

Zoning Board of Appeals

City of Rock Hill, South Carolina

January 18, 2022

A public hearing of the Zoning Board of Appeals was held Tuesday, January 18, 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: Melody Kearse, Eric Hawkins, Shana Marshburn

Legal notices of the public hearing were published in *The Herald* on Friday, December 31, 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 14, 2021, meeting.

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

3. Approval of Orders of the December 14, 2021, meeting.

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

4. Appeal Z-2021-59: Request by Heather Brockelbank of Boma Vacation Rentals, LLC, for a special exception to establish a short-term rental use and a variance from the secondary front setback for a 6-foot solid fence at 420 Hall Street, which is zoned Single-Family Residential-5 (SF-5). Tax map number 598-13-02-027.

Staff member Shana Marshburn presented the staff report.

Mr. Hawthorne asked how much of the existing fence is in the right-of-way. Ms. Marshburn stated that she is not sure because the owner hasn't had the property surveyed yet.

Mr. Sutton asked If they move it off the right-of-way, will they still be able to have a fence? Ms. Marshburn stated that yes, they should still have room to install the fence.

Mr. Hawthorne asked if Hall Street is a City or State maintained road? Ms. Marshburn stated that the portion north of the property is City-maintained and the portion to west is State-maintained.

Mr. Crawford asked if the two conditions outlined in the staff report need to be incorporated into the motion or can city already enforce them. Ms. Marshburn stated that the conditions need to be in the motion.

Heather Brockelbank, 111 Jackson Street, Fort Mill, SC (applicant), was available for questions.

Mr. Sutton asked Ms. Brockelbank if she has called the Police about rocks being thrown or bb's being shot at the house. Ms. Brockelbank stated that it was her assumption that it was either rocks or bb's that caused some damage she observed at the house and noted that there haven't been any issues since the fence was put up.

Mr. Cullum asked the applicant if she is prepared to move the fence if that condition is placed by the Board. Ms. Brockelbank stated that as soon as the surveyor marks the property line, she will move the fence.

Mr. Williams made a motion to approve the Special Exception subject to the condition that the fence be moved and the driveway be surfaced in an approvable material, and also to approve the setback variance for the fence. The motion was seconded by Mr. Sutton and was approved by a vote of 6-0 (Reeves absent).

Mr. Williams presented the findings, noting that the area has a mix of residential uses, the use would be compatible, and the fence would not be out of character with the neighborhood.

5. Appeal Z-2022-01: Request by Karen Wright for a special exception to establish a short-term rental use at 764 Sumter Ave, which is zoned Single-Family Residential-4 (SF-4). Tax map number 629-11-02-031.

Staff member Melody Kearse presented the staff report, noting that staff has received several e-mails from neighbors in opposition since the staff report was sent out.

Mr. Williams asked if the property is sold, does the Special Exception continue. Ms. Kearse stated yes and noted that there is an annual renewal process for short-term rentals. The Board can specify that the Special Exception only applies to the accessory dwelling unit.

Mr. Crawford asked if the Board could add a condition that the accessory dwelling unit can only be used as short-term rental if the main dwelling unit is owner-occupied. Ms. Kearse stated that the Board can add that condition.

Chris Wright, 764 Sumter Ave (applicant), noted that the application was previously deferred, and covenants haven't been produced by the neighbors. He stated that the absence of a homeowner's association makes the neighborhood association less formal than many of us would like it to be.

Ms. Brown asked Mr. Wright how long he has lived there. Mr. Wright stated that he has been there twenty years. Ms. Brown asked how long he has been operating the short-term rental. Mr. Wright stated since August of 2021.

Mr. Hawthorne asked if there have been any issues with the neighbors due to the short-term rental. Mr. Wright stated that there have not been any issues and that the next-door neighbor didn't even know they were operating a short-term rental. Mr. Wright stated that he and his family are long-term residents, they are proud of the property and the neighborhood, and intend to maintain and protect it.

Mr. Cullum asked Mr. Wright what his experience has been with renters. Mr. Wright stated that they introduce the renters to the property and give them privacy after that. He noted that his house is about thirty feet from the accessory unit, and he doesn't interact with the renters unless they reach out. He stated that the renters have his contact info if they need anything. He stated that the experience has been great. His wife enjoys recommending restaurants and she works hard to keep the Superhost designation that they've earned.

