

MINUTES ADOPTED BY THE GREENVILLE BOARD OF ADJUSTMENT
MAY 23RD 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 - *
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, Lilley, Bellis, Bullock, Moretz, and Glenn

OTHERS PRESENT:

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

MINUTES

Mr. Moretz made a motion to approve April 25th, 2019 minutes as presented, Mr. Bullock 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 LILIAN MONICA SPEIGHT

The applicant, Lilian Monica Speight, 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 500 Dexter Street, Suite C. The property is further identified as being tax parcel number 15858.

Ms. Blount delineated the property located in Southwestern portion of the city. The 1.14 acre lot zoned as Office Residential has 278 feet of frontage along Dexter Street and 192 feet of frontage along St. Andrews Drive. The property is identified as Office and Institutional character type by the Horizon 2026 Greenville Community Plan.

Zoning of Property: OR (Office Residential)

Surrounding Zoning:

North: R15S (Residential Single Family)
South: OR (Office Residential) and CH (Heavy Commercial)
East: OR (Office Residential) and R15S (Residential Single Family)
West: OR (Office Residential) and CH (Heavy Commercial)

Surrounding Development:

North: Single Family Residential Dwellings
South: 400 Saint Andrews and NC Department of Health & Human Services
East: Sedgefield Apartments and American Legion
West: Dexter Center Offices

Description of Property:

The subject property is 1.14 acres in size with approximately 278 feet of frontage along Dexter Street and 192 feet of frontage along St Andrews Drive. The applicant wishes to operate a childcare facility within the existing building.

Comprehensive Plan:

The property is located within the Office and Institutional 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 commercial development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on May 9, 2019. Notice of the public hearing was published in the Daily Reflector on May 13 and May 20, 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) 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:

- The proposed use must comply with NCGS 110-86(2)(d)(d1) and 110-99(c)
- The proposed request may not evolve into a complete child care facility by definition of NC G.S. 110-86(2) without obtaining a special use permit for such use.
- Any accessory structures must be located in the rear of the property but cannot impede driveway access.

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.

Ms Blount stated that NC General Statute 110-86(2)(d) defines drop-in/short-term child care as a child care arrangement where care is provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible. The statute also states that the business is not required to be licensed or regulated by any state agency but it must complete a registration application and post their notice notifying parents of the requirements by the general statute. Since the use is not required to obtain a Day Care License from the State, they should not be required to meet the minimum playground and lot size requirements in which we use as our specific criteria when considering a Child Day Care Center.

Chairman Johnson opened the public hearing.

Chairman Johnson asked why this type facility supersedes the license requirements

Ms. Blount replied that this service is considered a drop-in/short term service by general statute and they can only be there less than four hours so they are not receiving a child daycare license but are required to register their business with the state. They also will have to post a sign saying that they are not licensed by the state of North Carolina so parents will know.

Mr. Glenn asked if the use is a change of use.

Ms. Blount replied no because the building is commercial and the use is a commercial use.

Ms. Speight, applicant, spoke in favor of the request. She stated that she intends to respect the state requirements on child safety even though it is not required for her business, such as the child teacher ratio.

Mr. Moretz asked how many kids she anticipates.

Ms. Speight replied that she would have to find out what the fire code allows but she forecast about 30 children at a time. Children would be in and out throughout the day because they are only allowed to be there up to 4 hours.

Mr. Moretz asked for the hours of operation.

Ms. Speight stated the plan is 9 am to 9 pm. Monday to Saturday and 12 pm to 7 pm on Sundays.

Mr. Glenn asked was she aware of the North Carolina general statute requirements.

Ms. Speight replied yes. The state doesn't differentiate between her services and if a child is dropped off at a gym's childcare; however, she does intend to follow their protocol regarding safety.

Chairman Johnson asked what the age range of the kids would be.

Ms. Speight replied age 1 to 12 years.

Mr. Lilley asked if Ms. Speight was aware of who the neighboring businesses were

Ms. Speight replied that in suite A was vacant and suite B she thought was a church. She stated that she asked the landlord about the noise and he stated that she could not be any louder than the church.

