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# CITY OF COLUMBIA BOARD OF ZONING APPEALS MINUTES

October 1, 2020 – 4:00 PM

Virtual Meeting

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**In attendance:** Chuck Salley, Gene Dinkins, Jr., John Gregory, Marcellous Primus, George Schafer, Jenna Stephens, Josh Speed

**Absent:** None

**Staff:** Rachel Bailey

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

Rachel Bailey, Zoning Administrator, explained the format of the meeting. She stated that the public had the ability to call in and be placed in the queue to speak, leave a message to be read into the record, or send an email which would be read into the record.

Chuck Salley, chair, called the meeting to order at 4:00 PM.

Members of the Board of Zoning Appeals (BOZA) were introduced along with Staff. Quorum was confirmed.

Rachel Bailey, zoning administrator, proceeded with review of the Consent Agenda.

## **II. CONSENT AGENDA**

### **A. APPROVAL OF MINUTES**

#### **1. Approve September 3, 2020 Minutes**

#### **B. OLD BUSINESS**

**NONE**

#### **C. NEW BUSINESS**

- 2. 2020-0050-SE**      **2509 Magnolia Street (TMS# 11510-13-07)** Special exception to permit a single family residence in a commercial district (Melvin Jones, Jr. Pinehurst Development, LLC) (C-3)
- 3. 2020-0052-V**      **1618 Graeme Drive (TMS# 13915-11-47)** Variance to the maximum fence height requirement (Joshua R. Furlow) (RS-1)
- 4. 2020-0054-V**      **1313 Veterans Road (TMS# 16301-02-02)** Variance to the landscaping requirements for a trucking use (George McCutchen, I-77 Veterans, LLC) (M-1)
- 5. 2020-0055-V**      **2530 Wilmot Avenue (TMS# 11311-10-07)** Variance to the secondary front yard setback for an addition (Eric McClellan) (RG-1, -CC)
- 6. 2020-0056-SE**      **1410 Blanding Street (TMS# 11403-14-02)** Special exception to permit a beauty salon in the C-1 district (Angela Heaton, AHH Hair Salon) (C-1, -DD, -DP)

**Motion by Mr. Gregory to approve the Consent Agenda subject to staff comments.**

**Motion seconded by Mr. Primus and Ms. Stephens. Motion passes 7-0.**

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**III. REGULAR AGENDA**

**A. OLD BUSINESS**

**NONE**

**B. NEW BUSINESS**

- 7. 2020-0053-SE            3818 Devine Street, 600 & 630 Kilbourne Road (TMS# 13807-03-01, -02, 31) Special exception to establish a liquor store (Denise Hoffman, Cline Design Associates) (C-3)**

Ms. Bailey reiterated the outline of the meeting including the public input aspect and then introduced the request for the special exception. She also clarified the location of the liquor store on the site and that Zoning is not tenant specific/grocery store use permitted outright.

Ms. Denise Hoffman, applicant, provided summary of the proposed project and explained the specifics of the liquor store location and specialty items. Ms. Hoffman also addressed concerns of community comments received.

Members of the community were invited to speak in favor of or opposition of the requests.

Ms. Bailey read into record the names of those who sent in letters after packet publication and whether they were for or against the request.

In opposition:

Regina Monteith, resident (called in during case)  
Patricia Coate, resident  
John Hart, resident  
Calhoun Kennedy, resident  
Sherilyn and Michael Byrd, residents  
Thomas Coleman, resident  
Ralph and Mary W. Coleman, residents

In favor:

David Crow, resident  
Jonathan Poverud, resident

As no one else spoke in favor or opposition of the requests, the applicant was given time for rebuttal.

Ms. Hoffman spoke again to the smaller size of the specialty liquor store.

Testimony closed for Board discussion.

**Motion by Mr. Dinkins to approve the special exception request subject to all staff**

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**comments and pursuant to all terms of the application and presentation of applicant.**

**Motion seconded by Mr. Schafer and Mr. Gregory. Motion passes 7-0.**

- 8. 2020-0058-SE                    1517, 1513 (1509) Gervais Street & 1212 Bull Street (11401-05-11, -12, -16)** Special exception to establish an automotive repair shop (James A. Sr., Herlong, Palmetto Garage Works, LLC) (C-4, -DD)

Ms. Bailey introduced the request for the special exception.

Jimmy Herlong, applicant, and his son, Gus Herlong, testified that they had contacted University Hill neighborhood as well as USC prior to meeting.

Hoyt Burnett, civil engineer, spoke to the exterior renovations that would improve the area and to the proposed traffic flow. John Powell, architect, was also available to answer any design specific questions.

Members of the community were invited to speak in favor of or opposition of the request.

As no one spoke in favor or opposition of the request, testimony closed for Board discussion.

**Motion by Mr. Gregory to approve the special exception request subject to all staff comments and pursuant to all terms of the application and presentation of applicant.**

**Motion seconded by Mr. Dinkins. Motion passes 6-1, with Mr. Schafer in opposition**

- 9. 2020-0059-V                    1517, 1513 (1509) Gervais Street & 1212 Bull Street (11401-05-11, -12, -16)** Variance to the minimum off-street parking requirement (James A. Sr., Herlong, Palmetto Garage Works, LLC) (C-4, -DD)

Ms. Bailey introduced the request for variance and allowed applicant to speak to both the parking and landscape variances requested together.

