
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
June 13, 2017 - 10:00 AM

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

In attendance: Gene Dinkins, Jr Tyler Gregg, Reggie McKnight, Calhoun McMeekin, Chuck Salley, Regina Williams (arrived late)

Absent: April Jones

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

I. CALL TO ORDER and DETERMINATION OF QUORUM

Chuck Salley, 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 May 9, 2017 Minutes

B. OLD BUSINESS

None

C. NEW BUSINESS

- 2. 2017-0047-SE Dist. 3 854 Galway Lane (TMS#16303-01-01)** Special Exception to renovate and construct improvements to an elementary and secondary school (Hammond School) (Scott Garvin, Garvin Design Group) (RS-2)
- 3. 2017-0049-SE Dist. 1 5307 Main Street (TMS# 11705-03-13)** Special Exception to establish a day care facility (Erika Jones) (UTD)

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

Motion by Mr. McMeekin to approve the minutes and Consent Agenda items based on documentation and applications in the case summary subject to recommendations by staff.

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

III. REGULAR AGENDA

A. OLD BUSINESS

4. **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 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 which is two parking spaces per dwelling unit. The applicant is proposing 47 parking spaces instead.

Felicia Maloney of the Columbia Empowerment Zone, Inc., applicant, presented the request. The request presented last month and was deferred. Additional information requested to include a parking comparables table, as well as letters of support were included in Board packets. Meetings were held in the past and more recently with the neighborhood.

Darrell Jones of Integral Development, developers for the project, met with Hyatt Park to discuss their concerns regarding parking and included a letter of support for the project in Board packets.

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

For the record, Mr. Salley stated the request for variance documentation was already on record for this case. Deferral was requested to allow for additional information sought by the Board regarding the parking which was provided at this meeting.

Motion by Mr. Dinkins, Jr. to approve the variance to the parking requirements for the planned multifamily use at subject property subject to all staff comments.

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

B. NEW BUSINESS

5. **2017-0045-V Dist. 3 1912 Rosewood Drive (TMS #11309-15-05)** Variance to permit encroachment of building into buffer transition yard (Matthew Marcom, Pelican's Snoballs) (C-3)

Mr. Cook introduced the request for variance to allow the encroachment of a building into the buffer transition yard. This is an existing corner lot with an existing smaller structure on the lot. The applicant is requesting that the existing structure remain and that he be able to add a 600 square foot addition to be flush with the current structure which would encroach in the buffer transition yard.

Matthew Marcom, Pelican's Snoballs, applicant, presented the request. Mr. Marcom met with the surrounding merchants and received their approval.

He reviewed the criteria for a request for variance:

- *Extraordinary and exceptional conditions pertain to the subject property* – There is very little parking which is hurting his business and impeding other businesses in their ability to do business in the city. As the existing structure is on the property line and the business owner wishes to expand, the structure would need to be moved to be in compliance and also allow for expansion.

- *Conditions noted above do not generally apply to other property in the area* – there are no known other businesses in the area with an existing structure that is awkwardly placed with the current conditions.
- *Because of the conditions noted above, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property* – the property has been vacant for 11-12 years and past the grandfather status and would need to be brought up to full code compliance. Without the variance, the property cannot be brought up to code compliance.
- *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* – it is felt that approval of the variance would actually be in the spirit of the variance, and allow the applicant to further respect neighbors in keeping things to the smallest disturbance possible.
- *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.

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

Motion by Mr. Salley to approve the variance request based on the testimony of the applicant and subject to all conditions included in the application by staff, and that it will be in compliance with exhibits shown in such application.

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

6. 2017-0046-AA Dist. 2 3002 Hammond Avenue (TMS#11610-07-11) Administrative Appeal to Zoning Administrator’s denial to continuance of a nonconforming use (Theodore Green) (RS-3)

Mr. Cook introduced the Administrative Appeal to Zoning Administrator’s denial to continuance of a nonconforming use. The Board of Zoning Appeals shall hear and decide appeals when it is alleged that there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this article.

The applicant is alleging that the Zoning Administrator erred by revoking approval on a zoning permit for a nonconforming manufactured home in a single family residential zoning district that had been vacant, abandoned, and discontinued for a period in excess of 12 consecutive months.

A manufactured home is not a permitted use in the RS-3 (Single Family Residential) Zoning District. An existing manufactured home on an individual lot that has been occupied and maintained may continue as a nonconforming use. A nonconforming use or characteristic of use shall not be reestablished after vacancy, abandonment or discontinuance for any period of 12 consecutive months.

