

MINUTES ADOPTED BY THE BOARD OF ADJUSTMENT
February 23, 2017

The Greenville Board of Adjustment met on the above date at 6:00 PM in Council Chambers of City Hall.

Justin Mullarkey, Chairman-X	
Bill Johnson, Co-Chair *(Acting Chair)	Claye Frank *
Kevin Faison *	Thomas Taft, Jr. X
Michael Glenn *	Rodney Bullock *
Rich Winkler X	Jim Watts X
James Moretz *	Brad Guth X

The members present are denoted by an "*" and those absent are denoted by an "X".

VOTING MEMBERS: Johnson, Frank, Bullock, Faison, Moretz, Glenn

OTHERS PRESENT:

Ms. Elizabeth Blount, Planner II	Ms. Cathy Meyer, Civil Engineer
Mr. Donald Phillips, Assistant City Attorney	Mr. Ben Griffith, Community Development Director
Ms. Amy Nunez, Secretary	Mr. Kelvin Thomas, Communications Technician
Mr. Thomas Weitnauer, Chief Planner	

Attorney Phillips stated that Vice Chair Bill Johnson will be Acting Chair in the absence of Chairman Mullarkey.

MINUTES

Mr. Faison made a motion to approve the January 26, 2017 minutes as presented, Mr. Frank seconded and the motion passed unanimously.

Attorney Phillips reviewed information. As stated on pages 2 to 3 of the Meeting Handout available to the Public, the EVIDENCE TO BE CONSIDERED BY THE BOARD OF ADJUSTMENT IS AS FOLLOWS:

A. The Board of Adjustment is a quasi-judicial body that makes a decision concerning an application, petition or appeal based on the evidence presented by those in favor as well as those in opposition.

B. The members of the Board of Adjustment are lay persons and as such, the rules of evidence that are followed in a court are relaxed for cases heard before this body.

C. Though the rules of evidence are relaxed, it does not mean they are ignored. Only evidence that is material, competent, and substantial will be considered and may be used by the Board in its decision making process.

D. The Board may not consider, nor is it admissible to present or offer affidavits, letters or other writings in support of or in opposition to a matter before the Board unless the person who prepared the writing is testifying. These writings are considered hearsay.

1. Statements by a person such as “In my opinion, the application will create a traffic hazard,” is not an admissible opinion and may not be considered by the Board.

a. However, such an opinion may be admissible if it is made by an expert or a person who is qualified to give opinions concerning traffic hazards, is making a presentation to the Board concerning his or her investigation and the basis for his or her conclusion in the report.

b. A lay person can give an opinion but he or she also must present facts to show how the proposal affects his or her piece of property specifically and not just in a general way.

2. A statement that another person who is not present and not testifying either supports or doesn't support the petitioner or application is hearsay and is not admissible.

3. The same rule applies to both the applicant and those in opposition.

Pursuant to North Carolina General Statute 160A-388 and Section 4 of the Board of Adjustment's Rules of Procedure:

4-3. No member of the Board of Adjustment shall participate in either the discussion or vote on any special use permit, variance, or appeal from an administrative officer's decision in any manner that would violate the affected persons' constitutional right to a fair and impartial decision maker. Prohibited conflicts include but are not limited to a member having a fixed opinion prior to hearing the matter and not willing to consider changing his or her mind; and undisclosed ex parte communications with the person before the Board, any witnesses, staff, or other Board members. Decisions on either a request for recusal by a member or objections by a person appearing before the Board shall be decided by a simple majority vote.

4-4. No Board Member shall take part in the hearing, consideration, or determination of any matter in which that Board Member is involved or has a financial or personal interest. Personal interest shall be defined as having a family member involved in the project under consideration, a neighborhood association involvement where a Board Member is on the governing body of such association, or where the Board Member is involved in a conflict or dispute with the applicant on a matter unrelated to the application. If a Board Member has such a conflict, he shall declare the conflict and request to be excused from voting on the issue. A majority vote of the remaining members present shall be required to excuse the member.

4-5. No Board member shall vote on any matter deciding an application or appeal, unless he shall have attended the public hearing on that application or appeal.

4-6. No Board member shall discuss any case with any parties in interest prior to the public hearing on that case, provided however, that members may receive and/or seek information pertaining to the case from any other members of the Board.