Hoyt Burnette, applicant's engineer, provided a summary of the requests. He explained that the variance is needed due to the reconfiguration of the parking lot to comply with parking lot dimensional standards and also provide the landscape buffer. He stated that they are only short 3 of the required parking spaces.

Members of the community were invited to speak in favor of or opposition of the request.

As no one spoke in favor or opposition of the request, testimony closed for Board discussion.

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**Motion by Mr. Salley to approve the variance request subject to all staff comments and pursuant to all terms of the application and presentation of the applicant.**

**Motion seconded by Mr. Dinkins. Motion passes 7-0.**

- 10. 2020-0060-V                    1517, 1513 (1509) Gervais Street & 1212 Bull Street (11401-05-11, -12, -16)** Variance to the buffer transition yard (James A. Sr., Herlong, Palmetto Garage Works, LLC) (C-4, -DD)

Ms. Bailey introduced the request for variance with the previous associated variance case.

Hoyt Burnette, applicant's engineer, discussed the landscape variance with previous request.

**Motion by Mr. Salley to approve the variance request subject to all staff conditions and pursuant to all terms of the application and presentation of applicant.**

**Motion seconded by Mr. Primus. Motion passes 7-0.**

- 11. 2020-0061-SE                    2020 Gervais Street (11406-12-04)** Special exception to establish a liquor store (J.T., Andy, and Rita Thakker, AMBA Company, Inc., S. Jahue Moore) (MX-1, -5PU)

Ms. Bailey introduced the request for special exception.

Jake Moore, applicant's attorney, introduced Peter O'Reilly to make introductions of supporting business owners.

Peter O'Reilly, associate, made introductions of local business owners in support of the special exception.

Jake Moore, applicant's attorney, then summarized the special exception. He then explained the Administrative Law Court deemed this an appropriate location for the proposed liquor store. There have been no citations for the existing convenience store. Mr. Moore stated that there is no over saturation of liquor stores in the immediate area.

Members of the community were invited to speak in favor of or opposition of the requests.

Ms. Bailey read into record the names of those who sent in letters after packet publication and whether they were for or against the request.

In opposition:

Kelsey Hennigan, Executive Director, Five Points Association (also called in during case)  
Michael Drennan, resident  
Elizabeth Marks, resident  
April Lucas, resident

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Vivian Clark-Armstead, Representative, Martin Luther King/Lower Waverly neighborhood Association

Testimony closed for Board discussion.

**Motion by Mr. Salley to approve the special exception to permit the special exception subject to all comments of staff and pursuant to all terms of the application and presentation of applicant.**

**Motion seconded by Mr. Gregory. Motion passes 7-0**

**IV. EXECUTIVE SESSION**

The receipt of legal advice related to matters covered by attorney-client privilege pursuant to §30-4-70(a)(2).

**\*2020-0040-SE**

**Motion by Mr. Dinkins to enter executive session**

**Motion seconded by Ms. Stephens. Motion passes 7-0**

The members of the Board entered executive session at 6:05 PM.

**Motion by Mr. Gregory to exit executive session with no action taken.**

**Motion seconded by Ms. Stephens. Motion passes 7-0**

The members of the Board exited executive session and resumed regular session at 6:40 PM.

**V. OTHER BUSINESS**

Request for Action (Andrew C. English, III, Callison Tighe & Robinson, LLC)

\*2020-0040-SE: 2022, 2034, 2040 Marion Street & 1408, 1414, 1420 Elmwood Avenue & 2019 Bull Street (TMS# 09016-07-01, 02, -03, -04, -06, -17, -18)

Ms. Bailey introduced the request for action.

Mr. English, attorney for applicant, stated his two concerns for cause to request a rehearing;

- Whether Ms. Stephens properly voted;
- The motions made after Board discussion

Ms. Stephens advised she was able to hear the entire presentation through calling into the public input site while she was trying to connect via Zoom. Ms. Bailey then reiterated that Ms.

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Stephens did not vote on the first item on the agenda, the consent agenda, as she was unable to respond to the roll call via the public input site.

Mr. English then discussed his second point. He went through the 3 motions and votes that occurred and stated that after each, Ms. Bailey stated the motions failed.

He stated there was some confusion as to what a motion failing actually means. Because of the “awkward state”, he requested a de novo hearing before the Board. Present the full application at such time the Board decides.

Pete Balthazar, City attorney, brought up that Mr. Speed was not present at the September hearing and raised the question as to whether he should be involved in any potential decision. Ms. Bailey stated the Rules and Procedures do not necessarily support his involvement. Mr. English stated he did not have issue with Mr. Speed being involved in the decision since it is not on the merits of the case itself.

**Motion by Mr. Salley. He stated that there’s ambiguity in the vote and the only way to properly get past that ambiguity is to vacate the votes and have the applicant resubmit through the process as if a new application.**

**Motion seconded by Mr. Gregory. Motion failed 4 to 3 with 4 opposed. (Mr. Dinkins, Mr. Schafer, Mr. Primus, and Ms. Stephens opposed)**

**No further action taken.**

**VI. ADJOURNMENT**

**Motion to adjourn the meeting by Mr. Salley**  
**Motion seconded by Mr. Dinkins. Motion passes 7-0.**  
**Meeting adjourned at 7:01 PM.**