

Zoning Board of Appeals

City of Rock Hill, South Carolina

January 19, 2021

A public hearing of the Zoning Board of Appeals was held Tuesday, January 19, 2021, at 6 p.m. in City Council Chambers at City Hall, 155 Johnston Street, Rock Hill SC.

MEMBERS PRESENT: Matt Crawford, Keith Sutton, Stacey Reeves, Rodney Cullum, Chad Williams, James Hawthorne

MEMBERS ABSENT: Randy Sturgis

STAFF PRESENT: Dennis Fields, Shana Marshburn, Melody Kearse, Janice E Miller, Leah Youngblood

Legal notices of the public hearing were published in *The Herald*, Friday, January 1, and Wednesday, January 6, 2021. Notice was posted on all property considered. Adjacent property owners and tenants were notified in writing.

1. Call to Order

Chair Matt Crawford called the meeting to order at 6:00 p.m.

2. Approval of Minutes of the December 15, 2020, meeting.

Vice Chair Sutton noted a correction to the minutes. Mr. Williams presented the motion to approve the minutes as amended. Mr. Cullum seconded, and the motion carried unanimously by a vote of 6-0 (Sturgis absent).

3. Approval of Orders of the December 15, 2020, meeting.

Vice Chair Sutton noted several corrections to the orders and presented the motion to approve the orders as amended. Ms. Reeves seconded, and the motion carried unanimously by a vote of 6-0 (Sturgis absent).

4. Appeal Z-2021-01: Request by Marcus Payne, 3 Points Auto Sales, for a special exception to expand an existing automobile sales use at 1227 Saluda Street, which is zoned Mixed Use Corridor (MUC). Tax map number 625-13-02-003.

Staff member Shana Marshburn presented the staff report.

Vice Chair Sutton observed that even if the change in entrance was not required by the City, would the applicant be able to open before the 6-12 months it may take to get South Carolina Department of Transportation (SCDOT) approval for the encroachment. Ms. Marshburn stated the new entrance to Blackmon Road was optional but that the applicant would be required to get an encroachment permit.

Vice Chair Sutton asked if the applicant decided not to pursue the new entrance would this force a change in the site plan. Ms. Marshburn replied there would need to be a bump-out in order for vehicles to turn around on the site.

Vice Chair Sutton asked if staff would be able to provide the applicant with a contact at SCDOT to assist in the encroachment permit process. Ms. Marshburn stated they would.

The applicant's business partner, Larry Young, 1227 Saluda Street, was available to answer questions.

With no questions from the Board, Chair Crawford closed the floor for Board discussion.

Mr. Williams presented the motion to approve the special exception as presented, adding that staff did a good job with the report and that this would be an improvement to the area. Ms. Reeves seconded, and the motion carried unanimously by a vote of 6-0 (Sturgis absent).

Mr. Williams presented the findings, specifically noting the use would comply with use specific standards, no public address system would be in use, no test drives would take place on neighborhood streets, the applicant had agreed to obtain the necessary permits, the use was compatible within the area, site improvements were proposed, a site plan had been submitted and the expansion of the use would not have a negative impact on the neighboring properties.

5. Appeal Z-2021-02: Request by Akisha Nichols for a special exception to establish a non-conforming commercial mixed-use space that will house retail, office, and personal services uses at 810 Carolina Avenue, which is zoned Single-Family Residential-5 (SF-5). Tax map number 600-02-03-015.

Staff member Melody Kears presented the staff report.

Mr. Williams asked if the additional landscaping and fencing requirements would be included by the Board as a condition of approval. Ms. Kears stated this would not be necessary as a condition for approval unless the Board wanted it to be as these were already required by City regulations.

Chair Crawford asked the hours for Single-Family Residential-5 (SF-5) zoning if the hours were 6 a.m. to 10 p.m. in Neighborhood Office (NO) zoning. Ms. Kears stated the hours required in NO were the most restrictive, but the Board could restrict the hours further as a condition of approval.

Mr. Cullum observed the location was in the middle of a large residential area. Ms. Kears stated this was previously used as a church in the community and that another church for which the Board had approved a special exception was being built nearby.

Mr. Cullum asked if there had been any concerns by the residents over the proposed business use in a residential area. Ms. Kears stated two people had contacted staff with concerns about the request.

Mr. Cullum asked if this would be a retail clothing store or a resale operation similar to Goodwill. Ms. Kears stated the applicant wanted to open a retail operation directed to serving the older population in the area.

Chair Crawford asked if the site was currently under-parked for the proposed uses. Ms. Kears stated it was not but that the applicant would be adding an ADA space off the gravel area. She added that the building was small so only 5-6 spaces were needed currently with the ability to have more developed on the site later as needed.

