feels crime in the area will be reduced with the occupied home in the area.

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

Motion by Ms. Williams to deny the request for special exception based upon criteria not being met, specifically criterion:

- **#8 - the proposed special exception will adversely affect the public interest;**
- **#6 - the character will not be consistent with the intent of the underlying district as indicated in the zoning district description, with any applicable zoning overlay district goals and requirements; and**
- **#5 - the establishment of the proposed special exception will 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 is proposed to be developed.**

Motion seconded by Ms. Jones. Motion carries 4-0.

5. **2016-0074-V Dist. 3 3946 Hickory Street (TMS# 13707-09-07) Variance to the fence height requirements. (Timothy C. Simmons) (RG-1)**
Withdrawn
6. **2016-0086-SE Dist. 2 1311 & 1401 Whaley Street, 226 Bull Street, & 101 Pickens Street (TMS#11302-09-02, 11302-09-01(p), 11306-12-01 &-02, 11306-13-01, 11306-01-17, 11306-10-01, 11302-07-02, 11302-08-02(p)) Special Exception to establish a public dormitory and parking garage (Derek S. Gruner, University of South Carolina) (C-1 and C-1, -DP)**
Deferred to 2/14/17 Dist. 3

Mr. Cook stated that as Items 6 and 7, 1409 Huger Street, are located at the same address, they will be heard together. One is a request for variance to the height requirement and special exception to allow a drive through.

7. **2016-0087-V Dist. 2 1409 Huger Street (TMS# 09009-13-01 and 08912-13-01(p)) Variance to the maximum height requirement of the C-3 district. (Robert Thomas, Southeastern) (C-3, -DD)**

Allen James, Studio Architects representing Southeastern, presented on the request for variance to the height requirement in a C-3 district. The proposal is for mixed-use development consisting of multi-family apartments over a grocery store and a free standing retail building fronting Huger Street. It should also be noted that this is the SCANA site, a difficult site with several electrical easements and a sewer line that run through making that the primary hardship on this site.

Criteria required for a variance:

- *Extraordinary and exceptional conditions pertain to the subject property* – a voluntary clean up on the site for remediation of the soils limit excavations. The number of utility easements creates a unique hardship that is not found on other sites. This physically reduces the developable area of the site forcing one to go higher than allowable on the site.
- *Conditions noted above do not generally apply to other property in the area* – because of the SCE&G easements that are on this property and directly adjacent to the substation, and a 72" storm interceptor on the site.

- *Because of the conditions noted above, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property as a result of the easements and remediation requirements. A height variance is requested to achieve the density, urban scale and character desired for the City Center.*
- *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. To achieve the goals of the DD overlay and to develop to the fullest extent possible, the proposed scale and mass is similar to the ATT/AFLAC building at 1600 Huger.*
- *Is the variance the minimum necessary? – Yes.*
- *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, it seeks to fulfill the design goals of the City Center.*

8. 2016-0088-SE Dist. 2 1409 Huger Street (TMS# 09009-13-01 and 08912-13-01(p)) Special Exception to allow a drive-through facility. (Robert Thomas, Southeastern) (C-3, -DD)

Mr. James then presented on the request for special exception for a freestanding building placed around the easement. The drive-through will be accessed internally so there will be no external conflicts to the existing circulation, and has been designed to avoid stacking or maneuvering conflicts and would provide well-marked pedestrian accommodations that connect the parking area to the building to ensure safe pedestrian and vehicular circulation. Of the 5,500 sq. ft. retail, 2,200 sq. ft. is proposed for the drive-through.

The actual type of use has not been determined however it will be a national franchise such as a Starbucks to create additional uses for the parcel, and provide the flexibility to maximize the value of the lot because of the easements.

Board members voiced concerns as it was unknown what amount of volume would be needed for the drive-through because specifics were unidentified. It cannot be known if this would be detrimental to the neighborhood or area with regard to aesthetics, public safety, traffic, etc., without knowing what is being proposed for the drive-through.

If the request for special exception is denied, the applicant cannot return for one year to resubmit. If the request were withdrawn, the applicant may present with a new request.

Mr. James requested withdrawal of the special exception.

Hal Stevenson, represented the Board of the Vista Guild, saying they were not opposed to the height request variance, however did have concerns with the special exception and wanted that noted.

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

Motion by Mr. Tyler to approve the variance to the maximum height requirement subject to staff comments and concerns.

Motion seconded by Ms. Williams. Motion approved 4-0.

9. 2016-0113-V Dist. 3 Lot 9, Block L, Canterbury Lane (TMS# 11415-04-08)
 Variance to the front yard setback requirements to construct a single family residence. (Wilson Co. LLC) (RS-1)

The applicant is requesting a variance to the front yard setback requirements in order to construct a single-family residence on an unusually shaped lot.

James Kizer, Wilson Company, presented the request to the front yard setback requirements in order to construct a single-family residence on an odd-shaped lot. A minimum front yard setback of 35 feet is normally required and the request is for a front yard setback of 17.6 feet instead, a variance of 17.4 feet. This front of the lot is on a very high hill, and it would require a drop in elevation to build the residence.

Mr. Kizer reviewed the criteria for a variance:

- *Extraordinary and exceptional conditions pertain to the subject property* – the lot is not buildable as is.
- *Conditions noted above do not generally apply to other property in the area* – other lots in the area are much bigger and not on a curvy road.
- *Because of the conditions noted above, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property* – without a variance to the setbacks it is restrictive with what can be done to the 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.* No, as this is a single-family home.
- *Is the variance the minimum necessary?* – Yes.
- *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.

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

Eric Powers, residents, spoke in strong opposition of the request.

Charlie Brooks, resident, voiced concerns as what will be built is unknown.

Mr. Kizer stated that this will be a new two-story home with an attached garage between 3,000 sq. ft. to 3,400 sq. ft. A plan has not yet been designed because if the request for variance is denied, there is no need to facilitate the process. Their typical site plan has been overlaid on property and it is felt the 17.4 feet is the necessary setback.

Mr. Salley said it is hard to determine if the request is the minimum necessary without a site plan to review.

Morris Lyles, real estate broker and property owner's son, looked at purchasing the lot previously and had a plan drawn at that time. Because of the unusual shape of the lot, a two- or three-story house is the only thing that would fit. He recommended deferral may be best.

Mr. Kizer requested a deferral of the request to the February meeting.

Motion by Ms. Williams to grant the deferral of this application to the next month meeting.

Motion seconded by Mr. Tyler. Motion to defer granted 4-0.

V. ADJOURNMENT

**There being no further business, motion to adjourn by Mr. Tyler, seconded by Mr. Salley.
Meeting adjourned at 12:40PM.**

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