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**CITY OF COLUMBIA**  
**BOARD OF ZONING APPEALS MINUTES**  
**NOVEMBER 12, 2013- 10:00 AM**

**City Hall Council Chambers**  
**1737 Main Street • Columbia, SC**

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**In attendance:** Ernest Cromartie, Patricia Durkin, III, Dr. Pat Hubbard, Calhoun McMeekin, Chuck Salley  
**Absent:** Reggie McKnight, Preston Young  
**Staff:** Brian Cook, Andrew Livengood

**I. CALL TO ORDER and DETERMINATION OF QUORUM**

Ernest Cromartie, chairperson, called the meeting to order at 10:05AM, and introduced the members of the Board of Zoning Appeals (BOZA).

The purpose and role of the Board of Zoning Appeals was explained; general housekeeping rules reviewed; and speakers sworn in.

Brian Cook, Zoning Administrator, Planning and Development Services Department, reviewed the items on the Consent Agenda, noting changes since publication. Item 1, 1531 Senate Street, 1025 Henderson Street, and 1501 Pendleton Street, special exception, was withdrawn at applicant's request to seek other parking options.

**III. CONSENT AGENDA**

**A. OLD BUSINESS**

None.

**B. NEW BUSINESS**

1. **13-060-SE Dist. 3 1531 Senate Street, 1025 Henderson Street, and 1501 Pendleton Street (TMS# 11401-10-01, 11401-15-01, 11401-14-01, -06, -09, and -12)** Special Exception to allow leased remote parking to meet parking requirements (Heather A. Mitchell, AIA, The Boudreaux Group) (C-4, -DD; C-1, -DP, -DD; PUD-C, -DD; and C-1, -DD)
2. **13-061-SE Dist. 2 1618-1622 Wayne Street (TMS# 09010-09-16)** Special Exception to expand a cemetery (Columbia Hebrew Benevolent Society) (RG-3, -DD)

**Motion by Mr. Hubbard to approve** Consent Agenda items 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; *seconded by Mr. McMeekin* .  
**Consent Agenda items approved 5-0.**

#### IV. REGULAR AGENDA

**Motion by Mr. Hubbard to rearrange the order of the agenda to proceed with items 3, 5110 Fairfield Road**, special exception to establish a drive-through ATM facility; **item 5, 5110 Fairfield Road**, variance to the front yard setback requirements to construct an ATM; and **item 6, 5100 Fairfield Road**, variance to the street protective yard requirements to construct an ATM will all be heard at once for ease and efficiency. *Motion seconded by Mr. Cromartie.*

**The applicant agreed to this. Motion approved 5-0.**

##### A. OLD BUSINESS

3. **13-058- SE**      **Dist. 1**      **5110 Fairfield Road (TMS# 11701-02-19)** Special Exception to establish a drive-through ATM facility (Dennis Terry, Little Diversified Architectural Consulting) (C-3)

Dennis Terry of Little Diversified Architectural Consulting presented on behalf of Bank of America.

Mr. Little said there were several issues on this site making the installation of the ATM very difficult.

- There are existing lease conditions with current tenants. ACE Cash Express has a condition in the lease prohibiting any other banking facilities within 300' of their door.
- Food Lion has existing parking there; if the ATM is put at this location close to the street, the remaining parking is not covered by a lease. This area is within the 25' setback.

He feels that because an ATM is a remote structure, it should be allowed to encroach within the 25' setback.

There is existing pavement and drainage on the site. It would require significant demolition, possibly a retaining wall to allow landscaping between the ATM and the street; which is not in line with existing streetscape in the area. It is proposed to put in new curb lines and landscape islands that will have small maturing ornamental trees, such as Yoshino Cherry or Redbud, because of existing overhead power lines. The setback will allow for a large maturing shade tree. Maintenance will be the responsibility of the bank. Evergreen shrubbery will not be used due to security issues; however an Oak or Maple Tree can be limbed up.

Mr. Hubbard expressed concerns that the trees should be of substance and enhance the streetscape as the long term goal is to green the City a lot more. He asked if approval of the request could be conditional upon the applicant working with staff to incorporate a large tree or two. Both applicant and staff agreed to this.

A blueprint of the site was reviewed. Mr. Salley commented that an encroachment easement from SCEG may be required, and any tree proposed for the site will need to meet SCEG guidelines.

Mr. Cromartie stated for clarity for the Board that each application will be reviewed independently. The applicant addressed all three requests in his discussion.