If a Board member has had an ex parte communication that also needs to be disclosed at this time.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY CHRIS WOELKERS-APPROVED

The applicant, Chris Woelkers, desires to renew his special use permit to operate a home occupation; bed and breakfast inn pursuant to Appendix A. Use (3)d. of the Greenville City Code. The proposed use is located at 1105 E. Fifth Street. The property is further identified as being tax parcel number 20507.

Ms. Blount stated this is the third renewal. It was renewed in 2010 and 2014. The City ordinance requires that a bed and breakfast renew their special use permit every three years. She delineated the area on the map. She stated that the property is located in the center portion of the City's jurisdiction. It is along the minor thoroughfare of Fifth Street and is the College View District.

Zoning of Property: R6S (Residential-Single Family)

Surrounding Zoning:

North: R6S (Residential-Single Family)
South: OR (Office Residential)
East: R6S (Residential-Single Family)
West: R6S (Residential-Single Family)

Surrounding Development:

North: Single Family Residences
South: East Carolina University (Main Campus)
East: East Carolina University (Ward Guest House)
West: University Auto Care

Description of Property:

The property contains a 3,376 square foot single family residence currently being operated as the Fifth Street Inn. The property has approximately 70 feet of frontage along E. Fifth Street and 150 feet of frontage along S. Library Street with a total lot area of approximately 11,061 square feet.

Comprehensive Plan:

The property is located within the University Institutional character type as designated by the Horizons 2026 Greenville Community Plan. The proposed use is in general compliance with the Comprehensive Plan which recommends office and residential development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on February 9, 2017. Notice of the public hearing was published in the Daily Reflector on February 13 and February 20, 2017.

Related Zoning Ordinance Regulations:

Definition:

Bed and breakfast inn home occupation. A single-family dwelling within which the resident owner offers temporary overnight accommodations to visitors for compensation. The use may be allowed as an accessory use home occupation to a single-family dwelling upon a special use permit of the Board of Adjustment and in accordance with the additional conditions and requirements of section 9-4-86(U).

Specific Criteria:

Home Occupations; Bed and Breakfast Inn.

- (a) Shall be restricted to property that is located both within a R-6S Zoning District, and within a locally designated Historic District (HD) Overlay Zoning District.
- (b) The principal use single-family dwelling structure shall have a minimum of 3,000 square feet of mechanically conditioned enclosed floor area.
- (c) Not more than 60% of the total mechanically conditioned enclosed floor area of the principal use single-family dwelling structure shall be utilized as part of the bed and breakfast establishment, including guest rooms and associated baths and closets, guest sitting or lounging areas and other interior spaces which exclusively serve such areas and rooms. Common areas utilized by both guests and the resident owner family, including but not limited to kitchens, dining rooms, foyers, halls, porches and stairs, shall not count towards the allowable percentage. A dimensional floor plan of the principal use dwelling shall be included at the time of initial application, which illustrates compliance with this section.
- (d) The use shall be conducted completely within the single-family dwelling and no part of any detached accessory structure or building shall be devoted to the use; provided, however, a detached garage may be utilized to fulfill parking requirements.
- (e) Not more than five rooms devoted to such overnight accommodations shall be permitted in addition to bathrooms or other common use areas.
- (f) All entry and primary exits to the individual tenant occupancy rooms or common use areas shall be through the principal use dwelling area of the owner occupant. Other exits as shall be available or required shall only be utilized by the tenant occupants in the event of an emergency.
- (g) In addition to the parking requirement of the principal use dwelling, one off-street parking space shall be required for each allowed tenant occupancy. No outdoor, unenclosed parking area associated with the accessory use shall be located in any front yard or any street right-of-way setback area. Such separate or joint parking facility shall comply with applicable design and construction standards.
- (h) The parking area bufferyard, screening and landscaping requirements for each separate facility shall be established in the individual case; however, no side or rear bufferyard shall be less than Bufferyard B of the bufferyard regulations set forth in Article G.

(i) The maximum number of days allowed per individual tenancy shall be limited to applicable State and County Health Department standards, however, not to exceed 30 continuous days.

(j) Commercial cooking facilities shall not be allowed, and breakfast may only be served between the hours of 5:00 a.m. and 11:00 a.m. and shall be the only meal offered to overnight guests. No persons other than overnight guests shall be served food and/or beverages for compensation. No alcoholic permits shall be issued to any such facility.

