

A public hearing of the Zoning Board of Appeals was held Tuesday, June 21, 2022, at 6 p.m. in Council Chambers at City Hall, 155 Johnston Street, Rock Hill, SC.

MEMBERS PRESENT: Charlotte Brown, Matt Crawford, Rodney Cullum, James Hawthorne, Keith Sutton, Chad Williams

MEMBERS ABSENT: Stacey Reeves

STAFF PRESENT: Eric Hawkins, Melody Kearse, Shana Marshburn, Bryman Suttle, Donna Welch

Legal notices of the public hearing were published in The Herald, Friday, June 3, 2022. 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 May 17, 2022, meeting.

Mr. Keith Sutton made a motion to approve the minutes as submitted. Mr. Rodney Cullum seconded, and the motion carried by a vote of 6-0 (Reeves absent).

3. Approval of Orders of the May 17, 2022, meeting.

Mr. Sutton made the motion to approve the orders with the correction of Z-2022-22 reading that there will not be truck rentals at this location. Mr. James Hawthorne seconded the motion to approve the orders as corrected, and the motion carried by a vote of 6-0 (Reeves absent).

4. Appeal Z-2022-25: Request by Ken Eversole for a variance from the minimum required number of parking spaces to establish an Indoor Recreation Use, greater than 3,000 square feet located at 951 Cel-River Road. The property is zoned Community Commercial (CC). Tax map number 662-00-00-066.

Shana Marshburn, Planner II, presented the staff report.

Mr. Chad Williams asked how many parking spaces the applicant has at their current location. Ms. Marshburn deferred to the applicant's representative.

Chair Crawford asked how the requirement for 40 parking spaces was derived. Ms. Marshburn stated that the particular use did not have a set number of required parking spaces, and that it instead, has a variable demand in parking characteristics. She explained that, here, how the business operates dictates the required number of spaces. Calculations were derived from the busiest day of operation to gauge the maximum number of cars that would be at the facility at one time.

Mr. Cullum asked about overflow parking. Ms. Marshburn deferred to the applicant's representative.

Mr. James Hawthorne asked about any unforeseen traffic concerns. Ms. Marshburn stated that the parking lot is not a dead-end lot; and, that vehicles would be able to enter at one end of the parking lot and exit straight at the other end of the parking lot.

Chair Crawford asked the reasoning as to why the front parking was hatched-out on the site plan being presented. Ms. Marshburn stated that the hatched-out area would be for landscaping as the

location was not conducive to having parking spaces.

Chair Crawford opened the floor to the applicant.

Mr. Lamar Williams, 1427 Alexander Road, spoke on behalf of the applicant. Mr. Williams stated that the plan of operation is based on a 15-minute drop-off and that not many parents would remain in the building.

Mr. Hawthorne asked if the variance was granted, how soon would the applicant be ready to build parking spaces. Mr. Lamar Williams stated immediately. Ms. Marshburn also stated that the applicant cannot operate in the building until the parking is updated.

Mr. Chad Williams asked how many parking spaces are at the applicant's current location. Mr. Lamar Williams stated 31. Mr. Chad Williams also asked how would parking be handled if there was an event at the facility which would not be a drop-off situation. Mr. Lamar Williams stated that the applicant would reach out to surrounding businesses to establish if their parking spaces could be utilized outside of their normal business hours.

Mr. Keith Sutton stated that this appears to be a solid plan.

Mr. Hawthorne stated that he felt it was helpful that there wasn't any public opposition.

Mr. Chad Williams made a motion to approve the variance from the required number of parking spaces. The motion was seconded by Mr. Hawthorne and was approved by a vote of 6-0 (Reeves absent).

Mr. Chad Williams presented the findings, noting that this is a unique property and that there is not a lot of other options as to what can be done with this property and that this is a drop off operation.

5. Appeal Z-2022-26: Request by Beatriz Dela Cruz Guerrero for a variance from the maximum accessory structure size at 750 Briarcliff Road. The property is zoned Single-Family Residential-5 (SF-5). Tax map number 625-02-01-001.

