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**CITY OF COLUMBIA**  
**BOARD OF ZONING APPEALS MINUTES**  
**NOVEMBER 11, 2014- 10:00 AM**

City Hall Council Chambers  
1737 Main Street • Columbia, SC

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**In attendance:** Ernest Cromartie, III, Calhoun McMeekin, Chuck Salley, Preston Young

**Absent:** Dr. Pat Hubbard, Reggie McKnight, Patricia Durkin

**Staff:** Brian Cook, Andrew Livengood, Andrea Wolfe

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

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

**A. APPROVAL OF MINUTES**

Approve October 14, 2014 Minutes

**B. OLD BUSINESS**

None.

**C. NEW BUSINESS**

1. **14-056-V Dist. 2 1322 McDuffie Street (TMS# 11411-08-23)** Variance to the side yard setback requirements for an existing single family residence (Kevin Giles, Metro-Dwellings LLC) (RS-3)
2. **14-057-V Dist. 2 2521 Washington Street (TMS# 11411-06-12)** Variance to the side yard setback requirements for an existing single family residence (Kevin Giles, Metro-Dwellings LLC) (RS-3)
3. **14-061-SE Dist. 4 710 Brandon Avenue (TMS# 16404-05-21)** Special Exception to expand an automotive repair shop (Gregg Gaskins, GRG Investments, LLC) (C-3)
4. **14-063-SE Dist. 1 2139 Bull Street (TMS# 09016-06-04 and -05)** Special Exception to establish an embroidery and silk screening shop (Otto C. Smith, DMS Printing and Promotional Company) (C-1, -DP)

**Motion by Mr. Young to approve the October 14, 2014 Minutes and the Consent Agenda 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 as presented 4-0.**

**IV. REGULAR AGENDA**

**A. OLD BUSINESS**

None.

## **B. NEW BUSINESS**

5. **14-058-SE Dist. 2 816 Whaley Street (TMS# 08913-08-01)** Special Exception to establish a roominghouse (Kurt Rayburg) (RG-2, -DP, -CC1, -PD)

Kurt Rayburg, property owner/applicant, presented on the request to establish a 5-bed roominghouse. Earlier in the year, Zoning Staff investigated after a complaint was received for over-occupancy, and found more than three unrelated individuals were occupying the residence, which is a violation of the Zoning Ordinance.

Mr. Rayburg stated there is an on-site house manager for five students who have been living there for the past seven years. The property has been utilized as a roominghouse for over 20 years, and he would like to continue that use. He has been the property owner since January 6, 2014. The previous owner held the property for about seven years, and the prior owner owned the property for about 17 years. There have been no changes to the property other than change of ownership.

Mr. Rayburn reviewed the criteria required for approval of a special exception:

***The proposed special exception will not have a substantial adverse impact on vehicular traffic or pedestrian safety*** as there will be no change to the existing vehicular traffic. There is an existing gravel parking lot on the side and additional on-street parking.

***The proposed special exception will not have an adverse impact on adjoining properties in terms of environmental factors*** as there are house rules – no music allowed above 85 decibels, there will be no additional light/glare/vibration/fumes/odors/obstructions of air or light.

***The request will not have a substantial adverse impact on the aesthetic character of the area.*** The house has been cleaned and washed, all of the bushes trimmed; everything is kept neat and clean. There will be no change to the exterior or the aesthetics of the building.

***The request will not have a 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.*** To date, there have been no issues with the house because there is a house manager. There are no nuisance conditions or anything detrimental to the public interest or conditions likely to result in increased law enforcement response.

***The establishment of the proposed special exception will not create a concentration or proliferation of the same or similar types of special exception use*** as the closest similar establishment is six blocks away and zoned in Richland County. There are no other roominghouses in the neighborhood.

***The proposed special exception is consistent with the character and intent of the district-*** in his opinion, it is as the exterior has not changed in over 30 years; it has been improved, updated and the premises have been kept up-to-date and cleaned. It is consistent with the district and the zoning overlay district goals and requirements.

