

MINUTES ADOPTED BY THE BOARD OF ADJUSTMENT
December 15, 2016

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

Justin Mullarkey, Chairman-*
Bill Johnson, Co-Chair X
Kevin Faison *
Michael Glenn *
Rich Winkler *
Claye Frank X
Thomas Taft, Jr. *
Rodney Bullock *
Jim Watts X

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

VOTING MEMBERS: Mullarkey, Faison, Taft, Winkler, Glenn, Bullock

OTHERS PRESENT:

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

MINUTES

Mr. Taft made a motion to approve the November 17, 2016 minutes as presented, Mr. Winkler seconded and the motion passed unanimously.

PUBLIC HEARING ON A REQUEST FOR SPECIAL USE PERMIT BY DEBBIE JAMES- APPROVED

The applicant, Debbie James, desires a special use permit to operate an indoor and outdoor flea market pursuant to Appendix A, Use (10)z of the Greenville 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. Michael Glenn asked to be recused from this item since he received a notice letter.

Motion made by Mr. Taft, seconded by Mr. Winkler, to recuse Michael Glenn. Motion passed unanimously.

Ms. Blount delineated the area on the map. The request is located in the northern portion of the City.

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: Affordabond Bail Bond Office, Vacant lot
East: Vacant lot, TransEast New Growth Design Warehouses
West: Single Family Residential, Railroad Tracks

Description of Property:

The subject property contains a 25,164 square foot 1 story commercial building and a 1,675 square foot 1 story brick building. The property is bounded by N. Greene Street, E. Dudley Street, N. Pitt Street and Martin Street and is 2.26 acres in size.

Comprehensive Plan:

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

Notice:

Notice was mailed to the adjoining property owners on December 1, 2016. Notice of the public hearing was published in the Daily Reflector on December 5, 2016 and December 12, 2016.

Staff Recommended Conditions:

- Site plan approval is required prior to operation.
- 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.
- 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 is 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.
- 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 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.

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 three City Code subsections:

- 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...(3) The visual impact of the proposed use”; 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 delineations promotes fairness and creates uniform spaces for the vendors to sell their wares.
- 3) The screening will also differentiate the vendor stalls from the parking area and assist in public safety by providing a barrier for pedestrian traffic.

Other Comments:

The proposed project must meet all related NC State fire and building codes, NC Department of Revenue Section 34-7 Flea Markets, NC General Statutes §66-225 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 can meet all the development standards required for issuance of a special use permit to include upon proper findings by the Board.

Chairman Mullarkey asked if each vendor would have their own signage.

Ms. Blount stated that signage is not allowed on the fences but vendors can have inside their areas.

Mr. Taft asked if the fence was being used as screening or to delineate the area.

Ms. Blount stated for both. The fence will also serve as a pedestrian barrier so that they are not too close to the street and away from the parking area. The fence will not be a complete panel so that police can see through it.

Mr. Bullock asked for the operation hours.

Ms. Blount stated Staff is not restricting operating hours but it must be daylight hours only.

Mr. Faison asked if the daylight requirement was for outdoor vendor areas only.

Ms. Blount stated yes.

Mr. Taft asked about the one time inspection.

Ms. Blount stated it was to make sure everything is in compliance.

Mr. Taft asked about the issue of parking on unimproved surfaces.

Ms. Blount stated once the applicant is in compliance, it should not be a problem.

Chairman Mullarkey opened the public hearing.

Mr. Steve Spruill, representative for the applicant, spoke in favor of the request. He stated that they have met with the Public Works Engineering Division and NCDOT and have worked out the kinks regarding the site plan. He asked all those in the audience in favor to please stand. Many audience members stood up in favor of the application. He stated they have met the conditions that Staff has put before them.

Mr. Bullock stated he has a concern with the outside area hours of operation because it might cause conflict with the place of worship next door.

Mr. Spruill stated that the operation will be daylight hours 7 days a week. For many years there have been outside vendors at all hours. Now it will be organized and have limits to the hours.

Mr. Winkler asked if Staff went over the conditions with the applicant and if they were okay with the conditions.

Mr. Spruill stated yes. He stated they are 99% done with the site plan and have cleared all other requirements.

Ms. Debbie James, applicant, spoke in favor of the request. She owned the property years ago and sold it to a church which later was foreclosed. She spoke with the people in the area and the vendors. She stated the flea market and improvements to the property provide community outreach and make a difference.

Ms. Clementine Corbett spoke in favor of the request. She runs a mobile ministry and stated that Ms. James helped

many families with donations and support. This market will better the City and help those in need.

Rosetta Davis-Satterwhite spoke in favor of the request. She is a vendor at this site. She stated Ms. James provides outreach for the community and gives back.

No one spoke in opposition.

