

MINUTES ADOPTED BY THE BOARD OF ADJUSTMENT
October 25th 2018

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

BOARD MEMBERS PRESENT

Bill Johnson, Chairman - *	
Nathan Cohen - X	Christopher Lilley - *
Michael Glenn - *	Rodney Bullock - X
Ann Bellis - X	Hunt McKinnon - *
James Moretz - *	Dillion Godley - *
Sharon Evans - *	Stephen Atkinson - *

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

VOTING MEMBERS: Johnson, Evans, Glenn, Lilley, Moretz, McKinnon, Godley

OTHERS PRESENT:

Ms. Elizabeth Blount, Planer II.	Ms. Camillia Smith, Secretary
Mr. Donald Phillips, Assistant City Attorney	Ms. Cathy Meyer, Civil Engineer
Ms. Renee Skeen, Notary Public	Mr. Kelvin Thomas, Communication Technician

MINUTES

Mr. McKinnon made a motion to approve the September 27, 2018 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.

The notary swore in staff and all those speaking for or against the request.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY MOTAHAR ABDUH

The applicant, Motahar Abduh, desires a special use permit to a Tobacco Shop Class 2 pursuant to Appendix A, Use (10) gg. of the Greenville City Code. The proposed use is located at 917 Red Banks Rd. The property is further identified as being tax parcel number 38261.

This item required continuance until the November 15th Board of Adjustment meeting.

Mr. Godley made a motion to continue the request to the November 15th meeting, Mr. Glenn seconded the motion and it passed unanimously.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY STERLING RENTAL COMPANY, LLC.

The applicant, Sterling Rental Company, LLC., desires a special use permit to operate an automobile, truck, recreational vehicle, motorcycle and boat sales and service pursuant to Appendix A, Use (11)f. of the Greenville City Code. The proposed use is located at 1414 Charles Blvd. The property is further identified as being tax parcel number 04389.

Ms. Blount delineated the property. It is located in the central portion of the City's jurisdiction. The subject property had 163 ft. of frontage along Charles Blvd.

Zoning of Property: CG (General Commercial)

Surrounding Zoning:

North: CG (General Commercial) and CDF-UC (Downtown Commercial Fringe – Urban Core Overlay)
South: CN (Neighborhood Commercial) and R6 (Residential)
East: CN (Neighborhood Commercial) and CG (General Commercial)
West: CG (General Commercial)

Surrounding Development:

North: Charles Blvd Shopping Center and Glen Arthur Subdivision
South: Bowers Apartments and vacant lots
East: Vacant building (*formerly Rite –Aid*) and a parking lot
West: Charles Blvd Shopping Center

Description of Property:

The property is 0.52 acres in size and contains a 5,400 square foot multi-tenant commercial

building. The applicant's unit is approximately 465 square feet.

Comprehensive Plan:

The property is located within the Mixed Use character type as designated by the Horizon 2026 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 October 11, 2018. Notice of the public hearing was published in the Daily Reflector on October 15 and October 22, 2018.

Related Zoning Ordinance Regulations:

Definition:

Automobile, truck, recreational vehicle, motorcycle and boat sales. Establishments engaged in the retail and/or wholesale of new and/or used automobiles, trucks, recreational vehicles and campers, motorcycles and motor boats including other watercraft, trailers, marine supplies and outboard motors, collectively referred to as vehicles for purposes of this definition. These establishments frequently maintain repair departments (see also major and minor repair) and carry stocks of replacement parts and accessories. For purposes of interpretation, the concurrent display for sale of not more than any five such vehicles upon a lot containing a legal nonresidential principal use may be considered an accessory use in accordance with applicable conditions set forth by definition. Specifically, the concurrent display for sale of not more than any five such vehicles upon any lot containing a legal vehicle-related major or minor repair establishment, or a bank, savings and loan or other lending institution engaged in the repossession of vehicles shall be considered an accessory use to the principal use.

Staff Recommended Conditions:

Site plan approval required prior to occupancy to ensure adequate parking. Parking spaces for retail and car sales must be delineated on the plan.

Shall not operate or evolve into a junk yard or automobile graveyard.

Cars shall not be parked within the setbacks or buffer yard.

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. Jon Day, representative of the applicant, spoke in favor of the request. Mr. Day stated that Mr. Jarman would like to downsize his car sales business and work alongside his son at this location. The location is Stadium Sports that is owned and operated by his son Eric Jarman. This will allow them to assist each other when the other is away from his respective business.

Mr. Grant Jarman, the property owner, spoke in favor of the request.

Mr. Moretz asked if the vehicles would be prepared for sale on site.

Mr. Jarman stated that those services would be outsourced, only cleaning would be done on site.

No one spoke in opposition of the request.

Chairman Johnson asked for the staff recommendation.

Ms. Blount stated that staff had no objection to the request.

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

No board discussion.

Chairman Johnson read the required findings criteria.

No objection.

Mr. Moretz made a motion to adopt the finding of facts with the recommended conditions, Ms. Evans seconded and it passed unanimously.

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

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY PITT COUNTY SCHOOLS.

The applicant, Pitt County Schools, desires to amend a special use permit to allow the expansion of an elementary school. The proposed use is located at 4710 and 4720 County Home Road (Wintergreen Elementary). The property is further identified as being tax parcel numbers 58131 and 43622.

Ms. Blount delineated the property located in the southern portion of the city. The school received its original Permit to operate in April of 1997 and a previous amendment in 2016. The purposed expansion will include a modular unit for the primary school.

Zoning of Property: RA20 (Residential Agriculture)

Surrounding Zoning:

North: RA20 (Residential Agricultural)

South: RA20 (Residential Agricultural)

East: RA20 (Residential Agricultural)

West: R9S (Residential Single Family)

Surrounding Development:

North: Eastern Carolina Village and Farm Museum and Farmers Market
South: Farmland and Single Family Residential
East: Alice Keen Park and Recreation and Farmland
West: Single Family dwellings

Description of Property:

The property is 61.64 acres in size and has 1400 ft. of frontage along County Home Road. The property contains Wintergreen Intermediate and Primary Schools.

Comprehensive Plan:

The property is located within the Traditional Neighborhood Low to Medium Density character type as designated by the Horizon 2026 Plan. The proposed use is in compliance with the Future Land Use Plan which recommends Institutional development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on October 11, 2018. Notice of the public hearing was published in the Daily Reflector on October 15 and October 22, 2018.

Other Comments:

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

Staff Recommendation:

Staff had no objections to the request.

Chairman Johnson opened the public hearing,

Mr. Moretz asked about the PCOS area located at the back of the property line and if the expansion with interfere with that area.

Ms. Blount replied no.

Mr. Aaron Erickson, representative of Pitt County Schools, spoke in favor of the request. He informed the board that the purpose of the trailer was to address the overcrowding and to be in compliance with House Bill 90 to reduce classroom size by 2020.

No one spoke in opposition of the request.

Chairman Johnson asked for the staff recommendation.

Ms. Blount stated that staff had no objection to the request.

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

Mr. Glenn asked if the proposed modular unit is the structure circled on the map.

Ms. Blount replied correct.

Chairman Johnson read the required findings criteria.

No objections.

Mr. McKinnon made a motion to adopt the finding of facts with the recommended conditions, Mr. Moretz seconded and it passed unanimously.

Mr. McKinnon made a motion to approve the petition, Mr. Evans seconded the motion and it passed unanimously.

With no further business, Mr. Glenn made a motion to adjourn, Mr. Moretz seconded, and it passed unanimously. Meeting adjourn at 6:25 pm.

Respectfully Submitted,

Elizabeth Blount
Planner