

MINUTES ADOPTED BY THE BOARD OF ADJUSTMENT
September 28, 2017

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

Bill Johnson, Chair *
Kevin Faison X
Michael Glenn *
Rich Winkler *
Hunt McKinnon *

Ann Bellis *
Thomas Taft, Jr. *
Rodney Bullock *
James Moretz *

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

VOTING MEMBERS: Johnson, Taft, Glenn, Bullock, Winkler, Moretz, Bellis

OTHERS PRESENT:

Ms. Elizabeth Blount, Planner II

Mr. Donald Phillips, Assistant City Attorney

Ms. Amy Nunez, Secretary

Mr. Kelvin Thomas, Communications Technician

Ms. Cathy Meyer, Civil Engineer II

MINUTES

Mr. Taft made a motion to approve the August 24, 2017 minutes as presented, Mr. Moretz 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 KRISTOPHER PAINE-
APPROVED**

The applicant, Kristopher Paine, desires a special use permit to operate a game center pursuant to Appendix A, Use (6)d. of the Greenville City Code. The proposed use is located at 1909 E. Fire Tower Road Suite G. The property is further identified as being tax parcel number 56786.

Ms. Blount read the definition of a Game Center. *Any establishment that has more than five coin/token operated or other amusement devices or whose principal purpose is the operation of a “game center” regardless of the total number of amusement devices.* She stated this request is not for Internet Sweepstakes. The property is located in the southeastern section of the City’s jurisdiction. It contains a 14,000 square foot office building with several units. The building has approximately 280 feet of frontage along E. Fire Tower Rd. The proposed use will be located in Unit G. The proposed unit has 1800 square feet with 1100 for retail sales such as video games, video game consoles, video game related merchandise including plush toys, action figures, strategy guides, along with video game merchandise, and collectible card games such as Magic the Gathering, Yugioh, and Pokémon and the remaining 700 square feet is for the game center. There is one main entrance to the unit with a wall that separates the retail portion of the store from the game center portion.

Zoning of Property: CG (General Commercial)

Surrounding Zoning:

- North: CG (General Commercial)
- South: CG (General Commercial)
- East: CG (General Commercial)
- West: CG (General Commercial)

Surrounding Development:

- North: Tie Breakers Bar & Grill, Cosmo Prof and The Puffing Pirates
- South: O’Reilly Auto Parts, Sky Nails, and Jersey Mike’s Subs
- East: Executive Personnel Group and The Salvation Army Store
- West: James Scott Farrin, Play Date, and Ribeye’s

Comprehensive Plan:

The property is located within the Mixed Use character type as designated by the Horizon 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 September 14, 2017. Notice of the public hearing was published in the Daily Reflector on September 18 and 25, 2017.

Description of Business:

The proposed use includes a game center along with retail sales. The business is known as Well Played Games, L.L.C. Per the applicant, items that will be sold are video games, video game consoles, collectible card games and video game related merchandise. Currently, there are 20 electronic games available for use. The games are not coin operated. Customers are charged a set price to use the game center portion of the store. Customers are then given wristbands that are required to enter the game center. There is no age restrictions, but children must be accompanied by a parent or guardian. The game center is actively monitored by employees as well as numerous security cameras.

Related Zoning Ordinance Regulations:

Definition:

Game center. Any establishment that has more than five coin/token operated or other amusement devices or whose principal purpose is the operation of a “game center” regardless of the total number of amusement devices. For purposes of this definition, the term “amusement devices” shall include electronic games and similar machines, and any other game table or device. Bingo parlors shall be considered as “game centers” regardless of the number of participants.

Staff Recommended Conditions:

The proposed request may not evolve into a public/private club or an internet sweepstakes business without the issuance of a Special Use Permit for such use.

The applicant will be required to meet with the City of Greenville Fire Department and the City of Greenville Inspections Department to set the occupancy standards for an assembly type use.

No loitering outside of the business shall be permitted.

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. Kristopher Paine, applicant, spoke in favor of the request. He originally opened the store complying with State regulations and didn't realize there were City regulations. It is a retail store with an open use arcade. He has been open for about two months with zero negative impact on surrounding businesses. There have been no complaints.

Mr. Taft asked if the game center would change to coin operated.

Mr. Paine stated no, his intention has always been to have a flat rate. The machines don't take coins.