***The proposed special exception is appropriate for its location and compatible with the permitted uses adjacent to and in the vicinity of the property -*** yes, it is a large back yard and compatible with the area.

***The proposed special exception will no adversely affect the public interest -*** none to his knowledge. There is no adverse impact on any one of the eight criteria.

Shannon Scott Powers, president of the Whaley Square Homeowner Association, represented the Homeowner Association saying they requested denial of both the request for special exception and request for variance for 816 Whaley Street.

Larry Gamble, vice president of the Whaley Street Neighborhood Association, sent a letter requesting denial of the request.

Testimony closed for Board discussion.

Board discussion was amended to allow Mr. Rayburn to make final comments.

Testimony reclosed for Board discussion.

Discussion followed among Board members regarding the use of the property and parking issues. Concerns with the request were voiced as the use will remain with the property, not the applicant. If granted, it could encroach upon and deteriorate the community in future years with a different property owner.

Some of the Board members felt there have been no adverse impact in all the years the property has been in use, and that all criteria for special exception had been met.

**Motion by Mr. McMeekin to deny the request for special exception for 816 Whaley Street to establish a roominghouse as the proposed special exception will adversely affect the public interest; it is not compatible with the permitted uses adjacent to and in the vicinity of the property; and it already has a substantial impact on vehicular traffic, and pedestrian safety.**

***Motion seconded by Mr. Cromartie.***

**Motion fails 2-2 vote with Mr. Young and Mr. Salley in opposition.**

A brief recess was taken to research and determine how to proceed in the event of a split vote on a new motion.

*Chairperson adjourned the meeting adjourned at 11:06 am. Meeting resumed at 11:20 am.*

Staff wanted to offer the applicant the opportunity to defer his request to the next month to allow for a full seven-member Board to hear the request. If the Board did entertain another motion, in the event it again was a 2-2 vote, the request would be denied and could not present back for six months. The request would be the first case to present on the agenda and offer the applicant the opportunity, at the minimum, to have the benefit of an odd number Board, or at a maximum, the full seven-member board which will allow the opportunity for a proper vote.

Mr. Rayburg requested a deferral.

**Motion by Mr. McMeekin to defer the request to next month's meeting; seconded by Mr. Salley.**

**Request for deferral approved 4-0.**

6. 14-059-V Dist. 2 816 Whaley Street (TMS# 08913-08-01) Variance to the parking requirements for a roominghouse (Kurt Rayburg) (RG-2, -DP, -CC1, -PD)

**Motion by Mr. Young to defer request for variance for 816 Whaley Street to the December 9th meeting, seconded by Mr. Cromartie.**

**Motion to defer approved 4-0.**

7. 14-060-V Dist. 3 1425 Westminster Drive (TMS# 11415-02-03) Variance to the lot coverage requirements to construct accessory structures (Tim Hance, AIA) (RS-2)

Tim Hance, architect for the project, presented on the request to construct two carports within the rear yard of an existing single-family residence. One of the carports will have a storage area. An existing shed in the rear corner of the lot will be removed.

The reason for having two separate structures is to preserve a specimen live Oak Tree on the property.

**Extraordinary and exceptional conditions pertain to the subject property.** The property owner wishes to preserve a large specimen live Oak Tree on the property. Also, it is a triangular piece of property and makes the street parking tight and unsafe.

**The requested variance is the minimum necessary** to achieve the goal.

No one spoke in favor or opposition of the request.

Testimony closed for Board discussion.