Ms. Brown asked Mr. Wright how often they lease out the unit. Mr. Wright stated that it was rented for 20 nights August through October, November tailed off a little, and then they have been shut down since December while this application goes through.

Chair Crawford opened the floor for public comment.

Bill Easley, 640 Meadowbrook Lane, spoke in opposition to the request. Mr. Easley stated that anything that can crack the door toward commercial use would be a detriment to people in neighborhood in the future. He stated that the Wrights have been thoughtful in what they've agreed to. He has no concerns with them but is worried about the future. He noted that in Greenville, they're having commercial encroachment on residential neighborhoods and that affects people in

the neighborhoods. He asked what happens if Wrights leave. Will people be able to use this as a precedent to get approval for other commercial development. He noted that it is a diverse neighborhood, and he worries that this will negatively affect the neighborhood.

Mr. Sutton stated that the Zoning Board doesn't operate on precedent- each case is considered on its own merits.

Mike O'Neil, 749 Hawthorne Lane, spoke in favor of the request. Mr. O'Neil stated that he lives directly behind the property and wasn't aware of the short-term rental use. He noted that the Wrights have done a good job of reaching out to the neighbors. He feels like they're good neighbors trying to do the right thing.

Debbie Hallman, 849 Sumter Avenue, spoke in opposition to the request. Ms. Hallman stated that she is opposed to having a commercial operation in our neighborhood, vehemently.

Chair Crawford noted that the fact that the house is owner-occupied gives him a little bit of comfort level because they will be most affected, although there are multiple neighbors who feel like it is not compatible.

Mr. Hawthorne stated that considering the applicant has operated the short-term rental with little to no issues with the neighbors and that shows to how well they have operated it.

Ms. Brown made a motion to approve the special exception. The motion was seconded by Mr. Hawthorne. Mr. Williams presented an amendment to add the conditions in the staff report and additional conditions that the use only be allowed as long as the main house is owner-occupied and that only the accessory dwelling unit be used for short-term rental. The amendment was accepted by Ms. Brown & Mr. Hawthorne.

Mr. Williams stated that the case was previously deferred because of a question about restrictive covenants on the property and it appears that there are none. Mr. Williams noted that there were also a number of neighbors involved in the writing of the conditions that were agreed to by the applicant to ensure compatibility. They have a record of operating it without complaints and the neighbor behind the property spoke in favor. In regard to the concern about it being a commercial use, short-term rentals are defined as a residential use, and this would not open the neighborhood up to commercial uses.

Chair Crawford called for the vote and the motion was approved by a vote of 5-1 (Crawford opposed; Reeves absent).

Ms. Brown presented the findings, noting that the proposal meets the conditions of the ordinance and the neighbors have worked with the applicant to establish additional conditions.

6. Appeal Z-2022-02: Request by Dan Ballou on behalf of Back Yard Burgers to waive the waiting period to rehear a variance request at 1109 Cherry Road which is zoned General Commercial (GC). Tax map number 631-07-03-010.

Staff member Melody Kearse presented the staff report.

Mr. Hawthorne asked if the new site plan addresses all of staff's comments. Ms. Kearse stated that it doesn't and that is one of the reasons staff is recommending deferral.

Mr. Sutton asked if staff is recommending deferral of the waiver request. Ms. Kearse stated yes.

Chair Crawford asked Mr. Ballou if he is agreeable to deferral. Mr. Ballou stated that he would like to move forward with the procedural request and he believes the plan that has been presented is materially different than the previous plan.

Ms. Kearsse stated that staff wants to be sure that whatever changes need to be made to the plan don't shift things back to where they were before. A plan that addresses staff's comments will help confirm that the changes are actually materially different from the original plan.

Mr. Sutton made a motion to defer the request until staff has the opportunity to review the revised plan. The motion was seconded by Mr. Williams.

Mr. Williams stated that when the Board votes whether to re-hear the request, we want to base it on whether the plan is substantially different.

