

MINUTES ADOPTED BY THE BOARD OF ADJUSTMENT
AUGUST 23, 2012

The Greenville Board of Adjustment met on the above date at 7:00 PM in the City Council Chamber of City Hall.

Scott Shook, Chairman*

Charles Ewen *	Claye Frank *
Linda Rich *	Sharon Ferris X
Justin Mullarkey *	Bill Fleming *
Wiley Carraway X	Tom Taft, Jr. *

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

VOTING MEMBERS: Shook, Ewen, Rich, Fleming, Frank, Mullarkey, Taft

OTHERS PRESENT: Mr. Mike Dail, Planner
Mr. Chris Kelly, Engineer
Mrs. Elizabeth Blount, Secretary
Mr. Bill Little, Assistant City Attorney
Mr. Jonathan Edwards, Communications Technician

MINUTES

Mr. Fleming made a motion to approve the minutes as presented, Ms Rich seconded and the motion passed unanimously.

**PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY JOHNNIE PERRY, JR.-
APPROVED**

The applicant, Johnnie Perry, Jr., desires a special use permit to place a mobile home on a lot pursuant to Appendix A, Use (2)g. of the Greenville City Code. The proposed use is located at 1317 Barn Lane. The property is further identified as being tax parcel number 17984.

Mr. Dail delineated the area on the map. He stated that the property is located off McGregor Downs Road located in the northwest quadrant of the city.

Zoning of Property: RA20 (Residential Agricultural)

Surrounding Zoning:

North: RA20 (Residential Agricultural)
South: RA20 (Residential Agricultural)
East: RA20 (Residential Agricultural)
West: RA20 (Residential Agricultural)

Surrounding Development:

North: Single Family Residence
South: Single Family Residence
East: Oakwood
West: Vacant

Description of Property:

The subject property contains multiple accessory structures and is currently 7.682 acres in size and has 154 feet of frontage along McGregor Downs Road.

Comprehensive Plan:

The property is located within Vision Area "F" as designated by the Comprehensive Plan. The proposed use is in general compliance with the Future Land Use Plan which recommends medium density residential development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on August 9, 2012. Notice of the public hearing was published in the Daily Reflector on August 13, 2012 and August 20, 2012.

Related Zoning Ordinance Regulations

Definition:

Mobile home. A manufactured building designed to be used as a single-family dwelling unit which has been constructed and labeled indicating compliance with the HUD-administered National Manufactured Housing Construction and Safety Standards Act of 1974.

Special Standards for Specific Uses:

Mobile home.

- (1) No mobile home established (new setup) or relocated within the city planning and zoning jurisdiction shall be occupied until the mobile home has been inspected and approved for compliance with the Minimum Housing Code set forth under Title 9, Chapter 1, Article F of the City Code when the Building Inspector makes a finding of noncompliance with the Minimum Housing Code.
- (2) Mobile homes shall, upon installation, have either a permanent, continuous masonry foundation, or a continuous and opaque skirt consisting of vinyl, fiberglass or other similar solid nonmetal material. The skirt for a mobile home shall be attached to weather resistant material when required for support.

Mr. Johnnie Perry, Jr., applicant, spoke in favor of the application. He stated that he wanted to put a double wide mobile home on the property for his daughter and her family to be closer to him and his wife.

No one spoke in opposition of the application.

Mr. Dail stated that staff had no objection to the request.

Mr. Chris Kelly, Public Works Engineer, stated that the applicant must submit a Department of Transportation (DOT) permit application to access the roadway. If the applicant does not have an existing driveway, they will have to go through DOT approval process to put a driveway in.

Chairman Shook asked if the driveway requirements existed in the requirements.

Attorney Little stated that the applicant must meet all the building and fire codes. If any applicable permits have to be obtained, the applicant will have to do so. If no egress or ingress exists, the applicant will have to build one.

Chairman Shook asked should the egress or ingress be a condition.

Attorney Little stated yes.

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

No board discussion.

Chairman Shook read the criteria. No objections.

Mr. Fleming made a motion to adopt the finding of facts with the stated condition of the egress and ingress, Mr. Ewen seconded and the motion passed unanimously.