Bryman Suttle, Planner I, presented the staff report.

Mr. Hawthorne asked how it was discovered that the structure was already in place. Staff stated that it was discovered by a neighborhood code enforcement drive-by.

Mr. Sutton asked what the recourse is for the applicant if there is a denial. Mr. Suttle stated that the applicant would have to remove the structure.

Chair Crawford asked if another structure was removed, would that keep the applicant within the maximum accessory structure size. Mr. Suttle stated that even with the removal of another structure they would still be 144 square feet over the maximum accessory structure size.

Chair Crawford opened the floor to the applicant.

Mr. Beatriz Dela Cruz Guerrero, 750 Briarcliff Road, stated that he has some difficulty speaking English.

Mr. Hawthorne asked how long the structure has been in place. Mr. Dela Cruz Guerrero stated the structure had been completed approximately two months ago and that it was built as a pergola for family cookouts.

Mr. Sutton stated the reason the Board was asking the applicant if the storage structure could be removed was because the Board is trying to find a way to allow the 24' x 31' covered patio to remain. Mr. Dela Cruz Guerrero stated that he would like someone from the city to come out and show him what needs to be done to be within the maximum accessory structure size limit.

Chair Crawford made the motion to defer, as to which time a translator would be available for Mr. Dela Cruz Guerrero so a more productive dialog can take place to ensure the applicant understands what is required and to discuss any opportunities to resolve the situation to allow the structure to remain. The motion was seconded by Mr. Sutton and was approved by a vote of 6-0 (Reeves absent).

6. Appeal Z-2022-27: Request by Magloire Lubika of Green Box Market for an extension of the special exception to re-establish a non-conforming convenience store use at 455 Green Street. The property is zoned Single-Family Residential-4 (SF-4). Tax map number 600-02-03-037.

Shana Marshburn, Planner II, presented the staff report.

Mr. Cullum asked if the city had noted any improvements or progress since the last Zoning Board of Appeals meeting. Ms. Marshburn stated that she and the Building Code Official had met with the applicant shortly after the December 2020 hearing in order to go over some structural items that need to be addressed but has not noted any improvements since 2019.

Mr. Williams asked if the Board was to deny the motion would it be the same process again. Ms. Marshburn stated that it would.

Mr. Williams stated that he appreciates staff's recommendation to leave it up to the Board's discretion if it sees fit to grant another extension. Mr. Williams wanted further clarification as to staff's recommendation. Ms. Marshburn stated that it would be left up to the discretion of the Board, that staff understands that it would be costly to convert the structure back to a single-family residential use, but that neighbors have had continuing concerns regarding the opening of a convenience store at this location, and staff feels that sufficient time has passed to get the store operational.

Chair Crawford asked if the complaint about early morning construction noise was for the 455 Green Street location. Ms. Marshburn stated that it most likely was not.

Chair Crawford opened the floor to the applicant.

Mr. Magloire Lubika, 6304 Trevor Simpson Drive, Indian Land, NC, stated that he has an existing store located at 702 Ogden Road. He added that the store is currently undergoing a project to convert it to more of a neighborhood market with healthy food options, which is part of an effort to obtain funding to convert 455 Green Street to the same type of store. He added that the Ogden Road location needs to show 6-months of growth in sales in order to be considered for funding for the Green Street location. Mr. Lubika reiterated that he would be converting the 455 Green Street location to a neighborhood market instead of a typical convenience store.

Mr. Hawthorne asked how long it has been since they had decided to convert to a neighborhood market. Mr. Lubika stated two years. Mr. Lubika also stated that the Ogden Road location closed for remodeling on June 1, 2022, and will reopen on July 1, 2022.

Mr. Hawthorne asked if the two stores' finances could be separated so that the Green Street location could open sooner. Mr. Lubika stated that there is no way to separate the finances, as he is applying for an expansion loan on the Ogden Road location which needs to show 6 months of growth before obtaining funding to open the Green Street location.