(k) One nonresident person in addition to the resident owner family may be employed in connection with the operation of the establishment. For purposes of this section, the term person may be construed to include two or more shift employees, provided the employees are not on simultaneous duty.

(l) The principal structure or additions thereto which contain the accessory use shall maintain a single-family residential character of like scale and design to adjoining and area properties. A certificate of appropriateness shall be required prior to alteration of a locally designated historic property.

(m) The single-family dwelling and lot that is converted into a bed and breakfast inn shall meet the following minimum district requirements for construction of a new dwelling: lot area, lot width, street frontage, side yard setback and rear yard setback; provided, however, where the proposed bed and breakfast inn is located adjacent to a property containing a nonconforming land use the setback requirements of this subsection shall not apply to that adjacent common boundary, at the time of initial application and approval. When a nonconforming adjacent use is converted to a conforming use, at any time after the initial approval of the bed and breakfast inn, the conversion shall not affect the continued use and/or renewal of the bed and breakfast inn with respect to the requirements of this subsection. The minimum lot area, lot width and lot frontage requirement shall not be reduced in accordance with section 9-4-33, and the minimum requirements set forth in section 9-4-94(E) shall apply for both new construction or conversion.

(n) Room renting, as defined under section 9-4-22, shall not be permitted within any dwelling that contains a bed and breakfast inn.

(o) The owner shall request that the Building Inspector and Zoning Enforcement Officer conduct an inspection of the premises each year during the month of original approval for compliance with applicable codes and conditions of special use permit approval. The owner shall pay any fee associated with the inspection as may be established by City Council.

(p) The special use permit may be approved for a three-year period and continued use shall be subject to renewal in accordance with original submission requirements.

Ms. Blount stated the applicant continues to meet all conditions as he has done in the past.

Other Comments:

The proposed project must meet all related NC State fire and building codes prior to occupancy.

Staff Recommendation:

Planning staff is of the opinion that the request can meet all the development standards required for issuance of a special use permit upon proper findings by the Board.

Chairman Johnson opened the public hearing.

Mr. Chris Woelkers, applicant and owner, spoke in favor of the request. He stated he would answer questions.

Mr. Jackie Jones, adjacent property owner of University Auto Care, spoke in favor of the request. He stated Mr. Woelkers is a good neighbor.

No one spoke in opposition of the request.

Chairman Johnson asked for Staff Recommendation.

Ms. Blount stated Staff has no objection to the request.

Chairman Johnson closed the public hearing and opened for board discussion.

No board discussion made.

Chairman Johnson read the required findings criteria. No objections.

Mr. Frank made a motion to adopt the findings of facts, Mr. Glenn seconded and the motion passed unanimously.

Mr. Moretz made a motion to approve the petition, Mr. Frank seconded and the motion passed unanimously.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY DEBBIE AND JACKIE JAMES
-CONTINUED

The applicants, Debbie and Jackie James, desire to amend a special use permit to operate an indoor and outdoor flea market pursuant to Appendix A, Use (10)z. of the Greenville City Code. The proposed use is located at 1114 N. Greene Street. The property is further identified as being tax parcel numbers 18504, 24007, 28153, and 82436.

Mr. Glenn requested to be recused from the public hearing because he has an interest in an adjacent property to the request and he recused himself from the applicant's first special use permit request.

Mr. Frank made a motion to recuse Mr. Michael Glenn, seconded by Mr. Faison and the motion passed unanimously.

Ms. Blount stated the request was to amend a special use permit. She delineated the area on a map. The property is located in the northern portion of the City's jurisdiction and is bounded by N. Greene Street, E. Dudley Street, N. Pitt Street and Martin Street.

Zoning of Property: CH (Heavy Commercial)

Surrounding Zoning:

North: CDF (Downtown Commercial Fringe)
South: CH (Heavy Commercial) & CDF (Downtown Commercial Fringe)
East: CH (Heavy Commercial) & R6 (Residential)
West: R6 (Residential) & IU (Unoffensive Industry)

Surrounding Development:

North: El Azador Mexican Restaurant, Vacant Lot
South: Affordable Bail Bonds Office, Vacant Lot
East: TransEast New Growth Design Warehouse, Vacant Lot
West: Single Family Residential, Railroad Tracks

Description of Property:

The property is 2.26 acres in size and contains a 25,164 square foot, one story commercial building with a laundromat, salon and indoor flea market. It contains approximately 355 feet of frontage along N. Greene Street. The Board approved an indoor/outdoor flea market in December 2016 with several conditions. The amended request is to eliminate the fencing condition for the outdoor vendors.