Chairman Mullarkey asked for Staff Recommendation.

Ms. Blount stated Staff is the opinion that the applicant can meet all requirements. She stated that parking is separate from the vendor stalls. Vendors will be allowed to bring their vehicles to the stalls for set up and take down only.

Chairman Mullarkey asked if the parking and unloading was reviewed with the applicant.

Mr. Spruill stated yes.

Chairman Mullarkey closed the public hearing and opened board discussion.

Mr. Taft stated he is concerned with Sunday hours but is okay with it if that is what the neighborhood wants.

Mr. Bullock stated that the outreach into the community is good. He stated maybe the churches in the area can also go out and minister/fellowship in this area and create a wonderful partnership.

Mr. Faison stated the request gives the area structure and looks better.

Chairman Mullarkey read the required findings criteria. No objections.

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

Mr. Winkler made a motion to approve the petition with the stated conditions, Mr. Bullock seconded, and the motion passed unanimously.

Mr. Glenn returned to the Board

PUBLIC HEARING ON A REQUEST FOR SPECIAL USE PERMIT BY SHONYA MCMILLAR-APPROVED

The applicant, Shonya McMillar, desires a special use permit to operate a church pursuant to Appendix A, Use (8) of the Greenville Code. The proposed use is located at 2402-A United Drive. The property is further identified as being tax parcel number 36617.

Ms. Blount delineated the area on the map. The request is located in the northern portion of the City.

Zoning of Property: IU (Unoffensive Industry)

Surrounding Zoning:

North: IU (Unoffensive Industry)
South: IU (Unoffensive Industry)
East: IU (Unoffensive Industry)
West: IU (Unoffensive Industry)

Surrounding Development:

North: The Door Store
South: Fastenal Company, Overton's and Gander Mountain
East: Superior Design and Fabrication LLC
West: UPS

Description of Property:

The subject property contains an 8,800 square foot commercial building divided into 3 units and has approximately 147 feet of frontage along United Drive with a total lot area of 29,720 square feet. The applicant will be occupying unit A of the building.

Comprehensive Plan:

The property is located within the Industrial/Logistics character type as designated by the Horizon's 2026: Greenville Community Plan. This character type allow for warehouses and light manufacturing operations and related office uses. Although light manufacturing is preferred in this area, the subject church will occupy an existing office structure and is limited to a three-year interval at the end of which a review of the compatibility of the church with the surrounding industrial area can be determined. Therefore, the request is in general compliance with the Future Land Use Plan.

Notice:

Notice was mailed to the adjoining property owners on December 1, 2016. Notice of the public hearing was published in the Daily Reflector on December 5, 2016 and December 12, 2016.

Related Zoning Ordinance Regulations:

Definition:

Church or place of worship. A building in which persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship and holding a certificate of nonprofit organization from the Secretary of State.

Specific Criteria:

Section 9-4-85 (DD)

Church or place of worship. A special use permit shall be valid for 36 months from the date of the

order granting the permit. From and after 36 months, the permit shall be considered void and of no effect and any reuse of continuance of use under this section shall be subject to reapplication and special use permit approval in accordance with current requirements.

Section 9-4-104 (A)

Shall be subject to the bufferyard regulations; however, no principal or accessory structure shall be located within 20 feet of any adjoining property zoned R-6, R-6A, R-6MH, R-6S, R-9, R-9S, R-15S, MR, RA-20 or PUD.

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 to include upon proper findings by the Board.

Ms. Yvonne Jones, Pastor for the application, spoke in favor of the request. The congregation has existed for 18 years. They are currently in a building that rain gets in. This site provides a decent building for worshipping and will invite more people. There will be no damage or harm, have minimal noise and help beautify the area.

Mr. Faison asked how many members are in the congregation.

Ms. Jones stated overall there are 100, but only about 30 people show up regularly.

Mr. Taft asked about the neighbors.

Ms. Jones stated the owners are next door and there is another church on the end of the building.

Mr. Mullarkey asked when they meet.

Ms. Jones stated Sundays, bible study Tuesdays, and some Thursdays or Saturdays for rehearsals.

No one spoke in opposition.

Chairman Mullarkey asked for Staff Recommendation.

Ms. Blount stated Staff is the opinion that the applicant can meet all requirements.

Chairman Mullarkey closed the public hearing and opened board discussion.

Chairman Mullarkey read the required findings criteria. No objections.

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

unanimously.

Mr. Bullock made a motion to approve the petition, Mr. Winkler seconded, and the motion passed unanimously.

With no further business, Mr. Glenn made a motion to adjourn, Mr. Winkler seconded, and the motion passed unanimously. Meeting adjourned at 6:38 p.m.

Respectfully Submitted,

Elizabeth Blount
Planner II