Dan Ballou, 417 Windsor Terrace (applicant's representative), asked if the waiver request and the variance request can be considered at the same meeting. Ms. Kearsse stated that staff will have to look into that.

Chair Crawford called for a vote and the motion was approved by a vote of 4-2 (Hawthorne & Cullum opposed; Reeves absent).

7. Appeal Z-2022-03: Request by Nelson Property Group, LLC, for a special exception to establish a residential infill use at 1664, 1670 & 1678 W. Main St., and an unaddressed parcel north of these. The property is currently zoned Neighborhood Commercial (NC), General Commercial (GC) and the County's Residential Development-II (RD-II) district. The applicant is seeking annexation and rezoning to Neighborhood Commercial (NC). Tax map numbers 595-00-00-066, 595-02-02-014, -015 & -016

Staff member Shana Marshburn presented the staff report.

Mr. Hawthorne asked if SCDOT is okay with the proposed curb-cut location. Ms. Marshburn stated that the City's Transportation Planner has talked to SCDOT about it and the access point is as far away from the intersection as possible.

Mr. Hawthorne asked if a pump station is needed for sewer. Ms. Marshburn stated that the site can be served by gravity sewer and a pump station would not be needed.

Mr. Hawthorne asked if 50% brick includes stone or split-face block. Ms. Marshburn stated that split-face block is not normally used for residential. If the Board places a condition that it be 50% brick, it will need to be brick, not stone or anything else.

Mr. Sutton asked where the County comes into play with the design. Ms. Marshburn stated that the County will not be involved because the lot that is currently in the County is in the process of being annexed into the City. All of the property will be zoned Neighborhood Commercial when the annexation and rezoning is complete. Mr. Sutton asked if staff foresees any issues with that being approved. Ms. Marshburn stated that she does not and that first reading of the case has been approved by Council.

Mr. Williams asked if there is curb and gutter on Heckle Blvd. Ms. Marshburn stated that there is not. Mr. Williams asked if staff would deal with the transition between curb and gutter around the parking lot and Heckle Blvd. Ms. Marshburn confirmed that staff will review that during the Civil Plan stage.

Mr. Crawford stated that the site plan may need to be revised based on staff comments and asked if the request needs to be deferred. Ms. Marshburn stated that the only outstanding comments are in regard to an easement that is needed, and it may not affect the layout.

Mr. Crawford asked if the sides of the end-unit buildings should also include brick, so the sides aren't all horizontal siding. Discussion followed about landscaping that will screen the sides of the

buildings.

Mr. Hawthorne asked if the landscaping will be outside of the road right-of way and if there will be landscaping outside the fence. Ms. Marshburn confirmed that the landscaping will be outside the right-of-way and in front of the fence to soften the appearance of the fence.

Mr. Crawford asked if the fencing shown on the illustrations is the exact fencing proposed. Ms. Marshburn stated that the illustration is just an example. The brick columns will match the brick used on the buildings. All of the fence material should match, and the brick columns will only be placed where shown on the plan along Heckle Boulevard and Main Street.

Tarano Nelson, 5437 Gatsby Circle (applicant), stated that he wants the buildings to be modern. He wants to use the same fence material for all fencing, and he would like to use colored vinyl rather than wood fence. He stated that he is willing to be flexible on the materials for the houses and could use brick or stone.

Mr. Hawthorne asked what the timeline is for the development. Mr. Nelson stated that they plan to start as soon as plans get approved.

Chair Crawford opened the floor for public comment and there was none.

Mr. Hawthorne stated that this looks like a good infill project for a site that has been vacant forever.

Mr. Hawthorne made a motion to approve the request subject to the conditions in the staff report. The motion was seconded by Mr. Cullum.

Chair Crawford noted that this is a good proposal.

Chair Crawford called for the vote and the motion was approved by a vote of 6-0 (Reeves absent).

Mr. Hawthorne presented the findings, noting the proposal complies with all use-specific standards; it is compatible with the character of the area; the design minimizes adverse impacts on adjacent lands; it minimizes environmental impacts; there is adequate road capacity to serve the use; it will not injure use of neighboring lands; the site plan demonstrates how the proposal complies with the standards; and the proposal complies with all other relevant City, State, and Federal laws and regulations.