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

Ms. Bellis made a motion to adopt the Finding of Facts with the recommended conditions, Ms. Evans seconded the motion and it passed unanimously.

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

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY CORINA HERRING AND TAMARA JONES

The applicants, Corina Herring and Tamara Jones, desires a special use permit to operate a personal service not otherwise listed (micropigmentation) pursuant to Appendix A, Use (15)a. of the Greenville City Code. The proposed use is located at 3701 Charles Blvd, Suite 108. The property is further identified as being tax parcel number 59524.

Ms. Blount delineated the property located in Southeastern portion of the city. The .92 lot contains a 9,945 square foot multi-unit commercial building. The property has approximately 125 feet of frontage along Charles Boulevard. The property is identified as Commercial character type by the Horizon 2026 Greenville Community Plan.

Zoning of Property: CG (General Commercial)

Surrounding Zoning:

- North: OR (Office Residential), RA20 (Residential Agricultural) and CG (General Commercial)
- South: CG (General Commercial)
- East: CG (General Commercial) and OR (Office Residential)
- West: CG (General Commercial)

Surrounding Development:

North: Grace Church
South: Walgreens and Handy Matt
East: Bostic Suggs Furniture
West: McDonalds's, Little Caesars, Title Boxing Club, Burger King

Description of Property:

The subject property is .92 acres in size with approximately 278 feet of frontage along Dexter Street and 192 feet of frontage along St Andrews Drive. The applicant will be operating from an existing hair salon/spa that currently occupies a unit.

Comprehensive Plan:

The property is located within the Commercial 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 commercial development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on May 9, 2019. Notice of the public hearing was published in the Daily Reflector on May 13 and May 20, 2019.

Staff Recommended Conditions:

- Must obtain a permit from the Department of Public Health as required by NCGS 130A-283, and comply with any other health department requirements including but not limited to sanitation, first aid, vaccinations, health certifications, disposal of needles and other bio hazard waste material.
- Must comply with NCG 130A-283 and 15A NCAC 18A.3200 et seq.
- Service shall be limited to scalp micropigmentation, permanent makeup and fibroblast plasma only and shall not include body art or body piercing services.

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. Corina Herring, applicant, spoke in favor of the request. She stated that micropigmentation has a beauty side and medical side and that she has over 100's of hours of training on the medical side. She has worked closely with Trauma Doctors, plastic surgeons and has been in the medical field for over 20 years. Micropigmentation and skin tighten help breast cancer survivors and those that have had a craniotomy. Most of these patients are having to travel out of state for this type of service and she would be honored to serve them.

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

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

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

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY JESSICA A. GARDNER

The applicant, Jessica A. Gardner, desires a special use permit to operate a personal service not otherwise listed (pet grooming, doggie daycare and indoor dog park) pursuant to Appendix A, Use (15)a. of the Greenville City Code. The proposed use is located at 801 SE Greenville Blvd, Units 103 & 105. The property is further identified as being tax parcel number 10115 and 36979.

Ms. Blount delineated the property located at 800 SE Greenville Boulevard with 140 feet of frontage along Southeast Greenville Boulevard. In the staff presentation of the waste drainage system that will serve the facility. The property is identified as Commercial character type by the Horizon 2026 Greenville Community Plan.

Zoning of Property: CG (General Commercial)

Surrounding Zoning:

North: OR (Office Residential)
South: CG (General Commercial), O (Office) and R15S (Residential Single Family)
East: R15S (Residential Single Family)
West: CG (General Commercial) and OR (Office Residential)

Surrounding Development:

North: East Carolina University
South: Beyond By Aerus, Remco East, Inc and vacant office buildings

East: Single Family Dwellings
West: Pirates Pointe Shopping Center (McAllister, Daughtridge Gas & Oil, Patio and
Hearth Shop and Fresh Vibes)

Description of Property:

The property contains a multi-unit building located on 0.57 acre with approximately 140 feet frontage along Southeast Greenville Blvd. The proposed use will occupy two units totally approximately 3,555 square feet. The property is located at the intersection of two major thoroughfares-Greenville Blvd and Charles Blvd.