History of Request

- The original application was submitted in October 19, 2016. After the applicant received a copy of the findings of facts, she submitted an addendum on November 16, 2016. Since the addendum included additional days and was submitted the day before the meeting, staff needed more time for review. The applicant was sick the day before the meeting and agreed to continue until December BOA meeting. Staff met with the applicant and her surveyor on December 13, 2016. Both agreed to the recommended conditions. The same conditions were presented to the board at the December 16, 2016 meeting. Both the applicant and the surveyor spoke and stated they approved of the recommended conditions. The board approved the request with the conditions. On January 9, 2017, the applicant and her spouse met with staff to discuss removing the fence requirement. Staff explained the process of amending special use permits and the applicant decided to submit an amended request on January 25, 2017 for the February BOA meeting.

Comprehensive Plan:

The property is located within the Commercial character type as designated by the Horizon 2026 Greenville Community Plan. The proposed use is in compliance with the Future Land Use Plan which recommends commercial development for the subject property.

Ms. Blount stated since the December 2016 meeting the site plan has been approved. The Staff recommended conditions from the accepted December 2016 approved permit have remained the same.

Notice:

Notice was mailed to the adjoining property owners on February 9, 2017. Notice of the public hearing was published in the Daily Reflector on February 13 and February 20, 2017.

Staff Recommended Conditions:

- No temporary coverings (tents, etc...) allowed to remain erected overnight
- No torn or damaged coverings (tents, etc...) may be used.
- Operating hours shall be limited to daylight hours.
- The property shall be cleaned of all trash and debris daily.
- No outdoor sales allowed outside of proposed designated vendor stall area.
- Outdoor vendor setup shall not be oriented towards public streets, setup must be oriented towards the interior of the property
- An inspection of the outdoor vendor area must be approved by staff prior to commencement of operation
- Individual vendor signs shall not be permitted
- No parking on unimproved surfaces, in vendor area or along all adjacent road right-of-ways
- Parking spaces shall be striped or have wheel stops
- No outdoor amplified sound shall be permitted
- Outdoor garbage/trash containers and recycling centers shall be provided and enclosed on three sides by a complete visual screen consisting of a fence, vegetation or combination thereof.
- Existing food truck shall operate in a stall in a designated area.
- The Perimeter of the proposed outdoor vendor areas shall be screened with white in color post and split rail-type fencing on each side as identified in Attachment 1 and Attachment 2, which are incorporated herein for reference. Said fencing shall be of polyvinyl chloride (PVC) board or vinyl material, with a minimum of three (3) rails between posts and an overall height of at least four (4) feet.
- Fencing shall remain free of merchandise and signage.

Justification for Recommended Conditions

Staff recommends that the Board of Adjustment finds that the screening requirement for the outdoor vendor stalls be required based upon the following four City Code subsections:

City Code § 9-4-81(C) *“Health and safety. The proposed use will not adversely affect the health and safety of persons...Such health and safety considerations include, but are not limited to the following...(4) The visibility afforded to both pedestrians and operators of motor vehicles both on-site and off-site”; (5) The reasonably anticipated increase in vehicular traffic...”; (6) The anticipated, existing and designed vehicular and pedestrian movements both on-site and off-site.*

City Code § 9-4-81(F) *“Injury to properties or improvements. The proposed use will not injure, by value or otherwise, adjoining or abutting property or public improvements in the neighborhood”;*

City Code § 9-4-81(G) *“Nuisance or hazard. The proposed use will not constitute a nuisance...Such nuisance...considerations include, but are not limited to the following...(1) The number of persons who can reasonably be expected to frequent or attend...(3) The visual impact of the proposed use”; (4) The method of operation...and*

City Code § 9-4-82 *“providing that the BOA may impose additional conditions, restrictions, and standards as may be necessary to protect the value and use of property in the general neighborhood.”*

The rationale for this recommendation based on the three City Code citations is for the following reasons:

- 1) The nature of flea markets, having various clothing and household items randomly displayed for purchase versus commercially-conventional displays of a random nature of inventory, does not project an attractive image which staff considers promotes a negative visual impact on the neighborhood;
- 2) The screening and delineation promotes fairness and creates uniform spaces for the vendors to sell their wares; and
- 3) The screening will also differentiate the vendor stalls from the designated parking area and assist in public safety by providing a barrier for pedestrian and vehicular traffic.