8. Appeal Z-2022-04: Request by Trina Eberly for a special exception to establish a short-term rental use at 320 S Stonewall Ave., which is zoned Multi-Family 15 (MF-15). Tax map number 625-08-04-003.

Staff member Shana Marshburn presented the staff report.

Mr. Sutton asked why the parking for this short-term rental doesn't have to have a different surface than gravel. Ms. Marshburn stated that this house has had a gravel driveway for years and changes are not required when that is the case. Mr. Sutton asked how that is different from the earlier case on Hall Street. Ms. Marshburn stated that in the Hall Street case, it was newly created driveway and is required to meet current standards.

Trina Eberly, 320 S. Stonewall Avenue (applicant), stated that she has been doing this for 3 years and has had no complaints from the neighbors. She stated that she lives in the house and that helps eliminate anyone that would cause issues.

Chair Crawford opened the floor for public comment and there was none.

Mr. Williams made a motion to approve the request. The motion was seconded by Mr. Sutton and was approved by a vote of 6-0 (Reeves absent).

Mr. Williams presented the findings, noting that the proposal meets all requirements, is owner occupied, and has been operated for three years without complaints, demonstrating compatibility.

9. Appeal Z-2022-05: Request by Sandra Dingler for a special exception to establish a short-term rental use at 2287 Mancke Drive, which is zoned Planned Unit Development-Residential (PUD-R). Tax map number 589-03-01-021.

Chair Crawford noted that this item was withdrawn by the applicant prior to the meeting and that no action is necessary.

10. Appeal Z-2022-06: Request by Cuong Nguyen for a special exception to establish a short-term rental use at 1382 Sullivan Street, which is zoned Single-Family Residential-3 (SF-3). Tax map number 626-05-03-012.

Staff member Melody Kearse presented the staff report.

Mr. Sutton stated that the report says the capacity would be 12 but it looks like it should be 8. Ms. Kearse stated that is correct and noted that the correct number will be shown on the permit, if issued.

Mr. Sutton asked how long a short-term rental was previously operated here. Ms. Kearse stated that the previous owner operated it for at least a year. Mr. Sutton asked if there were any complaints. Ms. Kearse stated that there were none.

Mr. Hawthorne asked if the recent short-term rental proposal in this area that had opposition is close to this one. Ms. Kearse stated that the property that was recently considered on Eastwood Drive is not close to this one and that it is on the other side of the neighborhood close to Spencer Park.

Stacey Nguyen, 247 Age Old Way (property owner), introduced her brother Cuong Nguyen as the applicant and resident of the home. She stated that she was born and raised in Rock Hill and bought her first home at 19 and lived there for 15 years. She stated that this is the fourth home she's bought, and they are not house-flippers. She stated that this property was advertised to her as a successful short-term rental. She lives within 4 miles of the home and her brother will occupy the home, but he travels a lot for work. They plan to rent it while he is away, and she and her husband will manage it. Previously, the property was only advertised on one site. They will not use the instant-book feature because they want to screen the renters. She listed reasons for short-term rentals, including people on work trips, building new houses, visiting relatives, etc. Short-term rentals are pet-friendly, and you can have more family members together in comparison to a hotel. She noted that she thought the number of guests was two plus two per bedroom, but it has always been advertised as having eight guests max.

Mr. Hawthorne asked if there is a fence in the back. Ms. Nguyen stated yes, it has been there for years and there is a smaller dog fence within the larger fence.

Mr. Cullum asked what their experience is with short-term rentals? Ms. Nguyen said that this is her first short-term rental application and noted that she did rent the home out once to a group that was working in Rock Hill. The tenants kept the house very clean.

Ms. Brown asked how often the primary tenant would be out of town. The applicant stated that it is seasonal, and they will only list it when he's out of town.

Mr. Sutton asked if the owner would be there when rented for short-term rentals. Ms. Nguyen stated that they would not.

Mr. Crawford asked if they have met with neighbors. The applicant stated that they have not but they are willing to. She noted that they did talk to some of the neighbors when they were working

on the house after it was purchased. Mr. Crawford asked if she told the neighbors that it would be a short-term rental. The applicant stated that they did not because they didn't know at that time.