Comprehensive Plan:

The property is located within the Commercial 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 commercial development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on May 9, 2019. Notice of the public hearing was published in the Daily Reflector on May 13 and May 20, 2019.

Staff Recommended Conditions:

- Animal daycare shall be limited to hours of 7:00 am to 7:00pm
- No overnight boarding of animals shall be permitted
- No more than three animals shall be in any outdoor area of subject property at one time
- Waste should be properly disposed by a certified environmental waste company that handles animal waste and not placed in a dumpster for weekly collection
- The described baffle system and waste system shall be installed and operational prior to the beginning of the business opening.
- Any outside activities of the animals while under the business care must be monitored by staff at all times.
- Pet grooming, indoor dog park and pet daycare shall comply with all applicable state laws and city ordinances.

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.

Mr. Moretz asked why are there hours of restrictions.

Ms. Blount replied to avoid the facility spilling over into the animal boarding classification.

Ms. Jessica Gardner, applicant, spoke in favor of the request. She stated that she has been in the pet care business for over 16 years. She stated that the use would bring pets and families together. The facility would be an asset to the area.

Mr. Atkinson asked about the dogs using the bathroom as soon as they get inside or outside.

Ms. Gardner described and shared photos of her potty stations and drainage system and how it can be hosed down. The potty station will be located at the front door and a big station in the doggie daycare area. She stated that once one dog goes all the rest follow. The potty stations will be cleaned daily, sanitized and watered down.

Mr. Atkinson asked where the potty stations will be located.

Ms. Gardner replied one at the front door and one located in the play area.

Mr. Atkinson asked about dogs on and off leash.

Ms. Gardner stated she will have a sign in the parking lot saying leashes are required. Leashes will be required indoor and not be able to be removed until the dogs are secured. She stated that she will have a double gated system so once they go pass the lobby area and before they enter the second gate, the business employee will switch the business leash with the owner's leash.

Mr. Atkinson asked about the leasing procedures for when the dogs get out of the car.

Ms Gardner stated that when the customers get out of the car, they will leash their dog. They will keep the dog on the leash until they are secured inside.

Ms. Evans asked if this system is similar to when someone takes their dog to the vet.

Ms. Gardner replied yes.

Mr. Bullock asked that anything from the parking lot to the front door of the establishment is the pet owner's responsibility correct.

Ms. Gardner replied that is correct and she will have signs posted in the parking are and outside the door saying all dogs must be leashed.

Mr. Moretz asked for an explanation about "no aggressive dogs will be allowed on the property"

Ms. Gardner replied that the indoor dog park will have pet evaluations. The owner has to fill out a form that asks about past incidents or aggressive behavior of the dog. The evaluation takes up to four hours. Staff will slowly play with them and introduce them to dogs and see how they interact. During the evaluation process if the dog show signs of aggression toward the other animals or people they won't be permitted to stay and play. The dog park is for social dogs to come and be social and not for aggressive dogs to learn how to be social.

Ms. Evans asked if Ms. Gardner was branding any particular breed of dog.

Ms. Gardner replied definitely not. Each dog is evaluated individually. All breeds are welcomed.

Ms. Bellis asked if this is for dogs only.

Ms. Gardner replied yes. Cats can be groomed at the location but the stay and play is only opened to dogs.

Ms. Bellis asked is there a max amount of dogs you anticipate having at a time.

Ms. Gardner replied that she anticipate 13 dogs and maybe ten cars, because there will be a lot come and go traffic.

Mr. Moretz asked do you concur with the staff recommendations

Ms. Gardner replied yes and that her landlord is her neighbor and he does not object to her use.

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

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

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

**With no further business to discuss, Mr. Bullock made a motion to adjourn, seconded by Mr.
Moretz.**

Meeting adjourn at 6:40 pm.

Respectfully Submitted

**Elizabeth Blount
Planner II**