**Motion by Mr. McMeekin to approve the request for variance at 1425 Westminster Drive as there are extraordinary and exceptional conditions that pertain to the property because of the large Grand Tree on the subject property. These conditions do not generally apply to other properties in the area. Approval of the variance will not unreasonably restrict or prohibit use of the property. Based on the fact that it is not solely visible, it will not a detriment to the adjacent properties.**

***Motion seconded by Mr. Salley.***

**Motion approved 4-0, request for variance granted.**

- 8. 14-062-V Dist. 4 4000 Kilbourne Road (TMS# 13909-15-01)** Variance to the lot coverage and side yard setback requirements to construct an addition (Ashlyn and Joe Boykin) (RS-1)

**Case deferred at the request of the applicants.**

- 9. 14-064-SE Dist. 2 926 Harden Street (TMS# 11405-07-16, -17, and -24)** Special Exception to establish a drive through facility (Joe Taylor, Harden Street 1, LLC) (MX-1, -5P)

Emile DeFelice, business partner of the applicant, presented on the request. This is a back door that will be used as a pick-up window and for service in the later hours at a specialty doughnut shop. It is basically a Dutch door which will be safer for employees; and provide ingress and egress with a door at both sides of the building.

**The proposed special exception will not have a substantial adverse impact on pedestrian or vehicular traffic** because it is more of a back door. Orders will be placed beforehand, and picked up at the drive-in area.

This is an attempt to take an old building in Five Points and make it useful. Mr. DeFelice voiced no opposition to having the parcels consolidated prior to issuance of permits if the special exception is granted, and agreed to this if made a condition for approval.

Staff noted there was a related case for a variance request for a buffer yard.

No one spoke in favor or opposition of the request.

**Motion by Mr. Salley to approve the request for special exception for 926 Harden Street to establish a drive through. The applicant has shown the request will not have an adverse effect on vehicular or pedestrian safety; no environmental factors will be impacted by this**

**development; the aesthetics of the neighborhood will be greatly improved by this development; the applicants are also refurbishing a building which is to be commended; public safety and nuisance conditions will not be created by this development; nor is there a concentration of other special exceptions of this kind in the area; the character and intent of the underlying district is being kept by this development; this development is compatible with other developments in the community; and is within the public interest. Granting of this special exception is conditioned upon complying with staff's comments within the proposal.**

***Motion seconded by Mr. McMeekin.***

**Motion approved 4-0; request for special exception granted.**

- 10. 14-065-V Dist. 2 926 Harden Street (TMS# 11405-07-16, -17, and -24)** Variance to the landscape buffer transition yard requirements (Joe Taylor, Harden Street 1, LLC) (MX-1, -5P)

Wes Lyles of Studio 2LR, architect for the project, presented on the request. This property has been vacant for a while. There asphalt goes back further on the property with a 3' retaining wall. The Ordinance states if there is a 6' high wall, it will allow for a 15' buffer. There is a 30' buffer that comes within 8' of the building which would not allow a drive-around with that buffer. There is some precedent for this along this strip as there are some buildings that are all the way back to the property line backing up to the residential. So this is not unusual for this area. The residential area behind this property is also 10' above the property; and there is a heavily wooded lot behind the property on the residential side which provides some buffer between the properties. Mr. Lyles feels this is the best solution for this property.

Mr. Lyles testified they will work with staff regarding the density required for the vegetation on the back road to comply with all requirements.

Mr. Cook stated there were available options of a 6' masonry wall reducing the buffer 50% or an 8' wooden fence reducing the buffer by 25%, and asked he applicant why one of these options was not used.

Mr. Lyles said a masonry wall or wooden fence were not planned because of parking which will still be an issue if the buffer is reduced. Because of the small site and small building located on the property, with the pick-up window and routing around the building, there is no room for parking. The applicants reviewed the wall section with staff, and a site plan was prepared with the wall.

Staff agreed that it would be very difficult, if not impossible, to make it work for exactly what the applicants wish to do and feels confident the applicants will do as much as can possibly be done in the back area for this unique lot to provide the buffer.

No one spoke in favor or opposition of the request.