**Motion by Mr. Hubbard to grant the request for special exception to establish a drive-through ATM facility at 5110 Fairfield Road conditioned on the understanding that the applicant will work with staff to ensure everything is done with regard to the conditions of the site. As they are very close to the right-of-way, if any future greening is done in the area, any plantings, in particular, trees, will fit into the area as well as possible.**

**There are no issues with vehicular and pedestrian safety; no issues regarding environmental factors; aesthetics have been addressed with discussion of the trees; there are no issues with public safety or nuisance; no problems with concentration or the character of the neighborhood; it is compatible and**

**in the public interest; and at least in the short term, it will be an improvement in the public interest. Motion seconded by Mr. Salley. Motion approved 5-0.**

5. 13-062-V Dist. 1 5110 Fairfield Road (TMS# 11701-02-19) Variance to the front yard setback requirements to construct an ATM (Dennis Terry, Little Diversified Architectural Consulting) (C-3)

**Motion by Mr. Hubbard to grant the request for variance to front yard setbacks because of lease conditions and drainage conditions. These are extraordinary and exceptional conditions that do not generally apply to other properties. It would prohibit or unreasonably restrict the utilization of the property to require otherwise. It will not be of substantial detriment to adjacent property; and it is in the public interest. Motion seconded by Mr. Salley. Motion approved 5-0.**

6. 13-063-V Dist. 1 5110 Fairfield Road (TMS# 11701-02-19) Variance to the street protective yard requirements to construct an ATM (Dennis Terry, Little Diversified Architectural Consulting) (C-3)

**Motion by Mr. Hubbard to grant the request for variance to street protective yard requirements to construct an ATM. These are extraordinary and exceptional conditions due to the slope in topography that do not generally apply to other properties. It would prohibit or unreasonably restrict the use of the property to not allow this request. It will not be of substantial detriment to the public good or the character of the district; it will be in harmony with the purpose and intent of the Zoning Ordinance, and will not be injurious to the public welfare. Motion seconded by Mr. Salley. Motion approved 5-0.**

#### **B. NEW BUSINESS**

4. 13-059-SE Dist. 3 3401 Rosewood Drive (TMS# 13802-18-11) Special Exception to establish a roominghouse (James and Sadie Hartman) (RG-2, -CC1)

James and Sadie Hartman, homeowners, wish to convert a building previously used as a daycare into a roominghouse. The Hartmans are currently renting the five bedroom building to students. Each room has its own external door. Due to the ordinance that does not allow over three unrelated individuals to live in a house, they are submitting a request for special exception to be able to use the property as a roominghouse. They feel it would fit into the community as there are several multiple multi-family units in the neighborhood.

Mr. Hartman said there are about six or seven apartments in varying areas respectively, with a high concentrate of multifamily and commercial in the area. He feels a roominghouse will be consistent with the character and intent of area, and is appropriate for the residential lot. The building was formerly used as a childcare center for 40 to 50 children for 30 years. They have since reduced that use to only five people who are residents of the City as they go to school there. He feels there is no impact on traffic, and it will improve the area. They are not changing the look of the house; they are just requesting extending the use of the property to accommodate five instead of three unrelated people. The five individuals residing there will each have an individual lease.

Mr. Hartman said they manage the property now. They do not need to be there 24 hours a day. Each unit has its own door for access, and each tenant will have an individual key to enter and leave. Tenant complaints will be handled as needed. The Hartmans live about ten minutes away. Ms. Hartman stated they

have multiple rental properties in the area with this house being the largest, and they do not have any issues with the other properties.

Ms. Hartman said the only complaint she is aware of was with noise the boys made. They were asked to tone down the noise and use a door on the other side. She is not aware there were any additional complaints as she thought things were taken care of.

Mr. Cromartie said an issue raised by staff and the public in looking at an increase of three to five young college persons is having overnight guests who may stay multiple nights during the week which results in an increase in the number of people in the house. If it is kept at three people as allowed in the Ordinance, and each has an overnight girlfriend, it will then be six persons. He asked what controls were in place for overnight stays and how would that be managed.

Mr. Hartman said they had not addressed that issue at this time. There have not been 'huge crowds' coming in at night, as they do not have the facilities for that. If a friend from another university came in and they spent that time in the room, it was not addressed as being a big problem. Normally on the weekends, at least three of the boys go home and only two will remain at the house. He usually inspects the house three times a week.

Mr. Cromartie asked members from the public wishing to speak to come forward and address the criteria as it pertained to this particular case.

Betsy Beach, Shandon Neighborhood Council member was sworn in, and said they had a neighborhood meeting last night regarding this issue. Ms. Beach referenced certain criteria of the Ordinance regarding the intent to continue this type of use until it is removed, but not to encourage its survival.

- The house was previously used as a daycare for small children; not for college-age kids.
- There may be less traffic, but it will be different traffic.
- This area has a lot of school-age children who walk in the area.
- There is a lot of excess noise, more people coming and going at all hours of the day.
- There is a lot of excess litter around the property.
- Concerns with public safety, they do not want another incident as in Five Points.
- They are aware of duplexes and other apartments in the area, but do not want to encourage more multi-family in the area. Just because it is allowed, it is not something they want in their area.
- Community character – they want to preserve and protect the character of the neighborhood. Getting a group of college students together may eventually lead to a fraternity or sorority house, and that is a main concern of the neighborhood. The neighborhood has a community character overlay.
- Public interest – it would set a precedent. Additionally, they feel the Hartmans have not done all the research they should have before converting the home from a daycare to a roominghouse without researching all the criteria for the request.
- The Neighborhood does not want this and is strongly opposed to this request.

