
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
May 9, 2017 - 10:00 AM

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

In attendance: Gene Dinkins, Jr., April Jones, Reggie McKnight, Calhoun McMeekin

Absent: Tyler Gregg, Chuck Salley, Regina Williams

Staff: Brian Cook, Tabitha Proffitt, Rachel Bailey, Andrea Wolfe

I. CALL TO ORDER and DETERMINATION OF QUORUM

Calhoun McMeekin, vice-chairperson, called the meeting to order at 10:05AM. Members of the Board of Zoning Appeals (BOZA) were introduced along with Staff. Quorum was confirmed.

II. CONSENT AGENDA

A. APPROVAL OF MINUTES

1. Approve April 11, 2017 Minutes_

B. OLD BUSINESS

None

C. NEW BUSINESS

- 2. 2017-0036-SE Dist. 3107 Devine Street (TMS# 13804-14-07)** Special Exception to establish a physical fitness facility. (Claudia Tudose, Gyrotonic Devine)(C-1)
3
- 3. 2017-0037-V Dist. 2407 Monroe Street (TMS# 11311-12-24)** Variance to side yard setback requirement to construct an addition for a single-family residence (Andrew and Sarah Jane Walker)(RG-1, -CC1)
3
- 4. 2017-0039-SE Dist. 1515 & 1519 Park Street (TMS# 09014-14-03 and 09014-14-04)** Special Exception to construct, expand, and operate an electric substation (SCE&G, Pennington Law Firm)(C-4, -DD)
2
- 5. 2017-0042-V Dist. 4516 Landgrave Road (TMS# 13913-03-03)** Variance to side yard setback requirement to construct an addition for a single-family residence (Allison and George Gallagher)(RS-1)
4

No one asked that an item on the Consent Agenda be removed for discussion.

Motion by Mr. Dinkins, Jr. to approve the minutes and Consent Agenda items as presented.

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

III. REGULAR AGENDA

A. OLD BUSINESS

None

B. NEW BUSINESS

6. 2017-0035-SE Dist. 1 5616 Fairfield Road (TMS# 11707-01-16) Special Exception to establish a child daycare facility (Tiffany Johnson)(C-2)

Mr. Cook introduced the request for special exception to allow the establishment of a day care facility within a 1,536 (+/-) square ft. existing building. The subject property was once operated as a hair salon but has been vacant for over a year. The property is surrounded by single-family residences on three sides with commercial properties across the street.

Tiffany Johnson, applicant, presented the request. Ms. Johnson has spoken with Mr. Hammond of the neighborhood association regarding her plans to provide a safe and educational environment for the children.

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

- *Will not have a substantial adverse impact on vehicular or pedestrian safety.* The property sits on a large lot with a large parking area and two separate parking areas which will provide a safe area for drop off and pick up with entrance and exit signs.
- *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.* There is an existing 4-foot fence to prevent outside entry onto the property and prevent the children from exiting the property. In addition, an eight-foot fence will be installed for safety.
- *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 –* Having a quality childcare facility in the area will be of a great benefit to the community, allow the community to appear more family – oriented, and give the parents a safe place to take their children.
- *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 –* A security system with cameras will be installed to not only protect the facility, but also the community. A maintenance crew has been put into place to help with upkeep of the property. Conversations have been held with other community residents who feel the childcare facility will have a positive impact on the area. There would be no reason for increased law enforcement.
- *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 –* SCDSS shows no other licensed childcare facilities in close proximity of the area. It is a low poverty area and plans are to bring a positive feel to the area and help children reach their goals.
- *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 –* Having a childcare center in the area would complement the community as there are two elementary schools close by. It is consistent with applicable zoning requirements.
- *The proposed special exception is appropriate for its location and compatible with the permitted uses –* Due to the size of the facility, the size of the loading and unloading area and play area will not have a negative impact on the community, and help with the number of children who need quality daycare.

- *The proposed special exception will not adversely affect the public interest* – This will be a safe place for children which the community currently does not have, and will also be seen as a beautiful property that will give the children and parents a sense of safety. There will be a closed security system on site, both inside the facility and on the lot, and Ms. Johnson has a security app on her phone to ensure safety of the children as well as ADT coverage.