The applicant, Akisha Nichols, 654 Arch Drive, provided a brief overview of the business model, adding that social distancing measures would be in place, including the use of facemasks and the use of one direction movement of customers throughout the building.

Vice Chair Sutton asked if this was Ms. Nichols' first attempt at a micro-business type of operation. Ms. Nichols stated it was not, that she had operated a daycare prior to this. She added she was working on setting up a foundation for her son who had passed away and wanted to find a way to assist the community.

Chair Crawford asked the types of uses proposed. Ms. Nichols stated she wanted to sell items to raise funds for scholarships for her foundation, office space for entrepreneurs, and services such as a barbershop, hair braiding salon, or massage therapist.

Chair Crawford asked if the retail would be the same as the Habitat for Humanity store. Ms. Nichols stated it would be resale like the Hospice Thrift Store where people donated goods for sale with the funds going to the scholarship. She added the other office spaces would be for start-up businesses to begin with occupancy changing as needed.

Mr. Cullum asked the business hours. Ms. Nichols stated 6 a.m. to 10 p.m. but added she did not think the salon area would take appointments that late and that the resale operation would close around 3 p.m.

Chair Crawford asked Ms. Nichols if she would have any issues with the Board placing a condition on the hours of operation as part of the approval. Ms. Nichols stated this would be suitable provided this condition could be revisited in the future. Chair Crawford confirmed with staff that this would be a modification to an existing special exception.

Ms. Djuna McCrorey, 807 Jefferson Avenue, spoke in opposition to the request, specifically noting that the area was primarily residential, and there was no need for a retail operation.

Mr. Lawrence Sanders, 604 ½ Saluda Street, spoke in support of the request but did state his concern over trash in the area, especially as items were dropped off as donations after operating hours.

Chair Crawford closed the floor for Board discussion.

Chair Crawford commented that retail in a residential area created a concern, but that office and personal service uses were more compatible. He also commented on people dropping off donations and leaving trash after hours.

Ms. Reeves commented on the need for a business plan to be submitted to the Board.

Mr. Cullum asked for clarification on how long the building had been vacant. Ms. Kearse stated her research indicated the building had been vacant between 18 and 24 months.

Ms. Reeves asked if the power was still on. Ms. Kearse stated she was not sure.

Mr. Hawthorne referred to the site plan and asked the location of the retail area. Ms. Kearse stated it would be located in the back space at the end of the hall where a common room or sanctuary had been located.

Mr. Williams commented that retail was a concern.

Ms. Reeves commented that 10 p.m. was too late to drop off donations. There was general discussion over the scale of the operation and donation drop off.

Chair Crawford presented the motion to reopen the floor in order to ask the applicant additional questions. Vice Chair Sutton seconded, and the motion carried unanimously by a vote of 6-0 (Sturgis absent).

Ms. Nichols stated items would be for resale and felt that this would give back to the community through the sale of items.

Chair Crawford asked Ms. Nichols if she would be satisfied with approval of the special exception if retail was not included as part of the business. Ms. Nichols stated she would not as she wanted to have a retail component to the business.

Mr. Williams asked if she had any issues with the hours of operation being limited. Ms. Nichols stated she did not, adding that the items for sale would be in the back of the building and that she was interested in feeding those in need as well.

Chair Crawford asked if there was a plan in place for the intake of donations. Ms. Nichols

stated she had a team in place and already had donated items in the building. She added that the majority of the items she had for sale were from her son's estate.

Ms. Reeves asked the number of employees. Ms. Nichols stated three others in addition to herself, including a maintenance person and foundation board members. She added that other businesses in the space would have their own employees.

Ms. Reeves asked the maximum number of people allowed in the retail area or if appointments would be required. Ms. Nichols stated currently it would be by appointment only, and that she was willing to do whatever to make the operation a success.

There was general discussion among the Board members regarding the number of people that could be in the building at one time, with specific mention as to how many would be allowed by the Fire Marshal.

Mr. Cullum observed there were a lot of different uses in the building if the plan was for it to be a community center, non-profit foundation, retail operation, and tax service or business office. He asked the overall plan for the business and where all of the uses would be located in the building. Ms. Nichols stated her desire was to give back to the community in some way and that all of the businesses would be open by appointment. She added that someone would be at the location to manage the traffic flow and that people wouldn't be there without an appointment. Mr. Cullum stated he would like to see a more organized operating plan.

Chair Crawford asked if this would be a place for the community to come to. Ms. Nichols stated she did not mean that it would be a community center in the sense that the community would use the space as a center, only that it would provide for the community overall through scholarships.