Other Comments:

The proposed project must still meet all related NC State fire and building codes, NC Department of Revenue Sales and Use Tax Technical Bulletin Section 34-7 Flea Markets, and NC General Statutes § 66-255 and § 105-164.4(c) prior to occupancy.

The applicant shall be responsible for monitoring outside vendor areas to ensure no activity outside of normal operating hours.

Staff Recommendation:

Planning staff is of the opinion that the request be denied due to the City Code subsections and rationale for the screening requirement. Staff recommends that the conditions of the originally-approved request from December 2016 remain.

Chairman Johnson opened the public hearing.

Ms. Debbie James, applicant, spoke in favor of the request. She stated that her original request for an indoor/outdoor market is also an outreach program for the outdoor vendors that have been there for years. She has safety concerns for the vendors because she considers them family. She wants to only open four days and remove the fence requirement. The outside vendors are elderly, handicapped and they are there to subsidize their income. The days they come depends on the weather and holidays. The fence would be a negative visual. People gather in this area for good and it draws people together for a positive impact. The screening takes away the visual enticement and

vendor promotion. The stalls will be clearly marked with or without a fence for fairness and uniform spaces. A fence will hinder vendors who work from their vehicles. The fence would not protect and it is costly to install and maintain. She suggested wheel stops. She shared her mission statement and stated the outdoor vendors invite people to the indoor market. She read biblical scripture Matthew 5:16.

Mr. Frank asked if the wheel stops idea was discussed with Staff.

Ms. James stated no. She was told she would have to come to the Board.

Mr. Faison asked why the change from 7 to 4 days since the operation days were not in question because the concerns of safety and risk are still there no matter how many days they are open.

Ms. James stated she was told by Staff that if she was open 7 days she would need a fence but not for 3 days.

Mr. Moretz asked about the cost of wheel stops.

Ms. James stated the idea came about today and has not gotten a price.

Mr. Jackie James, applicant, spoke in favor. He stated that his wife has worked hard on this project. He doesn't understand why a fence was needed for 7 days but not 3 days.

No one spoke in opposition of the request.

Chairman Johnson asked for Staff recommendation.

Ms. Blount stated that Staff recommends denial of the request and that the condition of the original request approved in December 2016 should stand.

Chairman Johnson asked if the request was approved in December (2016) and they agreed. He asked why the condition would be waved.

Ms. Blount stated that the first application in October 2016 was for 3 days and that was put into the original Findings of Facts. Then the request was amended to 7 days and after the new review of the amended application, the fencing consideration was added.

Chairman Johnson asked if there was an alternative solution.

Ms. Blount stated the applicant needs to find something comparable and consider the costs.

Mr. Frank asked if they could continue the request.

Attorney Phillips stated they could with a reasonable time.

Chairman Johnson asked when the applicant could have an alternate solution to present to Staff.

Ms. James stated probably Monday.

Attorney Phillips stated that are two ways to continue the request. One is to hear it at the March 2017 meeting and the other is to call a special meeting.

Mr. Weitnauer stated another alternative is for the Board to discuss solutions.

Mr. Frank asked if Staff had other alternative besides a PVC fence.

Ms. Blount stated no.

Mr. Bullock stated the fence was presented and approved in December.

Mr. Faison stated that PVC fencing can become costly.

Mr. Moretz asked what Staff's main concern was regarding fencing.

Ms. Blount stated fencing was on three sides on one area and two sides on the other area because of the parking and the street boarding the areas.

Mr. Faison stated the concern is the parking area. Working from cars was addressed at the original meeting. He advocates for people with disabilities but the parking area still has not been taken care of.

Ms. James stated they have not delineated the area because they are waiting for a decision regarding to fence the area or not.

Mr. Faison stated that no effort has been made to put people in the proper areas. He drives by the area often and it sometimes looks hap-hazard. He stated the applicant needs to start delineating the area and enforcing it.

Ms. James stated it is an ongoing process. People just show up. She works Friday and Saturday. She is working through it.

Mr. Faison stated he saw about 10 vendors today. He told the applicant that it is her property and she needs to be in control of unauthorized vendors. She is responsible. He stated he wants her to succeed but she needs to get organized.