The exact number of children served at the center has not been determined however no more than 23 students will be accepted. Ms. Johnson has been in childcare for ten years, starting as a childcare facility teacher to a corporate CEO for child care centers, therefore her background consists of knowledge of educational needs for children as well as the business aspect portion of child care. Proposed hours for the childcare facility will be 6:30AM to 6:30PM Mondays through Fridays. There will be three other employees in addition to herself on staff as required by SC DSS.

Staff will work with the applicant regarding additional landscaping to ensure the property is properly screened.

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

Motion by Mr. Dinkins, Jr. to approve the special exception to establish a daycare facility for the property located at 5616 Fairfield Road to include all staff comments.

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

7. 2017-0038-V Dist. 3 2512 Wilmot Avenue (TMS# 11311-10-03) Variance to side yard fence height requirements (Harrison Greenlaw)(RG-1,-CC1)

Mr. Cook introduced the request for variance to the height requirement for a fence in his side yard. A fence up to seven feet is normally allowed and the applicant is proposing an 8 foot curtain consisting of dark green, poly outdoor fabric to run along the top of a 40 foot section of an existing 7-foot fence. This would make the fence with the curtain on top approximately 15 feet at its highest point.

Harrison Greenlaw, applicant, presented the request. He said the reason for the tall fence and curtain between his property at 2512 Wilmot and his neighbor's property at 2514 Wilmot was for privacy. Mr. Greenlaw spoke with the zoning board of his neighborhood council saying they were in support of the request.

He reviewed the criteria for a request for variance:

- *Extraordinary and exceptional conditions pertain to the subject property* – the applicant feels unlike anything else in the area, this tall addition to the home is exceptional, therefore he is asking for something exceptional in return.
- *Conditions noted above do not generally apply to other property in the area* – it is felt there are no other tall fences like this in the neighborhood.
- *Because of the conditions noted above, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property* – it is felt that the requested curtain fence does not restrict the neighbor's use at all.
- *Approval of the variance would not be of a substantial detriment to adjacent property or to the public good, and the character of the district would not be harmed* – the curtain fence will not be visible to other neighbors and will reduce visibility of his property to the neighbors, and also block their property from his visibility.
- *Is the variance the minimum necessary?* – Yes. It is felt that 14-feet is the minimum necessary, and going even a bit higher is preferable.
- *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, as

this is in the backyard, it is not visible from the street.

Cindy Waund, neighboring resident at 2514 Wilmot, spoke on discrepancies in the variance request and criteria. The Waunds feel the curtain/fence is an aversion, does have a negative impact on aesthetics, is a safety issue, and contributes to property value loss.

John Meyers, resident at 2519 Wilmot, spoke in opposition of the variance request.

For the record, Mr. Cook stated to the best of his knowledge that the construction, on-going and current at 2514 Wilmot, did comply with all the applicable current applicable zoning codes. He did not personally review the application; however it would not have been permitted if it did not meet the ordinance setbacks and other criteria of the zoning ordinance.

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

Motion by Mr. Dinkins, Jr. to deny the variance for the fence height requirements regarding this proposal for a curtain. Specifically, the reason for the request for denial:

- 1) The reason for extraordinary and exceptional conditions pertaining to the subject property is debatable. It is not felt to be extraordinary.**
- 2) These conditions do not generally apply to other property in the area – these conditions apply to many other properties in the area.**
- 3) The Zoning Ordinance effectively prohibiting or unreasonably restricting the use of the property – it is not felt the variance is necessary for that.**
- 4) Approval of the variance would not be of a substantial detriment to the public good – both sides of this can be reviewed, however it is not felt it is good to have tall screens going up throughout the neighborhood.**
- 5) Is this the minimum necessary? – unsure how to answer**
- 6) Is the proposal in harmony with the purpose and intent of the Zoning Ordinance? – No, it is not.**

It is not felt this proposal can go forward without denying the variance request.

Motion seconded by Mr. McKnight. Motion carries 4-0.

Mr. Cook noted that quorum would be lost within the next hour and a half for the remaining four cases. Therefore the timers will be used. He reviewed the time limits for presentation; ten minutes for presenters, three minute for a member of the public who wishes to address the board, five minutes for a representative of a group or body of three people or more, and five minutes for rebuttal by the applicant. Time limits will be strictly adhered to complete the remaining four cases.

The next two cases are different cases at the same address.