Mr. Salley said it would be difficult to turn that building into a duplex, and have a kitchen and living area without possible expansion of the house.

Mr. Hubbard added that the building is not appropriate for conversion into two duplexes.

Tom Bryson, neighborhood resident, felt it would be better to have current zoning with less than five people or convert to a duplex which is more acceptable to the community, voicing opposition to the request.

Angie Graham, next door neighbor, voiced opposition to the request saying it has been a 'living nightmare' since the five young college students have moved into the area. There have been problems with noise, garbage, fighting, and coming and going. She has been in constant contact with the boys via text messages, and approached the Hartmans regarding the problems, and referenced the Zoning Ordinance prohibiting over three unrelated individuals living in the same dwelling to Mr. Hartman. It is detrimental to the public interest to have this go on. She did not register the complaint and was surprised to hear of the complaint, but glad to hear someone else felt this was an issue.

Judy Fleishman, neighborhood resident, voiced opposition to the request saying there are issues with parking, and excess number of people walking in the area.

John Myrick spoke on behalf of Bill and Tamra Paschal regarding a letter opposition they gave to him to present to the Board.

Joann Morton, neighborhood resident, presented a petition signed by 126 people in opposition of the request, pictures taken that morning showing deterioration of the property, and concerns of square footage.

Ms. Hartman felt the issues were 'over embellished'. They responded to the neighborhood concerns and when they did not hear back from Ms. Graham, assumed everything was fine. With the economy, they cannot discriminate saying they will only accept families when there are others who can afford the rent. Mr. Hartman said they would do whatever the City requires to ensure the issues are addressed and taken care of.

Testimony was closed for Board discussion.

Mr. Hubbard said there are always problems when one separates ownership and occupancy, and problems with tenants. The applicants are suggesting breaking this further into five individuals with no prior connection to live together under separate leases. This generally does not work in a residential area. It is easier to police leases and boundaries than it is to police behavior. This would require a complex system where the landlord would need to police the tenants, and staff would need to police the landlord to ensure he is policing the tenants. That is too much to require on someone. Neighborhood concerns and testimony provided show it is not a proper use for a neighborhood, and this type of use will not work. This is a residential area of medium density, and a community character overlay. With regard to compatibility, it is not the particular people involved; it is the use in a predominately single-family neighborhood. Public interest is to protect and improve the character of the neighborhood, not to put further pressure on them. The way the Ordinance is structured, the Board must find that all these criteria are satisfied. He feels the use is not fitting in character, it is not compatible, it is not to public use, and he feels the Board should deny the request for special exception.

Mr. Cromartie voiced concerns with criterion #2, "...will not have a substantial impact on adjoining properties in terms of environmental factors such as noise, lights, glare, vibration, fumes, odors, obstruction of air or light, and litter". The testimony of the adjoining property owner "jumps out" and provides substantially adverse impact with respect to nuisance, compatibility and public interest. Even if this is not approved and the number of students are reduced, this problem will still remain. The community and the landlord must remain very focused as it appears there are issues with some of the students in the house which cannot be addressed by the Board. The environmental factor is the criterion that he is most concerned with.

Mr. Salley agreed to these statements, and said the testimony provided today by those opposed to the request for special exception is exactly why City Council passed the Ordinance that three unrelated people cannot live together. That was a problem around the University and is why the Ordinance was passed to prevent that, and give people the ability to prevent that from happening.

**Motion by Mr. Hubbard to deny the request for special exception for 3401 Rosewood Drive to establish a roominghouse. As indicated in the discussion, there are problems with environmental factors in terms of impact on the neighborhood; there are difficulties with items of the character of the neighborhood, particularly the underlying district and the overlay; it is not compatible at all with that particular area; it is clearly against the public interest because of all the effort a number of people have gone into to prove they are trying to maintain the residential character of the neighborhood. Motion seconded by Ms. Durkin. Motion to deny the request approved 5-0.**

**IV. OTHER BUSINESS**

**Approve October 8, 2013 Minutes**

**Motion to approve the October 8, 2013 minutes by Dr. Hubbard, seconded by Mr. McMeekin. Minutes approved 5-0.**

Mr. Cook reminded Board members of the Ethics Training that will be held on November 21<sup>st</sup> and December 10<sup>th</sup> at the Earlewood Recreation Center.

**V. ADJOURNMENT**

**There being no further business, motion by Mr. Cromartie to adjourn the November 12th, 2013 meeting. Meeting adjourned at 11:46 a.m.**

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