

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.

Betty Moseley swore in staff and all those speaking for or against.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY HARRY L. FRANK-APPROVED

The applicant, Harry L. Frank, desires a special use permit to operate a game center and a convention center pursuant to Appendix A, Use (6)d. and Use (8)l. of the Greenville County Code. The proposed use is located at 2713 E. 10th Street. The property is further identified as being tax parcel number 16472.

Ms. Blount delineated the property. The property is located in the northeastern portion of the City. The proposed use is located at 2713 E. 10th Street. The proposed location is a 4,906 square foot commercial building within a planned center. The building has 96 feet of frontage along E. 10th St., approximately 2,000 square feet of the building is used for face-to-face gaming. Ms. Blount showed pictures of the exterior and interior of the property including the retail, rental, and library spaces.

Zoning of Property: CG (General Commercial)

Surrounding Zoning:

North: OR (Office Residential)

South: CG (General Commercial) and R9S (Residential Single Family)

East: CG (General Commercial)

West: CG (General Commercial) and OR (Office Residential)

Surrounding Development:

North: Wooded lot

South: Pirates Auto Sales, Red Shark, Pirate Auto Care Center, Inc., BlueMax Rental Offices

East: Forrest Lock & Key, Garriss Martial Arts, BPL Plasma Center, Bossie's Barber Shop, Hair Salon, Wendy's Flowers, D's Drive Thru

West: Shaw University off-site campus, Dollar General and Village Green Apartments

Comprehensive Plan:

The property is located within the Commercial 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 June 14, 2018. Notice of the public hearing was published in the Daily Reflector on June 18 and June 25, 2018.

Description of Business:

The proposed use includes retail sales with open space to play games and host special events. The business is known as Blue Ox Games. Per the applicant, the game store is dedicated to the face-to-face gaming experience. Retail sales of board games and comics are the primary use. The staff of Blue OX teaches people how to play the board games they sell and provide free-to-use copies of the games for customers to try. The open space is used for customers to play either their own personal games or the store provided games. The open space will also be rental space for game tournaments and private events. No electronic games are available. Customers are not charged an entry fee nor charged to play the games. There is no age restriction, but children under 16 must be accompanied by

a parent or guardian. Snacks and non-alcoholic beverages are available for purchase. The future of the business is to host tournaments and demos for a variety of trading cards, comics, miniatures and board games.

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, an internet sweepstakes business or rent out space for use as a public/private club 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.

Parking plan approval is required to ensure adequate parking and ADA requirements.

No loitering outside of the business shall be permitted.

Other Comments:

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

Mr. Glenn asked if the convention center use was what prompted the special use permit.

Ms. Blount stated no, the special use permit was prompted by the game center.

Chairman Johnson opened the public hearing.

Mr. Harry Frank, applicant, spoke in favor of the request. He stated that he was unaware of the required zoning designation. Once this was brought to his attention, he asked about use for parties, etc. He stated he realized he should also apply for use as a convention center. The proposed use is a retail game store that specializes in the face-to-face gaming experience. His desire is to have a place where people in the gaming community can meet. The retail portion keeps him open and he doesn't typically charge for use of meeting space for games.

Mr. Winkler asked if the space was used for board games.

Mr. Frank said yes, as well as card games and Pokémon.

Chairman Johnson asked what the hours of operation are.

Mr. Frank stated Monday, Tuesday, Thursday and Friday 1pm – 10pm, Wednesday and Saturday 11am – 10pm, and Sunday 12pm – 8pm. He's open later in the day because people like to come out after work.

Ms. Bellis asked about the location of his parking lot.

Mr. Frank stated parking will be to the left of the building and that they have access to that entire lot. The center of the lot is reserved for them. Several spaces in the front of the store are also reserved for their business.

Ms. Bellis asked if the area immediately adjacent to Heath Street is part of his property.

Mr. Frank stated they have access to that parcel.

Ms. Bellis asked if he would be the one responsible for picking up paper.

Mr. Frank stated he was not responsible for the maintenance of the lot. He stated that the cleaning up is supposed to be handled by BPL Plasma because they are paying for access to that property.

Ms. Bellis stated she has observed that they have not been doing so.