Ms. Charlotte Brown asked how long the 702 Ogden Road location had been in existence. Mr. Lubika stated 15 years but reiterated that the store was currently closed for remodeling.

Chair Crawford asked when the Ogden Road location would reopen with the new concept. Mr.

Lubika stated Ogden Road is expected to reopen July 1 with a healthier, more nutritional menu and he would like to provide the same concept at the Green Street location.

Ms. Brown asked if two years of profits was required for financing. Mr. Lubika stated six months with a 30% increase in sales. Mr. Lubika also stated he is expanding his kitchen which will include breakfast food.

Mr. Hawthorne stated that it would be February 2023 before an expansion loan might be obtained.

Chair Crawford opened the floor for public comment.

Ms. Mary Brown, 462 Green Street stated that Mr. Lubika's plan to change over to a healthier type of store is different from the original plans for the Green Street location. Ms. M. Brown feels the applicant has had ample time to open this location. Ms. M. Brown stated she is concerned about the trash that is being left outside the location and in the park. She added that this along with parking, is a problem as the parking situation would make it very difficult for her to exit her driveway. Ms. M. Brown stated she does not think the store should be opened.

Chair Crawford asked about the parking variance. Ms. Marshburn stated that she envisions that most patrons visiting the store would be the result of foot traffic and that one space is to be added to the right of the entrance.

Mr. Lonnie Sims, 467 Green Street, stated that this is a residential neighborhood and there is no safe way to get onto the street with delivery vehicles or cars parked at the store. Mr. Sims also stated he does not feel that there will be a lot of foot traffic patrons. Mr. Sims stated he has been in the neighborhood since 1962 and that in the past, the convenience store served its purpose; however, today people go to other places to purchase items. Mr. Sims feels this will be an inconvenience and a huge eyesore to the neighborhood. Mr. Sims stated that he does not want to have a reason to invite indigents to the neighborhood.

Mr. William Elks, 302 State Street, stated that his property backs up to 455 Green Street and is concerned for the safety of his three small children. Mr. Elks stated that he and his children are constantly picking up alcohol containers. Mr. Elks also stated that he does not feel that this request should be approved.

Mrs. Ashley Elks, 302 State Street, stated that she feels the neighborhood has improved and the opening of this store would set it back. Mrs. Elks stated that the store would take away from the safe place of her backyard where her three small children play. Mrs. Elks is concerned for the safety of her children and feels that the sale of alcohol and tobacco products would impede the progress the neighborhood has made. Ms. Elks also stated she does not want her children to be subject to any dangerous situations that could potentially take place and restated that she feels that the opening of this store would hinder any progress that has been made in the neighborhood.

Chair Crawford opened the floor for the applicant's rebuttal. Mr. Lubika stated that this will not be a convenience store but more of a neighborhood market. Mr. Lubika stated that products such as cigarettes and lottery tickets will be placed discretely.

Chair Crawford asked if the motion was denied, would it come back to the Board. Ms. Marshburn stated it could come back a year from now.

Chair Crawford stated that it would be nice to see the Ogden Road location up and running as it sounds like a good vision and would like to have assurance that it is a neighborhood market and not a convenience store.

Mr. Williams stated that he feels there has been plenty of time to open the store; and that at the time

of the initial application, it was to be a convenience store and feels that the vision has changed. Mr. Williams stated that even if granted, there will still be a request for another extension and feels that it would be better to start fresh.

Mr. Hawthorne would like to see if the Ogden Road location is successful with the model change.

Mr. Williams made a motion to approve the request. Mr. Sutton seconded the motion and the motion failed by a vote of zero in favor and six opposed (Reeves absent).

7. Other Business.

- a) Ms. Melody Kearse discussed continuing education opportunities.
- b) Ms. Kearse announced that she is transitioning out of her ZBA liaison role but will continue until her position is filled and a new liaison is assigned.

8. Adjourn.

There being no further business, Mr. Sutton made a motion to adjourn. The motion was seconded by Mr. Cullum and was approved by a vote of 6-0 (Reeves absent).

The meeting adjourned at 7:11 p.m.