- 8. 2017-0040-V Dist. 4 5425 Forest Drive (TMS# 16706-03-20)** Variance to the rear buffer transition yard requirements and street protective yard requirements (Kai Burk, Bowman Consulting)(C-3)

Mr. Cook introduced case #8 which is a request for variance to the rear buffer transition yard requirements and street protective yard requirements at 5425 Forest Drive. A 30 foot buffer transition yard is required at the rear of the property in between the adjacent residential properties. The applicant is proposing to provide a 20 foot buffer transition yard.

Kai Burke, applicant, presented the request. The property currently has an existing BP gasoline service station and corresponding Circle K convenience store, along with a Jiffy Lube automotive repair facility with single family residential located behind the property. The proposal is to remove

the existing Jiffy Lube with nine fueling pumps, as well as expand the convenience store and install a new canopy with six fueling pumps.

Mr. Burke addressed the criteria for the request for variance.

- *Extraordinary and exceptional conditions pertain to the subject property* – these are existing conditions that will not be changed with the proposal. It is also a very odd shaped lot with significant right-of-way along Percival Road and Forest Drive. It is a very difficult lot to develop as it sits.
- *Conditions noted above do not generally apply to other property in the area* – it is an existing gas station and has a significant right-of-way.
- *Because of the conditions noted above, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property* – it would be hard to completely rebuild on the lot with the current existing buffer yard requirements, access and existing right-of-way.
- *Approval of the variance would not be of a substantial detriment to adjacent property or to the public good, and the character of the district would not be harmed* – the proposal is to build something that is better for the location and the surrounding community that what currently exists.
- *Is the variance the minimum necessary?* – Yes. It is felt the 10-foot rear setback is the minimum necessary, and the 5-foot front street yard buffer is as well.
- *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, all requested variances are existing.

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

Motion by Mr. McMeekin to approve the variance request for case 2017-0040-V, 5425 Forest Drive, subject to staff comments in the documentation. Approval is based on the fact that there are some extraordinary and exceptional conditions with this lot with the right-of-ways and the setbacks that also do not generally apply to other property in the vicinity. There will not be any substantial detriment to adjacent property or the public good as there is already a filling station there. It is the minimum necessary. It is in harmony with the general purpose and intent of the Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

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

9. 2017-0041-SE Dist. 4 5425 Forest Drive (TMS# 16706-03-20) Special Exception to expand and reconstruct an existing convenience store at the site of an existing gasoline service station(Kai Burk, Bowman Consulting)(C-3)

Mr. Cook introduced case #9 which is a request for a special exception to expand and reconstruct an existing convenience store at the site of an existing gas station convenience store.

Any addition to an existing convenience store would require—in addition to the standard criteria required for a special exception—the “Good Neighbor Plan”. The “Good Neighbor Plan” has been included in the application. The applicant has submitted the Good Neighbor Plan which basically covers loitering program, littering control, signage program, crime prevention and awareness program, and the neighborhood communication program. The applicant has submitted certified letters to the single family residential uses to the rear of the.

Kai Burke, applicant, presented the request. Mr. Burke reviewed the criteria required for a special exception.

- *Will not have a substantial adverse impact on traffic or pedestrian safety and adequate provisions are made in the proposed special exception for parking and for loading/unloading.* From a traffic standpoint, there will actually be a reduction in traffic. Nothing should change as the existing access points will be used.
- *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 felt that the impact will be positive as the auto repair use will be eliminated.
- *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 existing building is old and the new building will be have an upgraded architectural look and new canopy.*
- *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 – it is an existing use and a meeting was held with Lt. Felder of the CPD who is in agreement with everything proposed.*
- *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 – this is an existing use and it is not felt there is a concentration of use.*
- *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 use is consistent with the commercial zoning use of the district.*
- *The proposed special exception is appropriate for its location and compatible with the permitted uses – It is believed this is an appropriate use as this is an intense commercial area.*
- *The proposed special exception will not adversely affect the public interest – it is an existing use and will therefore have no adverse effect on the public.*

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

Motion by Ms. Jones to approve the special exception (misstated as variance) subject to staff comments for 5425 Forest Drive, TMS# 16706-03-20.

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

10. 2017-0043-V Dist. 3 903 Meadow Street (TMS# 11409-13-11) Variance to the fence height requirements (Lauren Trapp)(RG-1, RS-3, -DP)

Mr. Cook introduced the request for a variance to the height requirements for a fence within the required front yard. A fence up to four feet is normally allowed; the applicant is proposing a six foot tall fence instead.

The property is located within the Shandon neighborhood district and a six foot fence would generally not be allowed. Since this property is located within the -DP Overlay, it will require additional review by the D/DRC or staff to the D/DRC.