Mr. Frank stated he also has observed that and has repeatedly called them about it, as have other tenants. He stated that management turns over quickly at BPL and that they do a good job cleaning up in front of their storefront but not on the lot.

Ms. Bellis asked what it would take to get them to clean up because it will ultimately end up in the park.

Mr. Frank said he did not know. He stated other tenants are continually cleaning up after BPL clients when they drop cups and bandages.

Mr. Glenn asked if Mr. Frank's landlord was the same as the one for the lot being discussed.

Mr. Frank stated he assumed it is.

Mr. Lee Ball, real estate agent, spoke in favor of the request. He stated he represented the owner of the property who lives out-of-state. The property owner owns both the building and parking lot. He maintains the lot and cuts the grass. Mr. Ball anticipates having more control of parking lot than previously. He stated Mr. Frank had been there for three years and would like to purchase the property. Mr. Ball stated that his staff cleans up the lot when BPL doesn't and that the city could help with that by giving BPL a notice about trash.

Chairman Johnson asked Mr. Ball if he knew the history of the property.

Mr. Ball stated he knew all the history and they talked briefly of several previous restaurants. Mr. Ball clarified that no liquor is served at Mr. Frank's business.

Mr. Ensor, the Director of the Small Business Center at Pitt Community College, spoke in favor of the request. He stated that he had been working with Mr. Frank for the past seven years. He apologized for not being aware that a special use permit was required. He and his child are patrons of the business. Several parents drop their children off

there to play games. This summer the community college entered into a partnership with the business in which summer “stem” camps are provided. He stated that he could vouch for Mr. Frank as a business owner and that the proposed location is a family place. Non-profit fundraisers are also hosted there.

No one spoke in opposition to the request.

Chairman Johnson asked for the staff recommendation.

Ms. Blount stated staff had no objection to the application with the recommended conditions.

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

Chairman Johnson read the required findings criteria. No objections.

Mr. Winkler made a motion to accept the findings of fact with stated conditions, Mr. McKinnon seconded the motion and it passed unanimously.

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

ELECTION OF CHAIR AND VICE-CHAIR

Attorney Phillips stated that the Rules of Procedures 3-1 state: *The Chairman shall be elected by majority vote of the full membership of the Board. The Board member having seniority will be given first consideration for nomination. Should that person decline said nomination, the nominees will then be chosen from the remaining regular Board members. The term of office shall be for one (1) year and begin on **June 1** or until a successor is elected; and he/she shall be eligible for re-election. Subject to these rules, the Chairman shall decide upon all points of order and procedure, unless directed otherwise by a majority of the Board in session at the time. The Chairman shall appoint any committees found necessary to investigate any matter before the Board. The Chairman shall have a vote on all matters before the Board.* The procedure of the elections for are: 1- Open for nominations. Nominations do not require a second. 2- If no further nominations made, close the nominations by declaration of the Chair or vote by the Commission. 3- Vote in order of the nominations given. The first nominee to receive a majority vote is elected. All present members will vote. Alternate members are not allowed to serve as Chair.

Chairman Johnson opened the floor for nominations for the office of Chair.

Mr. Winkler nominated Mr. Bill Johnson. With no further nominations made, Chairman Johnson closed the nominations and called for a vote. A unanimous vote was made for Mr. Johnson to serve as Chair.

Attorney Phillips stated that the Rules of Procedures 3-2 state: *A Vice Chairman shall be elected by the Board from among its regular members in the same manner and for the same terms as the Chairman. The Vice Chairman shall serve as Acting Chairman in the absence of the Chairman, and at such times, shall have the same powers and duties as the Chairman.* The procedure of the elections is the same as for Chair with the exception of the seniority section. Alternate members are not allowed to serve as Vice Chair.

Chairman Johnson opened the floor for nominations for the office of Vice Chair.

Mr. Winkler nominated himself. With no further nominations made, Chairman Johnson closed the nominations and called for a vote. A unanimous vote was made in favor of Mr. Winkler to serve as Vice Chair.

With no further business, Mr. Moretz made a motion to adjourn, Ms. Bellis seconded and it passed unanimously. The meeting adjourned at 6:29 pm.

Respectfully submitted,

Elizabeth Blount
Planner II