
CITY OF COLUMBIA
BOARD OF ZONING APPEALS MINUTES
MARCH 12, 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, Pat Hubbard, Reggie McKnight, Chuck Salley, and Preston Young

Absent: Calhoun McMeekin III

Staff: Brian Cook, Andrew Livengood, Andrea Wolfe

I. CALL TO ORDER and DETERMINATION OF QUORUM

Ernest Cromartie, III, chairperson, called the meeting to order at 10:03 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. On the Regular Agenda, Items 3, 4, 5, and 9 have been deferred to the April 9th meeting. Mr. Cook proceeded with review of Consent Agenda items.

II. CONSENT AGENDA

A. OLD BUSINESS

None.

B. NEW BUSINESS

- 1. 13-012-SE Dist. 1 1118 Union Street (TMS# 09110-17-01)** Special Exception to establish a Day Care Facility (Cari Moyer, Richland County First Steps)(RG-1, -DP).
- 2. 13-014-SE Dist. 1 247 Plumbers Road (TMS# 14306-01-04)** Special Exception for alternative parking surface (Doug Kale, NICSYD, LLC)(M-1).

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. Young.*
Consent Agenda items approved 6-0.

Mr. Cromartie questioned if this was the first deferral request for the April 9th deferrals to ensure they are not multiple time deferrals in the event members of the public wishing to speak, and who made time to attend the meeting, would be able to hear the case. Mr. Livengood stated the only case with a previous deferral was one of the 3922 W. Beltline cases because the applicant's attorney stated he had court today.

Mr. Cromartie asked staff to ensure that legal counsel for the applicant was made aware that the case will be heard next month in the event of another deferral.

Mr. Hubbard asked if the deferrals are noted on the website to allow members of the public notification of deferral. Mr. Livengood said some of the deferrals were noted on the website; however the notification received yesterday was not. A policy update was made to note the posting signs with deferral as well. He did contact the neighborhood leaders to notify them as well.

III. REGULAR AGENDA

A. OLD BUSINESS

3. **13-007-SE Dist. 2** **3922 W. Beltline Boulevard (TMS# 11409-08-02)** Special Exception to establish a gasoline service station (Krunal Parmar, Jay Hanuman LLC)(C-3). **Deferred until 4/9/13**

B. NEW BUSINESS

4. **13-011-SE Dist. 2** **3922 W. Beltline Boulevard (TMS# 11409-08-02)** Special Exception to establish a Liquor Store (Krunal Parmar, Jay Hanuman LLC)(C-3). **Deferred until 4/9/13**

5. **13-013-SE Dist. 2** **2101 Academy Street (TMS# 11504-04-07)** Special Exception to establish a Liquor Store (Henry Smith Corner Party Shop)(C-2). **Deferred until 4/9/13**

6. **13-015-SE Dist. 2** **2100 Two Notch Road (TMS# 11509-02-09, -10, -11)** Special Exception to establish a Gasoline Service Station (Phil Brandes, Southern Armature)(C-3).

7. **13-016-V Dist. 2** **2100 Two Notch Road (TMS# 11509-02-09, -10, -11)** Variance to parking and front and secondary front yard setback requirements to construct a canopy (Phil Brandes, Southern Armature)(C-3).

8. **13-017-SE Dist. 2** **2100 Two Notch Road (TMS# 11509-02-09, -10, -11)** Special Exception to establish a Liquor Store (Phil Brandes, Southern Armature)(C-3).

Mr. Livengood stated that items 6, 7 and 8 are all at the same address, and can be discussed separately or together, whichever the Board desires. The applicant is proposing to demolish a portion of an existing building to redevelop the site into a gas station, Laundromat, and a package liquor store.

The M-1 parcel across street is part of the Benedict athletic/football stadium. At one point there was the concept of a hotel in that area as well.

David Brandies represented the family for this family-owned property belonging to his mother and father, Phil and Sylvia Brandies. Mr. Brandies said their family has owned businesses in the area for over 60 years. This particular property has been on the market for over three years due to change in automotive repair business.

As each item is a separate request, Mr. Cromartie asked they be presented separately.

2100 Two Notch Road Special Exception to establish a Gasoline Service Station

Mr. Brandies said the first request is for a special exception for construction of a service station, which is a permitted use in the C-3 zoning area.

Impact of the proposal upon traffic – this is an operating commercial facility where the square footage will be reduced by the construction. A portion of the front of the building will be removed to provide additional parking, and pull the front of the building back from the street. Traffic flow is low for this area and the addition of the service station for this area would adversely impact traffic.