**Motion by Mr. Salley to approve the request for variance for 926 Harden Street. The applicant has established there are extraordinary and exceptional conditions pertaining to this property. Denial of the request for variance, specifically because of the grade differential between the back property and the front property, would make it very difficult for the applicant to comply with the Ordinance. It is not generally applicable to other properties in the area. Without this variance, it would prohibit or unreasonably restrict the use of that property. It is the minimum necessary for that particular use of the property. The applicants are meeting the minimal standards in keeping the property in the public good and character of the district. Approval of the request for variance is conditioned upon the applicants complying with staff requests.**

***Motion seconded by Mr. Young.***

**Motion approved 4-0; request for variance granted.**

- 11. 14-066-SE Dist. 1 2121 Wayne Street (TMS# 09011-01-07)** Special Exception to establish an automotive repair shop (Steven B. Boyd, Quality Auto Collision Repairs, LLC) (C-3)

Steven Boyd, applicant, presented on the request for special exception to establish an automotive repair shop. There will be two employees in addition to himself at the shop.

Mr. Boyd reviewed the criteria required for a special exception.

***There will be no parking outside, everything will be done inside the building.***

***He does not anticipate a crowd of cars, no more than ten cars at a time. Work will be done on-site for small repairs and minor repair; both for the public and dealerships. There will be no major repairs or welding-type work done.***

***There will be no changes to the structure unless the City requires it.***

***There will be no harm or danger to the neighborhood.***

***There are other commercial uses in the area, but no auto repair in the immediate area.***

***There will be no adverse impact on the public interest.***

If approved, Mr. Boyd agreed to staff recommendations that the proper permits and business licenses must be obtained; the appropriate area must be paved per City recommendation; that all vehicles must be repaired on the inside of the shop; there will be no work done on the outside, and no vehicles stored on the outside.

Mr. Boyd anticipates that business will be an express type business, "in and out". At this time, parking can be handled, and appointments can be made to repair the cars so there will not be any parking issues. Most of the work will be dealerships where the vehicles are delivered to the shop and picked up when complete; a few cars may be delivered to the shop. No vehicles will be stored outside overnight, and the shop will be well-maintained.

Staff noted that some emails in opposition to the request were received last night.

Mike Edwards, representing the owner of the property, stated he prepared the lease with Mr. Boyd. A copy of the lease was provided to staff. Mr. Boyd's lease is based on the fact that cars cannot be parked outside, and is restrictive in its language. They were aware this would be an issue with the neighborhood and tried to work as closely as possible with that. The owner also own the two neighboring properties and has no objections to Mr. Boyd using those properties for parking, however does not plan to consolidate the properties. The drive in doors will be on the north side of the building only, and will not be visible because of treescape. It is the intent of the property owner to pave the parking area.

John Gist, vice president of Elmwood Neighborhood Association, spoke in opposition of the request.

Jennifer Powers, property owner, spoke in opposition of the request.

Staff stated that three letters of opposition were received from neighborhood leaders.

Wesley McManus, small business owner in the area, voiced opposition to the request.

Jeni McCaughan, Executive Director of the Childrens' Theater, voiced concerns that the business may have on the surrounding are regarding aesthetics.

Mr. Boyd addressed neighborhood concerns saying the shop will be open three days a week. He testified that only minor repairs would be done, no heavy damage repair will be done at this location, and no cars will be accepted that come in on a wrecker. Work will be done on three to four cars daily, and will be cosmetic work only. There may be some minor painting done, and Mr. Boyd will comply with OSHA regulations on what will be required to be able to do this.

Mr. Boyd responded to questions asked by Mr. Salley saying:

He will comply with all permitting and licensing

He will comply with paving requirements

All work and repairs will be done inside the building

Hours of operation will be 8:30 am to 5:30 or 6 pm (he may stay a bit longer if needed to complete a job)

No cars will be accepted after 6 pm

Only minor repairs will be done

No vehicles will be stored outside at night

Only three vehicles will be outside during the day

Any painting done will be done with OSHA compliance

Mr. Cromartie stated a lot of the questions asked by Mr. Salley are directly related to the responsibility the Board has to weigh the needs of the neighborhood and the needs of the business in this situation. Many of the things Mr. Salley asked may turn into requirements based upon testimony and conditions that the applicant may need to comply with. It is the job of the applicant as a business owner to either improve or have a neutral effect on the community.

