
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
JANUARY 8, 2013- 10:00 AM

Eau Claire Print Building
3907 Ensor Avenue • N. Main Street and Monticello Road • Columbia, SC

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

Absent: Pat Hubbard

Staff: Brian Cook, Andrew Livengood

I. CALL TO ORDER and DETERMINATION OF QUORUM

Ernest Cromartie, III, chairperson, called the meeting to order at 10:00 AM, and introduced the members of the Board of Zoning Appeals (BOZA). Mr. Cromartie explained the purpose and role of the Board of Zoning Appeals.

Brian Cook, Zoning Administrator, Planning and Development Services Department, reviewed general housekeeping rules and noted changes to the agenda since publication. Item 1, **825 and 825 ½ Heidt Street** variance request to the minimum lot size requirements to reestablish a duplex, on the Regular Agenda, Old Business has been deferred at the request of the applicant to allow her to obtain legal counsel.

II. CONSENT AGENDA

A. OLD BUSINESS

None.

B. NEW BUSINESS

None.

III. REGULAR AGENDA

A. OLD BUSINESS

1. 12-081-VDist. 3

825 and 825 ½ Heidt Street (TMS# 11409-15-03) Variance to the minimum lot size requirements to reestablish a duplex (Freida S. Hatten Dortch) (RG-1, -DP).

Mr. Cook stated the applicant requested deferral to the February meeting to allow time to consult with an attorney. This request was also deferred at the December 11th meeting because the applicant could not get out of work. No letter of representation from the attorney received; however the attorney did show up with the applicant at the Zoning Office.

Mr. Cromartie stated because the applicant wants to obtain legal counsel, he is inclined to grant the request for deferral, otherwise he would not.

Mr. McMeekin questioned the Board rule regarding deferral. Mr. Cook said that is up to the Board. He feels a person can defer and is entitled to legal counsel; however the applicant has deferred already and waited less than 12 hours to request deferral again. He feels the case should be heard. Ms. Dortch knew there was a chance her case would be heard, and made that choice.

Mr. Cromartie asked if the applicant was aware that the deferral may not take place if she is not in attendance. Mr. Livengood stated she was.

Mr. Young agreed with staff with all given history of the case. He suggested putting the case at the end of agenda to allow staff the opportunity to discuss with legal.

Mr. McMeekin added if it is put at end of other cases, it will allow staff to attempt contact with the applicant to see if she can attend.

Mr. Cook stated the applicant consulted with an attorney and possibly requested deferral to allow time for the attorney to review the case. It is up to Board discretion to put the case at end of the agenda; however he did not feel she could be at the meeting in time.

Mr. Cromartie stated this has occurred in the past since 2008, and he wanted to err on the side of caution. This request will be heard at the February 12th BoZA meeting regardless of the applicant's attendance or not. Members of the public have taken time off to attend the meeting and it is not fair to them to keep deferring.

Motion by Mr. Cromartie to defer the application with the condition that it will be on next month's agenda to be heard. The applicant will be placed on notice that this case will be heard with or without counsel and with or without her being present as she has a history of two deferrals by this Board; seconded by Mr. McMeekin. Request for deferral granted 6-0.

The applicant will be notified by certified mail, and will be privy to concerns of her not being in attendance. This case will be the first case on the Regular Agenda.

2. 12-083-SE Dist. 2 419 Huger Street (TMS# 08913-01-04) Special Exception to establish an event center facility (Jay Beneventano) (MX-2, -ID).

Request is to propose a concert hall/event facility similar to the Township Auditorium without fixed seating. On-site parking spaces meet the number required by the Zoning Ordinance.

Oakley Dickson, the applicant's business partner, spoke with Jimmy Faulkenberry, property owner, regarding use of the building. Mr. Dickson said there is no concert hall of this size in the Columbia area. The facility can be used for wedding receptions, concerts, political events, and church events. It is in the perfect location next to the baseball stadium. He wants to give back to the community and any proceeds will be given back to the community. Plans are to use the facility as a non-denominational church for young people, and having a rooftop area similar to the Caroline Ale House possibly added in the future.

The building does not have a commercial kitchen, so food and beverage services will be outsourced. The venue will contract with licensed vendors who can provide the services, and who carry liability insurances and licenses to do so.

Mr. Salley felt this is a good proposal however voiced concerns about adequate parking during events. Mr. Faulkenberry said parking will be adequate, and if more is needed, the baseball stadium parking can be used as the venue will not host events that compete with games occurring during baseball season.

Mr. McMeekin felt parking can be found when needed as other venues in the area do when they need additional parking. He feels this will be a wonderful opportunity for the Columbia area.

Mr. Cromartie agreed that this will be a venue for Columbia; however cautioned against a rooftop patio because of safety issues. Issues such as safety, hours of operation, security, capacity, noise, lighting, and an operational plan would need to be discussed, and the applicants would need to meet with the Board again.

Mr. Dickson understood, but wanted to present this concept up front. The rooftop patio would only be used during times of events, not afterhours. Mr. Faulkenberry added this would be checked out first, and it would be great money event.