Impact of proposal upon vehicular and pedestrian safety – a streetscaping project was done a few years ago in the area with sidewalks and landscaping. From a pedestrian standpoint, by pulling the building away from the road, makes it very pedestrian safe.

Impact of the proposal in terms of noise/lights/fumes/of obstruction of air flow upon adjoining property – an existing building that was used for auto repair previously is being used. Low impact in terms of noise, lights and fumes because cars will not be worked on.

Impact of the proposal upon the aesthetic character of the environs – the building was built in 1973 and was appropriate for its use. It has been very difficult to keep up as is a sheet metal façade building. The sheet metal will be removed, a front parapet will be built, and it will be a split face painted front block, with a large amount of landscaping added. A small area barbershop in front will be removed and the area will be paved. In terms of investment, it is a fairly large capital investment to improve. The facility currently has a very limited use.

Adverse affect of proposal on public interest – it will be a gas station, a Laundromat, a grill to serve food, and package store. It will be a mixed use parcel located on commercial corridor which will be a plus for the community.

The Board is tasked with deciding if this is a location where a gas station can exist. He feels it is a perfect location where a gas station can be located as it sits on a corner on a C-3 lot in a commercial area. It is already existing retail and does not push into the neighborhood.

Mr. Hubbard complimented the applicant on his presentation.

No one spoke in favor or opposition of the request for use as a gas station. Testimony closed for board discussion.

Motion by Mr. Hubbard to approve the request for special exception for **2100 Two Notch Road** to establish a Gasoline Service Station as he feels it is a good proposal. The impact of the proposal upon traffic will be minimal with no safety problems; there will be no negative impact of the proposal upon vehicular/pedestrian safety, the applicant has indicated in his testimony there will be good flow for vehicular and pedestrian traffic; there will be no impact in terms of noise/lights/fumes; the proposal of the applicant indicated no adverse impact on the aesthetic character; regarding orientation, the proposed sketch presented will fit very nicely on the property; and it will not adversely affect the public interest. *Motion seconded by Mr. Salley. Request granted 6-0.*

2100 Two Notch Road Variance to parking and front and secondary front yard setback requirements to construct a canopy

Mr. Brandies stated this next request is for a variance for a front canopy. Initially the request included parking, however that is not needed as it was incorrectly calculated before. The canopy will cover three sets of pumps, two on each sided for a total of six pumps. The proposed gas station owner is City Gas who owns a number of independently owned gas stations.

Mr. Brandies reviewed the criteria for the variance request:

Extraordinary and exceptional conditions that pertain to the subject property – when the streetscaping was done, 15' of right of way was taken which left a lot of the buildings fairly close to the road. This renders the corner properties very difficult to develop. Taking that 15' makes it impossible to set the 25' foot barrier which is an exceptional condition. Even though a building will be removed, because of the use of the existing building, to take it back 25' will render the building unusable. They want good traffic flow around the pumps to enter and exit the pumps. To maintain a good landscape buffer and traffic flow, they are about 12' short in the front and about 1/2' short on the side.

Condition noted do not generally apply to other properties – other gas station canopies along the street are within the setback. This will not be out of character to have facilities set up on the street. Some communities do not consider canopies as a structure as mentioned in the ordinance.

Because of the conditions noted above, the requirements of the Zoning Ordinance effectively prohibit or unreasonably restrict the use of the property – it would render the building too small; they are reusing a good functional building that will save resources.

Approval of the variance would not be of substantial detriment to the adjacent property or to the public good, and the character of the district would not be harmed – the canopy will be one of the furthest set back canopies, it will blend into the community and match existing canopies along the road. Because it is up high and open underneath, they feel that given that this is a canopy, will not harm the public.

Mr. Cromartie complimented Mr. Brandies, as in the first application, this was laid out very nicely and presented well on this issue.

Larry Sally, Benedict College and the Benedict/Allen CDC, said he applauds efforts to reuse the building but it sits adjacent to several properties owned by Benedict College. Mr. Sally said all projects that have been constructed by Benedict have been in keeping with City of Columbia standards. The canopy is not obtrusive, but sits on road and they feel it will be a hazard sitting on the corner. There are no traffic lights in the area and it will cause traffic hazards. The slight slope on the property is dangerous for those to enter Two Notch. The other businesses were all grandfathered in. He suggested something less intrusive and blends more into the community.

Mr. Hubbard said the gas station has already approved and is only about 5". Mr. Livengood said the Edgewood side is about 6" and the Two Notch side is about 12 1/2' of variance.

Mr. Sally preferred something more reflective of designs in the community. He is aware it is an older building and appreciates gas stations that bring commerce to the community. He does not want something that adds to the pollution in the community. They want to attract businesses that blend into the community and favor that.