Ms. Reeves asked if Ms. Nichols would charge rent. Ms. Nichols stated she would.

Ms. Reeves asked if leases were written for the rental spaces. Ms. Nichols stated they were.

Chair Crawford closed the floor for Board discussion.

Mr. Cullum stated while there were valid points to the request, there needed to be a more organized business plan in place.

Chair Crawford presented the motion to approve the special exception as requested. Vice Chair Sutton seconded. Mr. Hawthorne asked that the proposed hours of operation be placed as a condition on the approval.

Chair Crawford presented the amended motion to approve the special exception as requested with the condition the hours of operation be 6 a.m. to 8 p.m. Vice Chair Sutton seconded, and the motion to approve the amended motion carried by a vote of 6-0 (Sturgis absent).

Chair Crawford called for a vote on the motion, and the motion failed by a vote of 2 to 4, with Mr. Williams and Mr. Hawthorne voting for, and Chair Crawford, Vice Chair Sutton, Ms. Reeves, and Mr. Cullum voting against.

Chair Crawford noted for the record that the Board was not able to make the finding that a retail use would be compatible with the surrounding residential zoning district.

6. Appeal Z-2021-03: Request by Joe Delaney for a special exception to establish a vocational/trade school at 2260 Cherry Road, which is zoned General Commercial (GC). Tax map number 634-01-07-038.

Staff member Dennis Fields presented the staff report.

The applicant, Joe Delaney, 631 Augustus Street, Greenville SC, commented that there were 10 fewer parking spaces that required as they could only fit in 84 spaces in order to meeting the landscape islands requirement. Mr. Fields stated that staff had determined that the use would meet the parking requirements because of how the building would be used.

Vice Chair Sutton asked the target date for opening. Mr. Delaney stated they hoped to open for the fall semester.

Vice Chair Sutton asked if this was the first one he had operated. Mr. Delaney stated it was not, that his company had multiple sites in South Carolina and Texas, and that their main goal was to adaptively reuse existing buildings.

Vice Chair Sutton asked if the school would partner with local industries. Mr. Delaney stated they would as this was part of the business model for the school, providing education and equipment to local businesses.

Mr. Hawthorne asked where signage would be placed. Mr. Delaney stated either at the entrance to the site as part of a group sign or signage on the building itself.

Chair Crawford closed the floor for Board discussion.

Vice Chair Sutton presented the motion to approve the special exception as presented. Ms. Reeves seconded, and the motion carried unanimously by a vote of 6-0 (Sturgis absent).

Vice Chair Sutton presented the findings, specifically noting the use would comply with the use specific standards, it was compatible with the surrounding area, there was no environmental impact as the site was already developed, a site plan had been prepared, and there would be no harm to the adjacent properties.

7. Appeal Z-2021-04: Request by Kyle Hoyt on behalf of Caliber Collision for special exceptions to establish as automobile painting/body shop use and a reduction in the requirement separation from residential uses at 4850 Old York Road, which is zoned Limited Commercial (LC). Tax map number 542-07-01-088.

Staff member Dennis Fields presented the staff report.

Vice Chair Sutton asked if the site would be right in/right out only or allowed full access. Mr. Fields stated there would be full access provided as long as the driveway was aligned with the one directly across Old York Road, adding that full access was allowed due to the access drive to be built at the rear of the site.

Vice Chair Sutton asked if a stormwater pond was required. Mr. Fields stated it was required and that stormwater quality was also required due to the increase in impervious surface.

Vice Chair Sutton asked if the City would be constructing the access road at the rear of the site. Mr. Fields stated it was not, that construction of the access drive was the responsibility of each of the property owners the drive would access.

Vice Chair Sutton asked if the City would approve the street. Mr. Fields stated that as this was not an official street in the City's street system.

Vice Chair Sutton asked if the site would have stormwater allowances. Mr. Fields replied that the applicant was required to show pre- and post-stormwater calculations for the site, and that they were required to do stormwater quality assessments as well.

Chair Crawford asked for clarification that the applicants were required to do these calculations only on this site. Mr. Fields stated this was correct, that other sites were required to do these as well.

Mr. Cullum expressed concern that the access drive would become a shortcut. Mr. Fields stated it did not appear this would be used as a shortcut, only as an option for cars to go to a signalized intersection in order to turn left.

Mr. Hawthorne observed this would lessen the load on the main road. Mr. Fields stated this was correct, that the drive would not necessarily be a time saver. He added this access drive had been envisioned for any development of these sites since 2010.

Mr. Hawthorne asked if the City or SCDOT required the reduction in the number of entrances. Mr. Fields stated both required the reduction.