Mr. Livengood voiced staff concerns for the requirements of a rooftop area. If the use is approved, someone else could operate the facility without having to come back to the Board. There could be future concerns for the rooftop facility with future owners. If approval is not conditioned on certain factors, the use would remain with the property.

Mr. McMeekin asked who provided safety for other celebrations in the City when the City is closed down, and if there was a minimum requirement already established for security.

Mr. Livengood stated the participants provide their own security and must present to City Council regarding the event. He is not aware of aware of a minimum security requirement that is already established.

Mr. Cromartie stated there are some events where security is required. There are broad/potential uses of the facility and concerns must be addressed. The Board can require a security plan that must be addressed for certain events only, and could leave discretion to the owner as to when security is required.

Mr. Faulkenberry suggested perhaps separate events - from a public event (such as a concert), and private event (judges convention). When a private bar vendor is used, the bartender knows when to cut someone off. When a public event is held, the owner will require security.

Mr. McMeekin added that security can be required when events are open to the public where children are involved.

Mr. Cook said the operation plan for this request is based on another club in the City which had a lot of issues and problems. Staff wants, at a minimum, to ensure this venue will not turn into another club of that type if another owner takes over, and to prevent problems with shutdown is needed. Security issues are addressed as needed in public/private distinction.

Mr. Dickson addressed the criteria for special exception:

Impact of proposal upon traffic – none, traffic will be monitored to ensure no one will cross through traffic.

Impact on vehicular/pedestrian safety – none, area already well lit and frequently utilized by baseball stadium.

Impact on noise/lights/fumes/obstruction of air flow on adjoining property – noise will be controlled because events will occur inside the facility; no problem with lights, fumes or airflow

Impact on aesthetic character of environs – will improve as it will resemble baseball stadium brick facing, will transform from warehouse to nice medium.

Impact in terms of orientation and spacing of improvements or buildings – no change from existing, only aesthetics will be improved, minor change outside with brick

Adverse impact on public – no, the public is very excited and this will be a good asset to Columbia.

Mr. Cromartie explained the need for applicants to address the criteria for special exception. He asked staff for a recommendation of conditions to be placed on approval regarding security for public versus private events.

Mr. Cook recommended security be required for any events open to the general public exclusive of worship services. He reminded the Board that any changes to the exterior of the building would require Design Development Review Commission (D/DRC) approval, and outside changes by expansion must be approved by the building department. He also recommended a limit on security and hours of operation.

Mr. Cromartie did not want to limit the hours of operation. Mr. Salley said that is one of his concerns. If events are scheduled during normal hours of operation, parking may need to be used by other businesses which can cause issue. In addition, if there was a very large event with hundreds of patrons attending, parking would need to be provided for that event.

Mr. Cromartie stated an agreement could be made with surrounding businesses for such circumstances. Mr. Dickson added that Mr. Faulkenberry owns additional parking areas for patrons to use.

Mr. McMeekin said other university functions are not required to provide parking, and he does not feel it is proper to require parking for all patrons at any of the events at this venue. It is not feasible to tie-in conditions for this property owner that are not required by other businesses.

Mr. Salley stated that is giving this venue the same status as the baseball stadium. The stadium has secured parking and measures in place. If this venue plans to be similar to stadium, it should be tied into the same measures. Mr. McMeekin said they should not put a requirement in place that the applicant cannot meet.

Mr. Cromartie echoed Mr. Salley's concerns for the need to know if parking requirement will be exceeded by events, and asked staff of code requirement.

Mr. Cook stated the underlying zoning of MX-2 allows for a 40% reduction automatically; also 1/1 within 45'. That is a requirement, and anything required of the Board must be more than the Ordinance requires. MX-2 zoning is unique, and the baseball stadium is a PUD, which is different zoning than this location. All events proposed are after-hours, the uses and events cannot conflict with day-to-day living. This is a Mixed-use district and patrons would know they may need to park in other areas.

Mr. Faulkenberry stated this must be a safe environment, and he may need to designate parking to ensure someone does not park in another business lot. His lots are insured. It must be conducive for business and be a safe place for business.

MR. Salley is not opposed to the idea. He just wants to ensure businesses are not inundated with patrons during normal business hours. It appears events will be after hours and not impose on others.

Mr. Young added Chairman Cromartie stated if an event is held during regular business hours, there would need to be an agreement in place.

Mr. Salley stated he does not want to place undue restrictions on the applicant. If events are held after business hours and on weekends, it would be useful to the City. His only concerns would be if any events are held during regular business hours during the week that there be an agreement in place with surrounding businesses for parking and hours. If that can be done, he feels this is a great project and wonderful business for the City, a good use for the building and location, and he does not see it hurting property values and the area.

Mr. Cromartie said to address the parking concern, with staff approval, if an event is held during normal business hours and 75 patrons area exceeded, they must use the Faulkenberry lot. Staff did not object.

Mr. Cromartie said he is unsure how this impacts the proposed rooftop, but he wanted approval conditioned that it would not be an additional requirement if the rooftop is done for future use. Mr. Salley said

conditional approval would be that the lot across the street is used for events. If the rooftop is created in the future, parking across street could be used.