Mr. Fleming made a motion to approve the petition, Mr. Frank seconded and the motion passed unanimously.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY SHAVONDA LANCASTER-APPROVED

The applicant, Shavonda Lancaster, desires a special use permit to operate a home occupation child day care pursuant to Appendix A, Use (3)a. of the Greenville City Code. The proposed use is located at 1703 Brown Place. The property is further identified as being tax parcel number 59618.

Mr. Dail delineated the area on the map. He stated that the property is located off Old River Road located in the northwest quadrant of the city.

Zoning of Property: R6MH (Residential Mobile Home)

Surrounding Zoning:

- North: R6MH (Residential Mobile Home)
- South: R6MH (Residential Mobile Home)
- East: R6MH (Residential Mobile Home)
- West: R6MH (Residential Mobile Home)

Surrounding Development:

North: Single Family Residences
South: Single Family Residences
East: Single Family Residences
West: Single Family Residences

Description of Property:

The subject property is located within Brown Place Subdivision. The property contains a 2,052 square foot single family residence, is 0.46 acres in size and has 100 foot of frontage along Brown Place Drive.

Comprehensive Plan:

The property is located within Vision Area “A” as designated by the Comprehensive Plan. The proposed use is in general compliance with the Future Land Use Plan which recommends low density residential development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on August 9, 2012. Notice of the public hearing was published in the Daily Reflector on August 13, 2012 and August 20, 2012.

Related Zoning Ordinance Regulations:

Definition:

Home occupation. An activity conducted for financial gain as an accessory use to a detached single-family dwelling unit by a member of the family residing in the dwelling unit.

- (1) Home occupation shall meet all of the following characteristics:
 - (a) Shall only be permitted within detached single-family dwelling units;
 - (b) Shall not be permitted within any accessory building;
 - (c) Shall constitute an accessory use to the principal use;
 - (d) Shall not occupy more than 20% of the mechanically conditioned enclosed floor space of the dwelling unit;
 - (e) Shall not employ more than one person other than those persons legally residing within the principal use dwelling;
 - (f) Shall not be visible from any public right-of-way or adjacent property line;
 - (g) Shall not involve the on-site sales of products;
 - (h) Shall not involve any outside storage of related materials, parts or supplies;
 - (i) Shall have signage in accordance with Article N; and

- (j) Shall not create any hazard or nuisance to the occupants residing or working within the principal use dwelling or to area residents or properties.

Staff Recommended Conditions:

Day care must comply with all state licensing requirements and regulations for home based child day care facilities.

Applicant may provide service for up to five (5) children.

An outdoor play area shall be provided at a ratio of not less than one hundred (100) square feet per child and shall be enclosed by a fence at least four (4) feet in height.

Three parking spaces must be provided and parking area must be improved to meet city standards before operation of home occupation.

All accessory structures, including but not limited to playground equipment and pools must be located in the rear yard.

Other Comments:

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

Mr. Fleming asked if the conditions are state or city codes.

Mr. Dail stated city codes.

Mr. Fleming asked for the state code concerning the number of children the applicant could serve.

Mr. Dail stated that he thought the number was eight but the city only allows up to five.

Chairman Shook asked if the restraint was due to the square footage of the home.

Mr. Dail stated yes.

Ms Shavonda Lancaster, applicant, spoke in favor of the application. She stated that her targeted audience was newborn to children twelve years old. Her hours of proposed operation are first, second, and third shifts with weekends as being optional. She stated that she wanted to provide a home daycare with the best care in a safe environment where all staff has been bonded and grounds were insured. Her business name is Purple Tulips. She stated that a play area will be located in the rear of the property and is currently working on installing a privacy fence.

Chairman Shook asked if the applicant was aware of the fencing requirements.

Ms Lancaster stated she was and the fence would surpass the requirements and surround her entire backyard.

Mr. Taft asked if the applicant had any prior experience working with daycares.

Ms Lancaster stated that she used to work with her mother who owned a childcare center. She also worked in a group home and in a prison.

Chairman Shook asked the applicant if she was aware that employees would have to have the appropriate state licensing to work in the daycare.

Ms Lancaster stated yes.

Mr. Mullarkey asked if the applicant searched for any sexual predators in the area.

Ms Lancaster stated that she searched and did not see any in the area.

No one spoke in opposition of the applicant.

Mr. Dail stated that staff had no objections to the applicant with the proposed conditions in place.

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

No board discussion.

Chairman Shook read the criteria. No objections.

Ms Rich made a motion to adopt the finding of facts as presented, Mr. Fleming seconded and the motion passed unanimously.