Mr. Brandies said this is one of the smallest gas station with three pumps, consisting of six stations. The canopy is to allow for coverage from the elements for customers. It is a very narrow canopy that will have lighting, but he was unsure if the lighting will be on the edges as he has not seen the canopy designs. There will be some sort of graphic on the canopy to let people know it is a commercial gas station. He cannot imagine a canopy will take over the corner against Benedict's football stadium or overwhelm the area.

There is two-way traffic between the entrance of the building and the canopy, which is a requirement by the City. To allow for the 25' setback and the pump area, requires the variance. He feels all has been done to get the least amount of encroachment necessary and the least amount of coverage needed for the pumps. The canopy will not be overly lighted and will have just enough lighting for safety and to see. Mr. Brandies said they will work with the community on these issues and have a meeting with the community that evening.

Alex Burgess, community resident and community member of the Two Notch Road Merchants Association, said they are trying to make this a more attractive area, in conjunction with Benedict College and the businesses up and down Two Notch. She voiced concerns regarding signage and with the proximity of the canopy to the street; and now had concerns with lighting as residents live on that same block. This is the gateway to the community and city as well. Ms. Burgess has no problem with commercial as it is a commercial area, but they want an attractive building that will add to the community and not take away from it. There are service stations up and down Two Notch Road and another less than one block away from the proposed service station.

Mr. Cromartie said the neighborhood has voiced concerns regarding lighting and the canopy. The applicant stated they wanted to work with the community group, but he has not seen the design plans yet. He asked if the Board needed to see canopy plans before a decision was made, or if conditions should be placed.

Ms. Durkin said she goggled gas station canopies and all the lighting is turned down. It does not mean something else cannot be done, but all the lighting turns down and coloring is around the canopy for signage. She does not need to see any plans.

Mr. Hubbard said conditions can be placed and he was 'wrestling' with that. One condition could be no lighting on the canopy portion and signage could be placed on it.

Mr. Salley said the problem with that is that newer canopies have a digital display, an LED light that is not obtrusive or shiny, to advertise pricing. If conditioned, an exception should be considered.

Mr. Hubbard voiced concerns that once approved, it would be approved; however because applicants have time limits on projects sometimes questioned the applicant.

Mr. Brandies stated he does not feel it will be unreasonable to limit lighting. He reminded the canopy is what was being requested. However, all lighting will focus downward and be shielded from the neighborhood, and all signage must comply with City of Columbia signage ordinances. If that needed to be a condition, he was agreeable.

Mr. Cook stated the current City Sign Ordinance states that "no sign shall be illuminated in such a way that it casts illumination onto any residential premises located in a residential district." which answers the signage issues as far as casting onto a residential property. As for general commercial and the size for a sign, 300 sq. ft. plus 2 sq. ft. for each linear foot of the building frontage for the principal entrance in excess of 150 feet. The height of a freestanding sign in C-3 is 35 feet.

Mr. Hubbard voiced concerns with public comments made saying it must not be injurious to the public and be in harmony with the neighborhood which is why he felt a condition may be necessary. Mr. Cook said regarding a setback variance for a canopy, it is up to the Board to decide if a condition should be placed. The canopy can be built according to the ordinance, and signage and lighting is addressed in the Ordinance regarding spillage of lighting on property.

Mr. Hubbard felt the generic rules that generally apply may not be specific enough to meet the concerns of this area and feels it is important to address this commercial corridor. As pointed out, it is a gateway to the area. Two Notch, the City and Benedict have worked very hard to get 'this together', along with the state. . He feels it better if this variance is granted that it be a bulk variance.

Mr. Young asked if this application would go to the D/DRC once designed and the plans area. Mr. Livengood said it is not in a design district; however the BoZA can place conditions on approval. There is no review for aesthetics, just for meeting the terms in code.

Mr. Cromartie said as there is no further design review, he is inclined to listen to community concerns and have a formal condition placed as Mr. Hubbard discussed.

Motion by Mr. Hubbard to grant the request for variance for **2100 Two Notch Road** to parking and front and secondary front yard setback requirements to construct a canopy subject to condition there is only underneath lighting directed downward as opposed to projected lighting, will not exclude digital gas advertisement pricing. There are extraordinary and exceptional conditions that pertain to the subject property that do not generally apply to other properties in the area. Because of the settings and discussion as evidenced here, it indicates the requirement would effectively or unreasonably restrict the use of the property. The proposal will not be a substantial detriment to adjacent property, and the public good and the character of the district will not be harmed. It is the minimum necessary given the unique location and conditions at the site, and it is in harmony and purpose of intent of the zoning ordinance, and will not be injurious subject to the conditions imposed by the Board of Zoning Appeals.