Chair Crawford opened the floor for public comment.

Frank Meyers, 1071 Christopher Circle, spoke in opposition to the request. He stated that they send out a newsletter eight times a year to all houses in Spencer Estates with his address and phone number. He stated that he has not been approached about this subject at all. Mr. Meyers stated that the application contained several mis-statements.

Kevin Sutton, 636 Atherton Way, spoke in opposition to the request and noted that he has heard from a couple neighbors who are opposed to the application. Spencer Estates has made it clear that they are opposed to short-term rentals. Mr. Sutton stated that he doesn't know anyone who wants to buy a house next to a short-term rental. He stated that the Board shouldn't approve short-term rentals when adjoining neighbors are adamantly opposed.

Mrs. Nguyen (applicant) asked what is considered a short-term rental. Ms. Kearse stated that short-term rentals are less than 30 days. Ms. Nguyen asked if she can still rent the house out on AirBNB if she rents it for 31 days. Ms. Kearse stated that we don't regulate anything over 30 days.

Mr. Williams made a motion to approve the request. The motion was seconded by Mr. Sutton.

Mr. Williams stated that he hasn't heard anything to demonstrate compatibility.

Mr. Crawford stated that the neighbors who are opposed are close-by to the property.

Mr. Cullum stated that the Sumter Avenue application was approved although there was neighborhood opposition and asked what's the difference. Mr. Williams stated that staff recommended approval of that one and the adjoining neighbors didn't have any problems with it and didn't know it was operating. Mr. Hawthorne stated that the neighbors didn't know this one was operating either. Mr. Williams noted that staff couldn't find compatibility in this case. Mr. Cullum stated that the two cases seem similar in that both had opposition. Mr. Crawford stated he didn't support the other one, but it is owner-occupied. Mr. Williams noted that the fact that the Sumter Avenue property is owner-occupied, and the owner is present when it is rented is another difference.

Mr. Crawford called for the vote and the motion failed by a vote of 2 in favor (Hawthorne & Cullum) and 4 opposed (Reeves absent).

11. Appeal Z-2022-07: Request by Josh Whitmore for a special exception to establish a short-term rental use at 1654 Eagles Place, H202, which is zoned Multi-Family 15 (MF-15). Tax map number 632-13-01-028.

Chair Crawford noted that this item was withdrawn by the applicant prior to the meeting and that no action is necessary.

12. Appeal Z-2022-08: Request by Gail Nathan for a special exception to establish a short-term rental use at 1038 S Jones Ave Ext., which is zoned Single-Family Residential-5 (SF-5). Tax map number 625-12-04-012.

Staff member Melody Kearse presented the staff report.

Gail Nathan, 1038 S. Jones Avenue Extension (applicant) was available for questions.

Ms. Brown asked the applicant how long she has owned the property and how many guests she has had. Ms. Nathan stated that she bought the property in December and hasn't rented it yet.

Mr. Crawford asked the applicant if she has talked to the neighbors. Ms. Nathan stated that she

has talked to one neighbor, and she just wants to make sure the neighborhood stays quiet. Ms. Brown asked if she told the neighbor that the proposed use is short-term rental. Ms. Nathan stated that she told the neighbor that she was interested in short- and long-term rental. Ms. Nathan stated that the lady she met has talked to another neighbor and they decided not to attend after discussing it.

Chair Crawford opened the floor for public comment and there was none.

Mr. Williams made a motion to approve the request. The motion was seconded by Mr. Hawthorne.

Chair Crawford stated that not having opposition shows more compatibility than some of the other cases.

Mr. Williams stated that he is comfortable with this one because there is no opposition and staff recommends approval.

Mr. Crawford called for the vote and the motion was approved by a vote of 6-0 (Reeves absent).

Mr. Williams presented the findings, noting that it meets all of the conditions; the immediate area is primarily residential, and the broader area has commercial uses.

13. Other Business.

None.

14. Adjourn.

There being no further business, Mr. Sutton made a motion to adjourn. The motion was seconded by Mr. Williams and approved by a vote of 6-0 (Reeves absent). The meeting adjourned at 8:36 p.m.