Chair Crawford asked, in reference to making the findings for the separation reduction, the uses allowed in the zoning district that might have a greater impact on the nearby residences. Mr. Fields stated the adjacent auto repair and restaurant with drive-thru would have greater impact, noting that the applicant for this request had stated that any painting and repairs would be done inside with the doors closed.

The applicant, Kyle Hoyt, 396 Evian Way, Mt Pleasant SC, was available to answer questions. With no questions from the Board, Chair Crawford closed the floor for Board discussion.

Mr. Cullum asked if a motion was necessary for each item or if one motion could be presented. Chair Crawford stated that one motion could be made.

Mr. Cullum presented the motion to approve both the special exception for the use and the separation from residential uses as presented by staff. Mr. Williams seconded, and the motion carried unanimously by a vote of 6-0 (Sturgis absent).

Mr. Cullum presented the findings, specifically noting for the special exception that the use would comply with the use specific standards, it was compatible with other adjacent uses, there would be no adverse impacts or traffic issues, and a site plan had been submitted. With respect to the separation requirements, Mr. Cullum noted there would be screening requirements in place to minimize any impact.

At 7:31 p.m., Mr. Williams presented a motion for the Board to take a short recess. Ms. Reeves seconded, and the motion carried unanimously by a vote of 6-0 (Sturgis absent).

Chair Crawford called the meeting back to order at 7:39 p.m.

8. Appeal Z-2021-08: Appeal by Ina Shtukar of the Director's decision to deny a short-term rental permit for property located at 1687 Saybrook Court, which is zoned Single-Family Residential-3 (SF-3). Tax map number 537-08-01-015.

Staff member Melody Kearse presented the City's case.

Chair Crawford asked for clarification on the Board's responsibility regarding the case, whether to affirm, partially affirm, or reverse the decision. Ms. Kearse stated this was correct.

Mr. Tim Sturgis, 1677 Cunningham Drive, President, Meadow Lakes II Homeowner's Association (HOA), reiterated that the City had reached out to the Meadow Lakes II HOA regarding the covenants with respect to short-term rentals, who in turn reached out to their legal counsel to make certain they were interpreting the covenants correctly that short-term rentals were not allowed.

Chair Crawford called for the applicant, who was not present and therefore did not appear before the Board.

Chair Crawford observed that a short-term rental permit was never approved. Ms. Kearse

stated this was correct.

Chair Crawford asked if the rental could have been in operation until the appeal was heard. Ms. Kears stated they could until a short-term rental permit was issued.

Ms. Reeves asked how these would be enforced. Ms. Kears stated this would be a joint effort between the Planning & Development Department and Neighborhood Services, with Neighborhood Services eventually taking over the process. She noted that they would be doing regular checks of the various short-term rental websites and would send courtesy notices to those discovered to be without permits, and they would advise them of the City's requirement.

Vice Chair Sutton presented the motion to affirm the Director's decision to deny a short-term rental permit for the property located at 1687 Saybrook Court. Ms. Reeves seconded, and the motion carried unanimously by a vote of 6-0 (Sturgis absent).

9. Other Business

a. Appeal Z-2021-02

Ms. Kears approached the Board asking if they would be willing to reopen Appeal Z-2021-02 as Ms. Nichols had indicated she would be willing to drop the retail portion of the operation if the Board would be willing to reopen the case. She advised that this motion would need to be made by someone in the majority.

Chair Crawford presented the motion to reopen Appeal Z-2021-02 as requested. Mr. Hawthorne seconded, and the motion to reopen carried unanimously by a vote of 5-1, with Chair Crawford, Vice Chair Sutton, Mr. Cullum, Mr. Williams, and Mr. Hawthorne voting for, and Ms. Reeves voting against (Sturgis absent).

Chair Crawford noted that the one person speaking in opposition to the request had left. Mr. Williams observed the Board should be provided with an organization plan.

Chair Crawford asked Ms. Nichols if she would agree to defer the case until the February hearing in order to re-advertise for the hearing, and this would also give Ms. Nichols an opportunity to better prepare. Ms. Nichols stated she would.

Chair Crawford presented the motion to defer Appeal Z-2021-02 until the Board's February 16 public hearing. Mr. Williams seconded, and the motion carried by a vote of 6-0 (Sturgis absent).

b. Continuing Education Sessions

Ms. Miller stated staff was looking for online continuing education sessions for the Board. She noted the one initiated by the City was currently being reviewed and she would notify everyone once it was approved.

10. Adjourn.

There being no further business, Vice Chair Sutton called for a motion to adjourn. Ms. Reeves seconded, and the motion carried unanimously by a vote of 6-0 (Sturgis absent). The meeting adjourned at 7:52 p.m.