Testimony closed for Board discussion.

As a special exception usually runs with the land, should the Board be inclined to make a motion to approve this request, staff asked the Board to consider a caveat that if the building is vacant or abandoned for a period greater than six months, it will void this special exception and require new special exception be requested by another applicant.

**Motion by Mr. Salley to approve the request for special exception for 2121 Wayne Street to establish an automotive repair shop conditioned upon the following criteria:**

- **the property will be utilized by this business for minor repairs to drivable vehicles, and minor painting related to such repairs;**
- **detailing is also provided and all work will be done in accordance with OSHA standards;**
- **the applicant will comply with staff requests regarding paving for the parking area.**
- **compliance with business licensing for the City of Columbia;**
- **no more than three vehicles will be left parked outside at one time;**
- **no vehicles will be left parked outside overnight, all will be parked inside the building;**
- **the applicant will not receive delivery of vehicles outside the hours of 8 am to 6 pm.**

**Motion seconded by Mr. McMeekin. Request for special exception granted.**

- 12. 14-067-V Dist. 1 2121 Wayne Street (TMS# 09011-01-07)** Variance to the parking requirements for an automotive repair shop (Steven B. Boyd, Quality Auto Collision Repairs, LLC) (C-3)

Mr. Cromartie asked, based upon the previous testimony and the previous restrictions of the various nature of the previous case, if the Board felt they had enough information to make a decision on the issue of variance without additional testimony.

Staff stated that eleven parking spaces are required, and the applicant is proposing three instead. All of the criteria from the last case will remain the same with the potential request that a period of vacancy or inactivity of six month would void the variance; adding that condition was not included in the last motion.

**Motion by Mr. Cromartie to consider the previous motion moved by Mr. Salley, seconded by Mr. McMeekin, and approved by the Board, to allow the motion to be amended to include that the special exception was granted with the caveat if the business is closed for six months or greater, the special exception expires such that it doesn't apply to future businesses. The new business will need to present to the Board to request a special exception.**

***Motion seconded by Mr. Salley. Motion approved 4-0.***

Staff stated that the parking variance presented remains the same, eleven spaces are required and three are proposed. Previous testimony has been provided by the applicant. A public hearing is required to allow members of the public to speak for or against the request; however the criteria remains the same.

Mr. Cromartie stated that he asked the Board if the testimony which was lengthy and very informative from the previous application, was sufficient enough data for the Board to make a decision on the new request for variance. The applicant has the right to speak to the variance request if he chooses to do so. If not, everything stated before will be taken and applied to this decision.

Mr. Boyd stated he was satisfied with his previous testimony.

Testimony closed for Board discussion.

**Motion by Mr. Salley to approve the request for variance for 2121 Wayne Street to the parking requirements for an automotive repair shop conditioned upon staff comments; and that the applicant comply with requirements for paving the drive.**

***Motion seconded by Mr. McMeekin.***

**Staff clarified the condition for paving is not for parking, but for paving the drive to the bay doors.**

**Mr. Salley accepted the correction to the motion.**

**Motion by Mr. Salley to approve the request for variance; seconded by Mr. McMeekin, with the correction.**

**Request for variance granted 4-0.**

- 13. 14-068-SE Dist. 1 5728 Farrow Road (TMS# 11713-07-04)** Special exception to allow a temporary alternative parking surface (Ronald K. Tillman, Tillman Enterprises, LLC) (C-3)

Ronald Tillman, applicant, presented on the request to use crusher run as an alternative surface for one year, after which the lot will be paved. The proposal is to have a small used car lot for this site; no maintenance or detail work will be done at the lot.

