

MINUTES ADOPTED BY THE BOARD OF ADJUSTMENT  
July 25, 2017

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

Bill Johnson, Chair *	Ann Bellis *
Kevin Faison *	Thomas Taft, Jr. X
Michael Glenn *	Rodney Bullock X
Rich Winkler *	James Moretz *
Brad Guth X	

The members present are denoted by an “\*” and those absent are denoted by an “X”.

VOTING MEMBERS: Johnson, Faison, Glenn, Winkler, Moretz, Bellis

OTHERS PRESENT:

Ms. Elizabeth Blount, Planner II	Ms. Cathy Meyer, Civil Engineer
Mr. Donald Phillips, Assistant City Attorney	Ms. Renee Hiralal (Temp) Acting Secretary
Mr. Kelvin Thomas, Communications Technician	

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 JEFFREY DANIELS, ANDREA DANIELS, TIMOTHY MCCARTHY AND NATALIE MCCARTHY –APPROVED**

The applicants, Jeffrey Daniels, Andrea Daniels, Timothy McCarthy and Natalie McCarthy, desire a special use permit for a parking lot pursuant to Appendix A, Use (13)h. of the Greenville City Code. The proposed use is located at 1104 E 10<sup>th</sup> Street. The property is further identified as being tax parcel number 06797.

Ms. Blount delineated the area on a map. She stated the property is located in the northeastern portion of the City's jurisdiction near ECU. The request is for a private parking lot. The subject property has approximately 28,676 square feet of total lot are with approximately 83 feet of frontage along E. 10<sup>th</sup> Street. The applicant proposes to provide 37 parking spaces.

**Zoning of Property:** OR (Office Residential)

**Surrounding Zoning:**

North: R9S (Residential Single Family)  
South: R15S (Residential Single Family)  
East: OR (Office Residential)  
West: R9 (Residential)

**Surrounding Development:**

North: Residential  
South: Elm Street Park  
East: University Park Apartments  
West: Kappa Delta Sorority House and South Elm Street Apartments

**Description of Property:**

The subject property is located in the flood plain area. The property backs up to Green Mill Run and the back portion is located in the floodway. Approximately 70% of the property is located in the 1% chance of annual flood hazard area and 30% is located in the 0.2% chance of annual flood hazard area.

**Comprehensive Plan:**

The property is located within the High Density Residential character type as designated by the Horizon Plan. The proposed use is in compliance with the Future Land Use Plan which recommends High Density Residential with private off street parking. The majority of the property is located in the floodplain; therefore, residential would not be preferred use of this property. Due to the proximity of an existing high density residential use and the university, this parking lot would be a supported use for the subject property.

**Notice:**

Notice was mailed to the adjoining property owners on July 13, 2017. Notice of the public hearing was published in the Daily Reflector on July 17 and 24, 2017.

**Staff Recommendation Conditions:**

Parking spaces shall not be permitted in the Floodway.

The parking lot shall meet North Carolina Accessibility Codes.

The applicant shall reconstruct sidewalks if the existing sidewalks are damaged or removed during the

construction process along their entire frontage of E. 10<sup>th</sup> Street as required by the City Ordinance.

**Other Comments:**

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

**Staff Recommendations:**

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. Mike Baldwin, representative of the applicants, spoke in favor of the request. There is an existing parking lot to the east of this property. The parking lot is a use better suited than a residential property due to the floodway/plain. They will use the curb cut to the adjacent parking lot for access to 10<sup>th</sup> Street. No new cuts will be made.

Ms. Bellis stated that concrete from the demolition of the house on this property was pushed into the floodway.

Mr. Baldwin stated they will clean that all up.

Mr. Faison asked what type of parking will be there.

Mr. Baldwin stated annual parking with leases.

No one spoke in opposition of the request.

Chairman Johnson asked for staff recommendation.

Ms. Blount stated staff has no objections to the request with stated staff recommendations.

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. Faison made a motion to adopt the findings of facts, Mr. Winkler seconded and the motion passed unanimously.**

**Mr. Moretz made a motion to approve the petition with the stated conditions, Mr. Glenn seconded and the motion passed unanimously.**

**With no further business, Mr. Faison made a motion to adjourn, Mr. Winkler seconded, and the motion was passed unanimously. Meeting adjourned at 6:18 p.m.**

Respectfully Submitted,

Elizabeth Blount  
Planner II