Mr. Cromartie stated that he does not want to specifically state a rooftop patio, but does not want the applicant to have to come back; it would be a separate issue.

He reopened testimony to explain the condition to the applicant. Mr. Faulkenberry agreed and stated he does not want a limitation of which lot to use because there are a couple of lots that are safer and more secure. He asked the condition simply state a lot be used if needed. The rooftop is a square footage issue and will not expand the number of patrons, just the square footage.

Motion by Mr. Cromartie to approve the request for special exception for **419 Huger** to establish an event center facility with the strong condition that for all public events outside of church events, security will be provided. Any applicant events during normal business hours of 8:30AM – 5PM that will exceed 75 patrons and require additional parking must have additional provided parking via a written agreement with the lot's owner. Outside work to the building must be approved by the D/DRC. Permits and other improvements must be approved by the building department. With these conditions; the applicant meets the criteria for special exception; *seconded by Mr. Young, and Mr. McMeekin. Request for special exception approved 6-0.*

Recess at 11:28AM, meeting resumed at 11:34AM

Mr. Cromartie stated for the record that all information in packets has a date of 2012. This should be amended to 2013.

B. NEW BUSINESS

- 3. 13-002-SE Dist. 2 407 South Assembly Street (TMS# 11204-04-02, -03, and -05)**
Special Exception to establish an automotive towing/scrap yard
(Eric Jones)(M-1, -FP).

Eric Jones, applicant, stated this business will be housed in the existing building with no modifications. He reviewed the criteria for special exception:

Impact of proposal upon traffic – nominal; cards will be parked inside a fenced lot

Impact of proposal upon vehicular/pedestrian safety – minimal, all vehicles will be parked in a lot entering from Virginia Street which is not well traveled.

Impact of proposal in terms of noise/lights/fumes/obstruction of air flow upon adjoining property – none, all vehicles parked for storage only, no repair work will be performed at this site, and all lights will be turned to shine inward.

Impact of proposal upon aesthetic character of environs – none, property is fenced. Additional trees and shrubs will be added on outside of fence to improve aesthetics. Request was presented to the Planning Commission, and approval was conditioned on landscaping, to which applicant has agreed.

Impact of proposal in terms of orientation and spacing of improvements or buildings – none, no changes will be made to the structure of the building.

Will proposal adversely affect the public interest? – no, will positively impact public interest because it reduces the time of congestion after an accident.

Mr. Cromartie said the application has been received and reviewed, and of major concern is the preservation for a large tree on the western portion property. He asked that the applicant specifically state there will be no encroachment on the tree with storage of vehicles. This must include the drip line which is the crown of the tree. Mr. Jones agreed to the condition of no encroachment on any trees. Mr. Cromartie stated if any vehicle is parked under a tree canopy, a citation will be issued. Applicant testimony has been provided that there will be nine shade trees on Ferguson Street and low foundation shrubbery along Assembly, and a privacy

screen will be added. He asked that the shrubbery that will be planted is maintained to ensure the preservation of the shrubs to which Mr. Jones agreed.

Mr. Salley asked why this is considered a scrapyard because it appears it is a tow yard. He said that would allow for processing of parts if desired, and asked what happens is a car is left.

Mr. Cook said it is safer to establish as a scrapyard in the event that someone abandons a car. It is not the perfect definition, but the best for the situation.

Mr. Jones said the property will only be used for a tow area, insurance generally picks up cars in five days. If the insurance does not want the vehicle, he will go to magistrate court to file ownership and take the vehicle to the scrapyard.

Mr. Salley stated the applicant did not seek this zoning, but it was recommended by the City. He does not feel scrapyard zoning is applicable; it should be set for tow yard. If it is a scrapyard, vehicles left would need to be torn down and scrapped within a certain time. Mr. Cromartie voiced the same concerns saying it may require the applicant to return to seek other zoning, but he may feel better about that.

Mr. Cook stated the Board may grant conditions if they desire, and the applicant can come back to zoning to change the use later. Storing of vehicles for any period of time is not a good category. To err on the side of category, this is not a scrapyard, but conditions can be placed on approval.

Motion by Mr. Salley to approve the request for special exception for **407 South Assembly** to establish an automotive towing/scrap yard as all criteria has been met. Approval is conditioned that it will not be used as a commercial processing center for vehicles; *seconded by Mr. McMeekin. Request granted 6-0.*

IV. OTHER BUSINESS

Election of Board Officers

Election of officers was held

Motion by Mr. McMeekin to nominate Mr. Cromartie as Chair of the Board of Zoning Appeals; and Mr. Hubbard as vice-chair. Motion seconded by Mr. McKnight; carries 6-0.

Approve December 11, 2012 Minutes

Motion to approve the December 11, 2012 Minutes by Mr. McMeekin, seconded by Mr. Cromartie. Minutes approved 6-0.

V. ADJOURNMENT

There being no further business, motion to adjourn at 11:54 a.m. by Mr. Cromartie.

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