Mr. Tillman reviewed the criteria for special exception:

***The proposed special exception will not have a substantial adverse impact on vehicular traffic or pedestrian safety.***

***The proposed special exception will not have an adverse impact on adjoining properties in terms of environmental factors.***

The major impact is that the crusher run is only temporary and will only be there 12 months or less. It will be maintained so that weeds will not grow through; it will be self-contained with the use of some type of framing to keep the stone on the property; vehicles will be parked and remain on the crusher run only. A handicapped pad has been installed for ADA parking with proper striping for van accessible parking, and accessible routes to the building are already in place.

Mr. Tillman plans the used car lot as temporary, possibly becoming a real-estate business in the future. Whatever type of business the lot will be used for will be an improvement to the area and not harm the area in any way. There will be no adverse impact on any one of the eight criteria.

Staff asked that a time frame be given for the establishment of the paving and landscaping. Community and neighborhood members want to ensure aesthetics in the area remain compatible and raised concerns regarding the establishment of the paving and landscaping with this redevelopment in the area. Because of these concerns, should the Board be inclined to approve this temporary measure, staff asks that approval be conditioned that after the period of one year there will be legal enforcement as to what is required for paving and landscaping.

Based upon the comments made by staff, it is the Board's understanding that the crusher run will not be on the premises for more than twelve months. Based on recommendations by staff, measures will be taken to mitigate adjacent property owners to the crusher run; and it will be landscaped and properly maintained.

Mr. Cromartie stated that if the request is approved, it will be contingent upon those conditions:

- a) There is no crusher run on premises twelve months beyond the date the applicant receives the approval letter of mailing;
- b) It will be landscaped; and
- c) The crusher run is maintained on the property. If an adjacent property owner complains to the City there is crusher run on this property, the applicant must answer to the City.

The applicant agreed to all the noted conditions.

Staff stated it is their understanding that the request is for one use only, which will be a used car lot.

Mr. Tillman confirmed staff's comment, adding if it is not used as a car lot, it will be used as his real estate office; but that will take at least one year or longer.

Mr. Cromartie reminded the applicant that if he wished to use the property as a real estate office, he may need to return to request a special exception for that use if not allowed in C-3 zoning.

No one spoke in favor or opposition of the request.

Testimony closed for Board discussion.

Mr. Cromartie said as the special exception would be granted for only one year, all of the adverse impacts are mitigated by the fact by the fact is it twelve months or less; the applicant has testified it will be paved in fewer than twelve months. It is C-3 zoning, so the use is not an issue. He has also testified it will be for a car lot within the next twelve months, and he will park a few cars only on the crusher run and maintain the crusher run so it will not affect the neighboring properties, and one of the properties is owned by him. The most important thing this is for only one year, and 'has a built in expiration date'.

**Motion by Mr. Salley to approve the request for special exception for 5728 Farrow Road to allow a temporary alternative parking surface subject to the five conditions requested by staff:**

- 1. Approval of crusher run as an alternative parking surface is valid for a period of one year from the date of mailing of the written order of the Board; and**

2. Crusher run must be maintained such that grass and/or weeds do not grow through; and
3. Crusher run must be solely contained on the property; and
4. Accessibility requirements of the building code shall be met.
5. Parking or display of vehicles must be only upon this parking surface, only on the crusher run.

**Motion seconded by Mr. Cromartie. Request for special exception approved 4-0.**

14. 14-069-AA Dist. 1 3908 Main Street (TMS# 09214-12-01) Appeal of the Zoning Administrator's determination regarding a non-depository personal credit institution (MX-1, -NC)

**Withdrawn**

Case withdrawn at the request of the applicant.

**V. OTHER BUSINESS**

**VI. ADJOURNMENT**

**There being no further business, motion by Mr. Cromartie to adjourn the November 11<sup>th</sup>, 2014 meeting. Meeting adjourned at 1:41 p.m.**

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