

MINUTES ADOPTED BY THE GREENVILLE BOARD OF ADJUSTMENT  
March 28<sup>th</sup> 2019

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

Bill Johnson - Chairman - *	
Nathan Cohen - *	Christopher Lilley - X
Michael Glenn - *	Rodney Bullock - *
Ann Bellis - *	Hunt McKinnon - X
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, Glenn, Bellis, Cohen, Moretz, Bullock and Godley

**OTHERS PRESENT:**

Ms. Elizabeth Blount, Planner II.	Ms. Camillia Smith, Secretary, Notary
Mr. Donald Phillips, Assistant City Attorney	Ms. Cathy Meyer, Civil Engineer
Kelvin Thomas, Communications Technician	

**MINUTES**

Mr. Bullock made a motion to approve the February 28th, 2019 minutes as presented, Ms. Bellis 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 and against the request.

## **NEW BUSINESS**

### **PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY CHRIST'S CHURCH**

The applicant, Christ's Church, desires a special use permit to operate a child day care facility pursuant to Appendix A, Use (8)a. of the Greenville City Code. The proposed use is located at 745 Davenport Farm Road. The property is further identified as being tax parcel number 62274.

Ms. Blount delineated the property located in Southern portion of the city. The 12.06-acre lot holds a 26,114 sq. foot instructional building zoned as RA20 Residential Agricultural with 425 feet of frontage along Davenport Farm Rd.

**Zoning of Property:** RA20 (Residential Agricultural)

#### **Surrounding Zoning:**

North: RA20 (Residential Agricultural) and R9S (Residential Single Family)

South: R6A (Residential) and RA20 (Residential Agricultural)

East: RA20 (Residential Agricultural)

West: R6A (Residential)

#### **Surrounding Development:**

North: Single Family Residential dwellings

South: The Vineyard Townhomes and South Central High School

East: Single Family Residential dwellings

West: Hampton Farms Duplexes

#### **Description of Property:**

The subject property is 12.06 acres in size with approximately 425 feet of frontage along Davenport Farm Rd. The applicant wishes to operate a child day care facility within the existing building.

#### **Comprehensive Plan:**

The property is located within the Low Medium Density Residential character types as

designated by the Horizon 2026 Greenville Community Plan. The proposed use is in compliance with the Future Land Use Plan which recommends residential development for the subject property.

**Notice:**

Notice was mailed to the adjoining property owners on March 14, 2019. Notice of the public hearing was published in the Daily Reflector on March 18 and March 25, 2019.

**Related Zoning Ordinance Regulations:**

**Definition:**

*Day care; child.* An establishment which provides for the care and supervision of six or more children away from their homes by persons other than their family members, custodians or guardians for periods not to exceed 18 hours within any 24-hour period.

**Specific Criteria**

- (1) All accessory structures, including but not limited to playground equipment and pools must be located in the rear yard.
- (2) The minimum lot size shall be increased by a ratio of 100 square feet per child in excess of five.
- (3) Outdoor play area shall be provided at a ratio of 100 square feet per child and shall be enclosed by a fence at least four feet in height. Further, all playground equipment shall be located in accordance with the bufferyard regulations.
- (4) If located in a residential district, a residential appearance of the site shall be maintained to the greatest possible extent.
- (5) Employee parking shall be at the rear of the structure when a child day care facility is located in a residential district.

**Staff Recommended Conditions:**

Day care facility shall comply with city code requirements, all state licensing regulations and NC Department of Health and Human Services regulations prior to operation.

Parking plan approval for required parking for a child day care shall be obtained prior to operation of the business.

**Other Comments:**

The proposed project must meet all related NC State fire and building codes for the associated use 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.

Ms. Bobby Jo Grinder, applicant, spoke in favor of the request. She stated that there was a need for the daycare among the church families and the surrounding neighborhoods.

Ms. Bellis asked if the age range changed would they have to return for another hearing or amend the permit

Mr. Phillips answered yes they would have to return because the use would be considered a school.

Mr. Moretz asked if the church wanted to have a lock-in would that be allowed.

Mr. Phillips replied yes because it would under the church's use.

Mr. Glenn asked if the applicant was aware of the requirements about the parking plan.

Ms. Grinder stated the church expanded their parking within the last 2 years.

**No one spoke in opposition of the request.**

Chairman Johnson closed the public hearing and asked for staff's recommendation.

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

Chairman Johnson read the criteria.

**Mr. Godley made a motion to adopt the Finding of Facts with the recommended conditions  
Mr. Moretz seconded the motion and it passed unanimously.**

**Mr. Bullock motion made to approve the petition with the conditions, Mr. Moretz seconded the motion and it passed unanimously.**

**PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY GREENVILLE UTILITIES COMMISSION**

The applicant, Greenville Utilities Commission, desires a special use permit to operate a public utility use pursuant to Appendix A, Use (4)a. of the Greenville City Code. The proposed use is located on Wellness Drive. The property is further identified as being tax parcel number 04470.