Ms. James stated once they resolve the fencing and get the delineation done, they would place signage regarding operation. She then would spend more time there to enforce the guidelines.

Mr. Bullock asked what days is she there.

Ms. James stated Fridays and Saturdays.

Mr. Bullock asked what 4 days she wanted to operate.

Ms. James stated Thursday, Friday and Saturday. The fourth day would be optional for holidays.

Mr. Faison asked if the fence requirement would be lifted if they were open only 3 days.

Ms. Blount stated no. The barrier is needed for safety and health. Staff is not restricting days, only that business hours are to be during daylight hours.

Mr. Bullock asked if the barrier would act as a deterrent to keep shoppers out.

Ms. Blount stated that is why it was a 3 post fence so not to impair vision.

Ms. James stated that in a discussion regarding 3 working days, Ms. Blount stated she wouldn't need a fence.

Chairman Johnson closed the public hearing and opened for Board discussion.

Mr. Moretz stated his concern with operating outside of operation hours. The fence would help deter but also might impede shoppers.

Mr. Faison stated there are empty lots everywhere. The issue is that designated areas need to be created. Rules must be followed. A fence needs money up front and she is not getting money for stalls not created. Mr. Faison stated that for health and safety, at least a temporary fence is needed to delineate the area.

Chairman Johnson read the required findings criteria. No objections.

Mr. Faison suggested to give the applicant 60 days to put a permanent fence in place but to immediately install a temporary fence

Mr. Weitnauer asked Mr. Faison if Staff would approve final materials of both temporary and permanent fences.

Mr. Faison made a motion to put in place a temporary fencing immediately allowing Staff to approve the material and within 60 days have a permanent fence solution allowing Staff to approve material, seconded by Mr. Frank. No vote taken.

Ms. James stated she is not interested in a temporary fence because it would be spending money twice. She welcomed a Staff meeting to discuss options.

Attorney Phillips suggested the option to continue the request until the March 2017 meeting.

Mr. Bullock stated he doesn't want the applicant to be jeopardized.

Mr. Faison asked if the applicant would be penalized for operating without the fence.

Ms. Blount stated the request was approved in December 2016. If the request is not continued, all operations outside must cease until there is a solution.

Ms. James suggested to continue her request.

Attorney Phillips stated the options to call a special meeting or continue to the next regularly scheduled meeting.

Mr. Faison asked if the request is continued then no penalties will be applied.

Ms. Blount stated correct.

Ms. James stated she would agree to either option.

Mr. Faison made a motion to withdraw his motion of temporary fencing, seconded by Mr. Bullock and the motion passed unanimously.

Mr. Bullock made a motion to continue the request until the March 2017 meeting, seconded by Mr. Frank and the motion passed unanimously.

Mr. Glenn returns to the Board.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY ROSALYN WILLIAMS – APPROVED

The applicant, Rosalyn Williams, desires a special use permit to operate a home occupation; otherwise not listed pursuant to Appendix A, Use (3)a. of the Greenville City Code. The proposed use is located at 520 Greenfield Boulevard. The property is further identified as being tax parcel number 23507.

Ms. Blount delineated the area on the map. She stated that the property is located in the northern portion of the City's jurisdiction in the Greenfield Terrace Subdivision.

Zoning of Property: R9S (Residential Single Family)

Surrounding Zoning:

North: R9S (Residential Single Family)
South: R9S (Residential Single Family)
East: R9S (Residential Single Family)
West: R9S (Residential Single Family)

Surrounding Development:

North: Vacant Lot
South: Single family dwelling
East: Single family dwelling
West: Single family dwelling

Description of Property:

The subject property contains a 1,404 square foot single family residence with two detached accessory structures. The total lot area is 0.34 acres in size and has 99 feet of frontage along Greenfield Boulevard. The applicant desires to have a portion of the existing dwelling as a commissary for her food truck.

Comprehensive Plan:

The property is located within the Residential, Low to Medium Density character type as designated by the Horizons 2026 Greenville Community Plan. The proposed use is in compliance with the Future Land Use Plan which recommends residential development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on February 9, 2017. Notice of the public hearing was published in the Daily Reflector on February 13 and February 20, 2017.

Related Zoning Ordinance Regulations:

Definition:

Home Occupation. An activity conducted for financial gain as an accessory use to a detached single-family dwelling unit by a member of the family residing in the dwelling unit.