The lot and structure were acquired in February of 2017 from the Richland County Forfeited Land Commission, according to the submitted Quit Claim Deed for said parcel.

The applicant obtained permits for repairs to electrical and a wooden deck – both routine permits issued by staff. Subsequently, staff was contacted by the City of Columbia Police Department - Code Enforcement division, and advised that the structure had been abandoned for several years, and was on their demolition list due to unsafe conditions. Based on the new information, staff immediately contacted the applicant and advised him of the nonconforming status and that the use could not continue. All of the above taking place between April 3, 2017 and April 12, 2017. A ‘Stop Work’

violation notice was posted on the structure on April 4, 2017, a photo was included in Board packets.

City of Columbia Deputy Housing Official, Michael O'Neill, informed zoning staff that the home has been vacant and abandoned for over a year. He confirmed that there is a demolition order that has been in place on the unsafe structure due to its condition and abandonment. Mr. O'Neill was in attendance at this meeting, as well as some of the neighborhood residents.

The idea of a non-conforming use is that it is allowed to continue but it is not allowed to survive. Nonconforming is a term applied to lots, structures, uses of land or structures, and characteristics of use of land or structures which were lawful before the passage of the ordinance from which this article is derived or before the amendment of this article, but which are prohibited by this article or which are not in compliance with the requirements of this article.

Reestablishing a nonconforming use of this type after vacancy, abandonment or discontinuance for any period of 12 consecutive months cannot be done. If the property had been maintained, the use could have been continued.

It is felt that staff has proven, based on the information provided that this home has been vacant for in excess of twelve consecutive months. City of Columbia water records indicate that the home has not had water for the last four years. based on staff's observation and site visit, it is consistent with that determination, and the Zoning Administrator's respectfully requests that the termination be upheld based on City of Columbia Ordinance City of Columbia Zoning Ordinance §17-55, §17-201 and §17-202 (e) that the manufactured home has been vacant, abandoned, and/or the use discontinued for several years, and the facts as presented.

Theodore Green, applicant, presented the request. Mr. Green said permits were obtained to make improvements to the mobile home, though he is aware that mobile homes are not allowed within the City. He is requesting the Board allow the improvements to continue. Mr. Green is aware that the property was grandfathered. The property was purchased in January 2017 and he was unaware of the abandonment clause.

Eric Green, applicant's son, spoke on behalf of his father saying he was not present at the purchase of the property. Mr. Green felt this was not really an administrative error on behalf of the Zoning Administrator, but more of a breakdown between the public sector and the applicant as he did not understand the differences between the county and city ordinances.

Mr. Cook said staff will be glad to work with the applicant, if they choose to move forward, as the property is a good lot for a single family home.

Motion by Mr. McMeekin to deny the administrative appeal for case #2017-0046-AA, 3002 Hammond Avenue.

Motion seconded by Ms. Williams. Motion carries 6-0.

- 7. 2017-0048-SE Dist. 1 2109 Sumter Street (TMS#09016-12-06)** Special Exception to establish a furniture manufacturing facility (Josh Cox, Bricker & Beam) (MX-1, -NC)

Mr. Cook introduced the request for special exception to establish a furniture manufacturing facility within an existing building in the MX-1, - NC district.

The subject property is approximately 5252 square feet (+/-) and has served as a storage facility in recent years. The property is surrounded by commercial and residential uses. Applicant proposes to

use the facility for the manufacturing of handmade, specialty furniture and retail. Furniture retail is permitted outright in the MX-1 district. The applicant has a current business in another jurisdiction and wishes to come into the City of Columbia with his business. Because of the district, a special exception is required.

Howard Hammer, property owner, spoke in strong support of the request which will provide high end, custom type furniture and utilize a currently vacant warehouse on the property for the business.

Josh Cox, Bricker & Beam, business owner, presented the request providing a brief history of his business. The new location will allow for expansion of the footprint for the business which is an artist-type builder as opposed to a larger commercial type business. Everything will be self-contained. The only changes to the building will be upfit to include cleaning it up, painting and interior renovations. There will be no structural additions or demolitions, the building will remain as is. Meetings have been held with city staff to ensure the proposal is design and parking compliant