Ms. Blount delineated the property located in the western portion of the city, near Vidant, off of Wellness Drive.

**Zoning of Properties:** MO (Medical Office) and MR (Medical Residential)

**Surrounding Zoning:**

North: MR (Medical Residential) and MS (Medical Support)  
South: MO (Medical Office) and MCG (Medical General Commercial)  
East: MR (Medical Residential) and MO (Medical Office)  
West: MO (Medical Office) and MR (Medical Residential)

**Surrounding Development:**

North: Vacant lots  
South: Vidant Parking Lot  
East: Signature Place Apartments and Stanton Square Shopping Center  
West: Vidant's Inpatient Hospice Center and America Cancer Center's McConnell-Raab Hope Lodge

**Description of Property:**

The subject property is 21 acres in size and has approximately 750 feet of frontage along Wellness Drive and 480 feet of frontage along Stantonsburg Rd. The proposed use will occupy 40,000 square feet of the existing site to install the proposed generators and associated equipment.

**Comprehensive Plan:**

The subject properties are located within the Medical Transition character types as designated by the Horizon Plan. The proposed use is in compliance with the Future Land Use Plan which recommends amenities that support or complement the vitality of the Medical Core.

**Notice:**

Notice was mailed to the adjoining property owners on March 14, 2019. Notice of the public hearing was published in the Daily Reflector on March 18 and March 25, 2019.

## **Related Zoning Ordinance Regulations:**

### **Definitions:**

*Public utility building or use.* Any above-ground building or use necessary for the delivery of electric, water, sanitary sewer, storm drainage, gas, telephone, cable TV or other utility service system which meets any one of the following conditions. Distributed Antenna Systems (DAS) and supporting DAS equipment are not considered a public utility or use.

(I) Utilizes structures in excess of 100 total square feet;

(1) Utilizes any structure in excess of 15 feet in height;

(2) Requires any on-site permanent maintenance or service attendant;

(3) Requires or utilizes three or more parking spaces; and

(5) Creates noise, smoke, dust, odor, glare or any other condition which may have an adverse impact on area properties or uses.

### **Specific Criteria:**

(M) *Public utility, building or use.*

(1) Any proposed use shall maintain a residential appearance to the greatest possible extent and shall be consistent in scale and environment with surrounding properties.

(2) Any parking area designed to serve more than four vehicles shall be located in the rear of the principal structure.

### **Staff Recommended Condition**

Proposed project must maintain sound levels in accordance with the City of Greenville Noise Control Ordinance.

### **Other Comments**

The proposed project must meet all related State of North Carolina 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. Kyle Brown, representative of Greenville Utilities Commission, spoke in favor of the request. He stated that the goal is to provide supplemental power to Vidant emergency care and its children's hospital

Mr. Atkinson asked what happens during routine maintenance, when the machine has to be run for extended times.

Mr. Brown replied Coincident Peak hour occurs every month but of course they will run during maintenance checks.

Mr. Atkinson asked if maintenance checks will be done during business hours, seeing as it is near a Hospice and it may affect the patients.

Mr. Brown stated that it will be done during business hours.

Mr. Atkinson asked if the 71.4 dBA includes all the generators at once.

Mr. Brown replied that it included all and the white noise.

Mr. Glenn asked if a similar station existed near residential anywhere in the city.

Mr. Brown answered yes, there was a similar one near Cypress Glenn.

Mr. Glenn asked how close the residential were to the proposed location.

Mr. Brown answered the city requires 65 dba but GUC required 75dba.

Mr. Glenn stated that the apartments were visible in the photos.

Mr. Brown replied that GUC exceeded the city's ordinance.

Mr. Atkinson asked if the point of connection is coming from McGregor Downs Rd.

Mr. Brown answered yes.

Mr. Atkinson asked if there were buffers that had to be replaced.

Mr. Brown replied no sir, they didn't disturb any buffers.

Mr. Moretz asked staff if the Special Use Permit was for the entire parcel.

Ms. Blount replied that it was just for the 40,000 sq. ft.

**No one spoke in opposition of the request.**

Chairman Johnson closed the public hearing and asked for staff's recommendation.

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

Chairman Johnson read the criteria.



**Mr. Godley made a motion to adopt the Finding of Facts with the recommended conditions  
Mr. Bullock seconded the motion and it passed unanimously.**

**Mr. Godley motion made to approve the petition with the conditions, Mr. Moretz seconded  
the motion and it passed.**

**With no further business to discuss, Mr. Glenn made a motion to adjourn, seconded by Ms.  
Evans.**

**Meeting adjourn at 6:44 pm.**

Respectfully Submitted

**Elizabeth Blount  
Planner II**