Mr. Jimmy Williams Jr. spoke in favor of the request. He stated he has participated in the games at this establishment. This will boost Greenville's economy since gaming is a big money industry. His son is autistic and this place has made him feel welcomed.

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 the stated staff recommended conditions.

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

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

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY PITT COUNTY BOARD OF EDUCATION-APPROVED

The applicant, Pitt County Board of Education, desires a special use permit to operate a major repair shop pursuant to Appendix A, Use (9)a. of the Greenville City Code. The proposed use is located at 975 Woodridge Park Road. The property is further identified as being tax parcel numbers 84059 and 84060.

Ms. Blount delineated the area on a map. It is in the western portion of the City's jurisdiction. The subject properties are 20 acres in size on parcel 84060 and 3.47 acres in size on parcel 84059. The applicant wishes to construct a 14,960 square foot commercial building consisting of 7 service bays, 1 wash bay and approximately 1,000 square feet of office space on parcel 84060. The existing metal building on parcel 84059 will contain offices and warehouse space.

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: Vacant lot
South: Vacant lot
East: Pitt County Board of Education
West: Vacant lot

Comprehensive Plan:

The property is located within the Industrial Logistics 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 industrial and light industrial development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on September 14, 2017. Notice of the public hearing was published in the Daily Reflector on September 18 and 25, 2017.

Related Zoning Ordinance Regulations:

Definition:

Repair; major. The following activities shall be considered major repair:

- (1) Engine overhaul or dismantling of subparts;
- (2) Body or frame repair;
- (3) Windshield or glass replacement;
- (4) Transmission, starter, alternator or other subpart rework service;
- (5) Welding or metal cutting; and
- (6) Any other repair other than minor repair.

Definition:

Repair; minor. The following activities shall be considered minor repair:

- (1) Engine tune-up; changing of plugs, filters, oil, lubricants, belts, adjustments;
- (2) Change and rotate tires;
- (3) Brake services;
- (4) Electrical system services;
- (5) Radiator services;
- (6) Muffler services; and
- (7) Battery service.

Specific Criteria:

- (1) All wrecked or damaged motor vehicles and parts shall be screened so as not to be visible from adjoining property lines and street right-of-way.
- (2) All vehicles on the premises for repair shall be stored at the rear of the principal structure.
- (3) No vehicle shall be stored on the premises for more than 15 days.
- (4) There shall be no exterior storage of items other than vehicles.
- (5) Sale of vehicles shall be in accordance with Article B, section 9-4-22, definition of automobile, truck, recreational vehicle, motorcycle and boat sales, contained therein.
- (6) Rental or utility trailers, cars and trucks shall be permitted as accessory uses, provided that all units in excess of four shall be screened from adjoining street right-of-way and property lines in accordance with Bufferyard C or with a bufferyard of greater intensity as required by the bufferyard regulations.
- (7) Outdoor displays of products such as tires, oil, wiper blades or other similar products shall be permitted provided they are within ten feet of the principal structure and outside required bufferyards. Signage displayed in conjunction with such display shall be in accordance with the sign regulations.
- (8) All services except fuel sales shall be performed within a completely enclosed building.

Other Comments:

Permits needed to upfit existing shell building with fire sprinklers/fire alarms as required prior to use/occupancy.

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.

Mr. Taft asked if the sprinkler requirement is general or something extra by the City.

Ms. Blount stated it is required when there is office space.

Mr. Moretz asked about parking requirements.

Ms. Blount stated it is included in their site plan.

Chairman Johnson opened the public hearing.

Ms. Dawn Poaletti, of Baldwin Design Consultants, representative of the applicant, spoke in favor of the request. The current transportation center is located on Mall Drive. The Pitt County Board of Education acquired this new land to relocate and expand. The major repair is for the school buses. The request is in compliance. The lot has entrances and exits to insure safety.

No one spoke in opposition of the request.

Chairman Johnson asked for staff recommendation.

Ms. Blount stated staff has no objections 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. Glenn made a motion to adopt the findings of facts, Mr. Taft seconded and the motion passed unanimously.

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

With no further business, Mr. Winkler made a motion to adjourn, Mr. Taft seconded, and the motion was passed unanimously. Meeting adjourned at 6:22 p.m.

Respectfully Submitted,

Elizabeth Blount
Planner II