- (1) Except as otherwise provided, all home occupations shall comply with all of the following standards:
 - a. Shall only be permitted within single-family dwellings units;
 - b. Shall not be permitted within any detached accessory structure or building;
 - c. Shall constitute an accessory use to the principal use;
 - d. Shall not occupy more than 20% of the mechanically conditioned enclosed floor space of the dwelling unit;
 - e. Shall not employ more than one person other than those persons legally residing within the principal use dwelling;
 - f. Shall not be visible from any public right-of-way or adjacent property line;
 - g. Shall not involve the on-site sales of products;
 - h. Shall not involve any outside storage of related materials, parts or supplies;
 - i. Shall have signage in accordance with Article N; and
 - j. Shall not create any hazard or nuisance to the occupants residing or working within the principal use dwelling or to area residents or properties.

Specific Criteria:

Barber and beauty shop, manicure, pedicure or facial salon; and other similar personal service activities not otherwise listed: shall be limited to not more than one operator or service provider at all times. Concurrent and/or shift employment shall not be permitted.

Staff Comments:

The proposed project shall meet applicable building code requirements for a commercial cooking

establishment.

Staff Recommendation:

Planning staff is of the opinion that the request can meet all the development standards required for issuance of a special use permit upon proper findings by the Board.

Mr. Faison asked if the request was for a food truck.

Ms. Blount stated it is for catering and therefore otherwise not listed in the City code.

Chairman Johnson opened the public hearing.

Ms. Rosalyn Williams, applicant, spoke in favor. She was ready to answer questions.

Mr. Glenn asked where prep work is done and if she has a facility.

Ms. Williams stated they cook to order.

Chairman Johnson asked if she catered events.

Ms. Williams stated they cater for festivals mainly and cook on site. They have a prep kitchen at their residence.

Mr. Glenn asked if the health department inspects the prep area.

Ms. Williams stated yes they inspect.

Mr. Robert Williams, husband of the applicant, spoke in favor of the request. He stated the health department inspects every three months. All food is purchased the night before. They only inspect the food truck, not the residence.

Mr. William Gibbs, neighbor, spoke in favor of the request. He stated they are excellent neighbors and he does not oppose.

Mr. Clarence Atkinson, neighbor, spoke in favor of the request. He stated they are good neighbors and they all watch out for each other. He does not oppose.

No one spoke in opposition of the request.

Chairman Johnson asked for Staff Recommendation.

Ms. Blount stated Staff has no objection to the request.

Chairman Johnson closed the public hearing and opened for Board discussion.

Mr. Glenn stated he was in favor. It is important to the City to support entrepreneurial businesses. It is food and

that is a health department issue and out of their purview.

Chairman Johnson read the required findings criteria. No objections.

Mr. Frank made a motion to adopt the findings of facts, Mr. Moretz seconded and the motion passed unanimously.

Mr. Frank made a motion to approve the petition, Mr. Faison seconded and the motion passed unanimously.

Chairman Johnson referred Board members to the copy of the email in front of them from Easter Seals about withdrawing their special use permit, item #4 on the agenda.

Motion made by Mr. Bullock to accept the withdraw of the special use permit by the Easter Seals, item #4 on the agenda, seconded by Mr. Faison. Motion passed unanimously.

2016 ANNUAL REVIEW OF PRIVATE CLUBS AND DINING AND ENTERTAINMENT ESTABLISHMENTS OPERATING PURSUANT TO AN APPROVED SPECIAL USE PERMIT.

Ms. Blount stated the Board received a handout with at least 11 private clubs and 7 dining and entertainment establishments that operate under a special use permit. Some establishments are not on the list because they are grandfathered and do not have to operate under a special use permit. Different reviewing agencies were submitted the list to submit comments, such as: Pitt County ABC, Planning Division, Police, Fire/Rescue, Inspections, and Code Enforcement. There were no significant issues. There was a comment from the ABC Commission concerning the Blackened Kracken but it was rectified. There are also listed calls for service. Captain Ken Laws with the Police Department is present to answer questions.

No questions or discussion took place.

With no further business, Mr. Moretz made a motion to adjourn, Mr. Frank seconded, and the motion was passed unanimously. Meeting adjourned at 7:25 p.m.

Respectfully Submitted,

Elizabeth Blount
Planner II