Fran Trapp, mother of applicant Lauren Trapp, was sworn in and presented on her daughter's behalf. The property is very irregularly shaped and the only back yard space available is the side yard. Because of the way the house is situated on the property, the side yard functions as a backyard which is very unique and unusual. This odd shaped lot is the only one of its kind in the area.

The fence will be a wooden privacy fence which will enable her to have a back yard, privacy and to have a pet. The intent is to bring up the house and beautify the yard and exterior of this home. There is an existing fence on the one side of the property and the proposed fence will allow for a

continuation of the fence.

John Clements, neighborhood resident, spoke in opposition to the request.

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

Motion by Mr. McKnight to approve the lot at 903 Meadow Street as the request meets all the requirements for a variance request. There are extraordinary and exceptional conditions that pertain to the subject property that generally do not apply to other properties in this vicinity. Because of these conditions in the application and the division to this particular piece of property, in his belief, will effectively prohibit or unreasonable restrict the use of the property. Authorization of this variance will not be of any substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of this variance.

Motion seconded by Mr. Salley. Motion carries 4-0.

11. 2017-0044-V Dist. 1 3700 Main Street (aka 3700, 3706, 3708, 3710 Main Street and 1200 Elmore Street) (TMS# 09209-20-04 and 09209-20-03) Variance to the parking requirements for a multifamily use intended for occupancy by the elderly. (Felicia Maloney, Columbia Empowerment Zone, Inc. and Integral Development, LLC) (MX-1, -NC)

Mr. Cook introduced the request for a variance to the parking requirements for a proposed 3-story, 58-unit multifamily development intended for occupancy by the elderly. The parking requirements for this use would normally be 116 parking spaces (2 parking spaces per dwelling unit) prior to including applicable parking reductions. The applicant is proposing 47 parking spaces instead.

Dustin Johnson presented the request for a reduction in parking to .8 spaces per unit. This is based on a 20% reduction from the overlay district as well as a 50% reduction from that amount as this use for elderly population does not anticipate a large volume of traffic.

Daryl Jones with Integral Development, developers for the project, spoke on the senior living development and parking issues. Parking for visitors will be throughout the community. It is felt there will be enough parking onsite as not everyone in the development will have a car.

Felicia Maloney of the Columbia Empowerment Zone, Inc., the applicant, said the proposed development is an addition to existing property on the site which is owned by the applicant. The site has 75 parking spaces available for use which are not used on weekends. As the Columbia Empowerment Zone is part of the Columbia Development Corporation, there is no foresight of any selling of the property.

Dean Slade, neighborhood resident, felt the proposed development would be good for the neighborhood.

Gareth Fenley, neighborhood resident, spoke in opposition to the request.

Sabrina Odom, President of the Business Association, voiced support of the request and asked that the Board vote favorably in support of the request.

Jenny Savage, neighborhood resident, spoke in support of the request.

Basil Garzia, resident, voiced concerns regarding parking.

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

Mr. McMeekin asked staff for clarification regarding the vote process as quorum was established for the Board with four members in attendance and after Board discussion, the chair would call for a motion.

Mr. Cook stated if the motion passes, it passes. If the vote is split two to two, the rules state the particular motion would not pass. Another motion can be made, if in the affirmative. If a motion to approve is made and it is two to two, or a motion to deny is made and it two to two, it is a stalemate and the motion fails. If a motion is not made in the affirmative, it will fail. If the motion fails outright, the applicant must wait one year to present the request again. However, the applicant has the opportunity, at any time, to defer the request to the next month's meeting to present to a full Board, or they can choose withdraw the application completely.

Mr. McMeekin closed Board discussion and re-opened testimony to speak with the applicant.

Mr. Jones said he appreciated everyone's testimony and welcomed the opportunity to speak with the community regarding the proposal, and would like to present the Board with more data, agreeing to deferral to the June meeting.

Mr. McMeekin asked that staff allow this case to be placed first on the regular agenda at the June BoZA meeting.

Motion by Mr. McMeekin to defer this case to the next BoZA hearing on June 13th.

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

IV. OTHER BUSINESS

12. Continuing Education Update

Ms. Wolfe provided an update on continuing education sessions offered for 2017.

V. ADJOURNMENT

There being no further business, motion to adjourn by Mr. Salley. Meeting adjourned at 1:05PM.

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