Mr. Cook asked for clarification regarding the use of the LED and reader board sign strictly for gas prices, or utilized for other general commercial purposes as well.

Both Mr. Salley and Mr. Cromartie felt it appropriate to use for general purposes for the business, as long as it does not project into the neighborhood, and is the only lighting used. *Seconded by Mr. Salley.* **Request for variance granted 6-0.**

2100 Two Notch Road (TMS# 11509-02-09, -10, -11) Special Exception to establish a Liquor Store

Mr. Brandies reminded that it is important to remember the issue presented is whether this use as a special exception for a liquor store is a reasonable use in this area for C-3.

He reviewed the criteria for special exception.

Impact of the proposal upon traffic – will be the same situation as the gas station. State law requires a liquor store to be separate business. To allow for that, there will be a separate entry for the 426 sq. ft. store out of about 4,500 sq. ft. which is about 8% of the entire floor space. The liquor store will be the furthest up to Two Notch and furthest back from Edgewood.

Impact of the proposal upon vehicular and pedestrian safety – will be the same as for the gas station.

Impact in terms of noise/ lights/fumes/ or obstruction of air flow upon adjoining property – much less as a canopy will be installed and it will be a gas station.

Impact of proposal in terms of the environs – smallest frontage, small sign, as the Merchants Association said, it will be an improvement for the area.

Impact in terms of orientation and spacing of improvements or buildings – the location where the liquor store will be located is the furthest away and most logical and best location for type of business.

Adverse impact on public interest – this is not a standalone ABC package store; this will be a mixed use store with a Laundromat, grill, convenience store, and a gas station which they feel is an important element. The liquor store will be placed on the furthest corner up Two Notch. C-3 is the allowed use for a liquor store. There is one other liquor store in that area, it is stand-alone store located about ¼ mile up the road. There are no other liquor stores in the area. There is an Orange Party shop on Millwood. There are other places that sell beer and wine, but this is not that type of store. Regarding parking, most people will park at the pumps and go into the store rather than park in front of the store.

Brenda Oliver, Pinehurst Community Neighborhood Association president, voiced concerns over the liquor store part of this application. Ms. Oliver said the Brandies have been good neighbors and a good resident while Southern Armature business was in place. She is concerned that the potential buyer was not in attendance. That is committing to Mr. Brandies for certain conditions but relying on the buyer to carry them out, which may not hold them accountable for certain things. There is a crime issue in the community, and an abundance of convenience stores that sell beer and wine. They would welcome the Laundromat and

convenience store as part of the development, but not liquor store. Benedict College is there and this would be detrimental when games occur as there are enough problems during games with off premise activities. Elderly people live behind this area and worry about everything. There will be parking issues when people go to the Laundromat. There are two ABC stores nearby in the area for people to buy liquor, and she does not feel this liquor store being located across from the College or near elderly residents is a proper location.

Ms. Burgess said Ms. Oliver addressed all her issues except the fact the applicant said this won't be a Morganellis liquor store, but it appears to be. Some of the students will be old enough to buy liquor and it should not be encouraged. Campus meetings and classes are held regularly, and they do not want to acerbate that. They must protect the elderly, the children and the area. There are numerous liquor stores in the area.

Carl Frederick, life-long resident of the Two Notch Road Corridor and president of the Edgewood/ Read Community Improvement Council, wants to ensure the greater good of community and development in the community to ensure the safety of the community. Residents on either side of Two Notch Road must be considered. Another liquor establishment is not needed in this area. The Two Notch Corridor has experienced a great amount of crime and they don't know if the people who run this business will be good neighbors or not. The area does not need any more alcohol.

Mr. Larry Sally is opposed to the sale of alcohol in the community. There are 27,000 students at Benedict College and 90% live in the facilities either on campus or near the campus. Plans for additional dorms two blocks away are being planned. Other businesses, homes and parks are planned for the area. They are trying to change the character of the community. The Brandies and Southern Armature have not been any problem, but he does not want a liquor store. There are enough liquor stores and similar vices in the area already.

Mr. Brandies said the store is 1325 feet from the College. The nearest liquor store is 3-4 blocks away which is about 1 mile away. The convenience store can apply for a beer and wine license easily; this is for a liquor store which is different and will only be 425 sq. If the community does not want a liquor store, they can do a beer and wine store. The City cannot make a liquor-free city wide. He reminded the Board that the focus of their decision is if C-3 is a good location for a liquor store. They must decide if this is where it can be put.