Mr. Cox 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.* Minimal if any impact on vehicular or pedestrian traffic, as there will be no large truck deliveries. Materials are picked up by the business owner. Plans are just to continue the current business.
- *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 should be none. The current business is located between two neighborhoods who have never complained. There are no large machines in the shop.
- *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 – it is felt the business will provide a positive impact as the building will be cleaned up and repaired.*
- *There will be no substantial adverse impact on public safety or create nuisance conditions detrimental to the public interest or conditions likely to result in increased law enforcement response – the business will be self-contained with minimal foot traffic, as well as being gated on both sides of the property which will remain closed.*
- *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 – it is felt there is not a concentration of this particular 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 – yes, it is felt the business will be compatible with the area.*
- *The proposed special exception is appropriate for its location and compatible with the permitted uses – yes.*
- *The proposed special exception will not adversely affect the public interest – it is felt the business will benefit and help the area.*

Stephanie Cleek, advocate for Bonnie Horn, adjacent property owner who voiced opposition to the request. Ms. Cleek felt the business would not be appropriate for the area.

Mr. Cox said he usually arrives at the business around 9AM and leaves at 5-5:30PM. As conditions for approval of the request, he agreed to restrict the hours of operation from 8AM to 8PM, not to store lumber or any types of materials outside.

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

Motion by Mr. Salley to approve the request for special exception subject to the criteria stipulated by staff in the application. In addition, the stipulation that the business shall operate between the hours of 8AM to 8PM only, and that no outside storage will be conducted onsite.

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

8. 2017-0050-V Dist. 2 1102 Huger Street (TMS# 08912-10-16) Variance to parking requirements for a proposed restaurant (Charles Brooks, Brooks Properties) (MX-2, -ID)

Mr. Cook introduced the request for variance. The subject property currently has an existing +/- 5,880 sq. ft. building that was constructed during the 1940-50's. The existing building covers majority of the parcel therefore there is not adequate parking on this lot.

The applicant is proposed to use approximately 2,900 sq. ft. for restaurant use while keeping the remaining portion of the parcel for warehouse use. Required parking for a restaurant, after reduction, would normally be ten parking spaces, whereas the applicant is proposing zero on site instead.

There is some street parking recently installed by the City of Columbia that could be utilized. If the proposed use were retail, zero parking would be required.

Charles Brooks, property owner, addressed the criteria for the request for variance.

- *Extraordinary and exceptional conditions pertain to the subject property* – the existing building covers approximately 95% of the entire lot.
- *Conditions noted above do not generally apply to other properties in the area* – it appears this is the only property in the area with the condition.
- *Because of the conditions noted above, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property* – there is no area on the property to park even one car. There are existing parking spaces immediately in front 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* – no, as there is surrounding re-development and streetscape, and will be the only building fronting Senate Street.
- *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, there are no residential uses in the vicinity.

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 1102 Huger Street, case 2017-0050-V based on the criteria set forth and the testimony given by the applicant.

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

9. 2017-0051-V Dist. 4 4611 Pine Grove Court (TMS# 13913-05-04) Variance to front yard setback requirements for single-family residence (Christopher Anderson) (RS-1)

Mr. Cook introduced the request for a variance to the front yard setback requirements in order to accommodate a proposed +/- 48 square foot screened porch addition to the front of an existing single family residence. A front yard setback of 35 feet is normally required in the RS-1 district; the applicant is proposing a front yard setback of approximately 30 feet. The proposed addition would extend off of an existing porch along the front facade of the residence.

Christopher Anderson, property owner, presented the request

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

- *Extraordinary and exceptional conditions pertain to the subject property* – this is a pie shaped lot which makes it very difficult for any type of additions and limits front yard setbacks.
- *Conditions noted above do not generally apply to other property in the area* – the unique shape of the lot, being pie shaped as well as being on the corner, do not apply to other properties in the area.
- *Because of the conditions noted above, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property* – any small addition is impossible based on the setbacks.
- *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* – communication has been made with all adjacent property owners, as well as signatures of support on available documentation, two neighbors did not sign but gave verbal support.
- *Is the variance the minimum necessary?* – Yes. It is felt it will allow the property to be in full compliance.
- *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?* The addition will comply with the aesthetic nature of the neighborhood.

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

Motion by Mr. Salley to approve the request based on the criteria of the applicant in the application subject to any stipulations noted by staff.

Motion seconded by Mr. McMeekin and Ms. Williams simultaneously. Motion carries 6-0.

Mr. Anderson thanked the Board for their service.

IV. OTHER BUSINESS

NONE

V. ADJOURNMENT

There being no further business, motion to adjourn by Mr. McMeekin. Motion seconded by Mr. Salley. Meeting adjourned at 11:15AM.

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