Ms. Burgess added that the Board is knowledgeable and can make decisions, but this is her neighborhood. She has no problem with other businesses; the only issue is with a liquor store at this location in this city at this time.

Testimony closed for Board discussion.

Mr. Young said the Board previously approved student housing where a proposed hotel was in front of the football stadium. After that approval, he does not see where he can say a liquor store will not adversely affect that community. He does not feel a liquor store at that location is good at this time.

Mr. Salley asked if this location meets all the criteria required for this process regarding distance from schools, churches, etc. Mr. Livengood said the City does not have criteria, it would be with state revenue.

Mr. McKnight said he concurs with Mr. Young. He feels there will be an impact upon traffic, vehicular and pedestrian safety, and it could be very dangerous.

Mr. Salley asked the applicant if he knew the rules regarding a liquor store's location. Mr. Brandies stated his understanding is it must be 1,000 feet, front door to front door, away from a school, a church, or daycare. The PUD-C previously approved put all the dormitories on the opposite side toward Palmetto Health. Mr. Hubbard said adverse effect on public interest is one of the criterion which he is struggling with. On one hand it does affect the public, however it is a very small store that will be tucked away and patrons will probably just buy a bottle and leave.

Mr. Cromartie said someone mentioned Carolina stadium and he cannot remember a liquor store being across the street. Mr. Salley said there are a number of them in the vicinity, Jackos is one example.

Mr. Cromartie said public interest means a lot as well. It is very interesting to him how three or four members of the public have spoken on how it is very important that the community has changed and how it has improved. It says a lot that these individuals have come to speak regarding how they have made the community a place where people will want to come to. That is very important to him to have the public speak regarding public interest within the community.

Ms. Durkin said she appreciates what neighbors said about this establishment. She is a resident of downtown Columbia and lives on the USC campus. She is surrounded by convenience stores and there is a liquor store, and they all sell beer and wine. She can see both sides of the issue. She questioned how one legislates morality. They are college students, and she once was also and drank underage as well. College students will drink liquor if they want it and will find a way. This is a very small portion of this business that will sell alcohol just as they do in her neighborhood. They say there have been problems, but she has not seen any.

Mr. McKnight said they are not mind readers and cannot say what will happen. What if someone purchases something from the liquor store, and then goes into the Laundromat as a 'safe haven'. The Board should not have to deal with that.

Ms. Durkin said that would be up to business owner to monitor.

Mr. Salley added that would be against the law and the Board is not there and cannot control that. He feels Mr. Sally's testimony on the alcohol sales prove it will be a very viable location for a package store, commercially speaking. He is curious about how many times a proposed liquor store will be denied in this area, and what the next will look like. This will be very small, unobtrusive store that will not stand out, and there are other businesses on the same block that will be able to monitor the illegal consumption of alcohol on the premises that will not come with a free-standing liquor store. He feels the Board should consider this very seriously because it is a very small store; and consider if not this, what will be approved or not approved on Two Notch Road.

Mr. Young said each case on Two Notch Road should be considered individually as to whether it meets the criteria. He is familiar with the area and does not feel this request meets the criteria based on crime statistics, traffic, and after-hours activity. He feels each case should be taken on a case to case basis as to whether it meets the criteria and area.

Motion by Mr. Young to deny the request for special exception for **2100 Two Notch Road** to establish a Liquor Store as it fails to meet criteria, in particular the one regarding the adverse effect on public interest; seconded by Mr. McKnight.

Mr. Livengood asked Mr. Young to cite all specific criteria and reason for denial to be noted for the record.

Mr. Young cited the impact of the proposal upon traffic; impact of the proposal upon vehicular and pedestrian safety; impact of the proposal in terms of noise/lights/ fumes/ or obstruction of air flow upon adjoining property; impact of proposal upon aesthetic character; impact of proposal in terms of the orientation and spacing of improvements or buildings; and adverse effect of public interest are not met and have a negative effect.

Request denied 4-2 with Ms. Durkin and Mr. Salley in opposition.

9. 13-018-SE Dist. 2 1116 House Street (TMS# 11410-06-27) Special Exception to establish a sporting house/Bowling house (Deborah Culler, Columbia Community Outreach) (C-1).

Deferred until 4/9/13

IV. OTHER BUSINESS

Approve February 8, 2013 Minutes

Mr. Cromartie abstained from voting on the minutes as he was absent at the February meeting.

Motion to approve minutes by Mr. Hubbard, seconded by Mr. McKnight. Minutes approved 5-0.

V. ADJOURNMENT

There being no further business, motion to adjourn at 11:36 a.m. by Mr. Cromartie.

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