Mr. Fleming made a motion to approve the petition, Mr. Frank seconded and the motion passed unanimously.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY TIM HOGGE AND DUKE DAVENPORT-APPROVED

The applicants, Tim Hogge and Duke Davenport, desire a special use permit to operate a internet sweepstakes cafe and game center pursuant to Appendix A, Use (6)d. of the Greenville City Code. The proposed use is located at 2400 S. Memorial Drive, Unit 14. The property is further identified as being tax parcel number 70163.

Mr. Dail delineated the area on the map. He stated that the property is located in the center point of the city.

Zoning of Property: CG (General Commercial)

Surrounding Zoning:

North: CG (General Commercial)

South: CG (General Commercial)

East: CDF (Downtown Commercial Fringe)

West: CG (General Commercial)

Surrounding Development:

North: Fleming Service Center, Beauty World
South: Carwash, Cititrends, Maxway, Rent-A-Center, Tim's Beach Bingo
East: Single Family Residence, Over the Rainbow Child Care, Eilene's Child Care
West: Bonham Meats, Shoe Time, Nail Salon

Description of Property:

The subject property is Buyers Market Shopping Center. The center contains three commercial buildings with multiple units, is 9.0 acres in size and has 445 foot of frontage along S. Memorial Drive. The applicants unit is 1,750 square foot in size and is located in the northernmost building on the property. Existing uses in the applicants building are Johnny's Tire, Dollar World, H&R Block and Thai Kitchen.

Comprehensive Plan:

The property is located within Vision Area "F" as designated by the Comprehensive Plan. The proposed use is in general 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 August 9, 2012. Notice of the public hearing was published in the Daily Reflector on August 13, 2012 and August 20, 2012.

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. See also definition of billiard parlor; pool room.

Staff Recommended Conditions:

No loitering permitted outside of the establishment.

Trash receptacle must be placed outside of the establishment.

Police Comments:

No negative impact expected to public safety due to location.

Other Comments:

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

Mr. Taft asked why the city would not allow any more game centers.

Mr. Dail stated that City Council voted to put a moratorium against any further sweepstakes businesses opening

for six months to establish governing rules.

Mr. Taft asked if the moratorium was for regulations rather than a negative impact from the businesses.

Mr. Dail stated that that was correct and it helps the city from becoming saturated with sweepstakes.

Tim Hogge, applicant, spoke in favor of the applicant. He is the owner of Tim's Beach Bingo. He stated that he has had no problems with the area. He had been waiting for eight years for a building to come open in the area in order to open a sweepstakes.

Mr. Taft asked the applicant if he has had any problems with the bingo parlor.

Mr. Hogge stated no.

Mr. Mullarkey asked for the proposed operating hours.

Mr. Hogge stated the proposed business would not be 24 hours to begin with but depends on the business. He stated they will probably be opened from 12 noon to midnight to start off with.

Mr. Fleming asked for the bingo operating hours.

Mr. Hogge stated from noon until. The establishment opens at 1 pm on Sundays.

No one spoke in opposition of the application.

Mr. Dail stated that staff has no object to the request.

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

No board discussion.

Chairman Shook read the criteria. No objections.

Mr. Fleming made a motion to adopt the finding of facts with the city recommendations, Mr. Taft seconded and the motion passed unanimously.

Mr. Fleming made a motion to approve the petition, Ms Rich seconded and the motion passed unanimously.

**PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY H&L ENTERPRISES, INC.-
APPROVED**

The applicant, H&L Enterprises, Inc., desires a special use permit to operate a internet sweepstakes cafe and game center pursuant to Appendix A, Use (6)d. of the Greenville City Code. The proposed use is located at 740 W. Fire Tower Road, Suite 115. The property is further identified as being tax parcel number 80764.

Mr. Dail delineated the area on the map. He stated that the property is located in the southern portion of the city's jurisdiction beside the border of Winterville's jurisdiction along West Firetower Rd.

Zoning of Property: CG (General Commercial)

Surrounding Zoning:

North: CG (General Commercial)
South: GB (General Business) - *Winterville's Jurisdiction*
East: CG (General Commercial)
West: CG (General Commercial)

Surrounding Development:

North: Vacant Commercial Property
South: Vacant Commercial Property
East: Meineke Car Care
West: North State Acceptance, JP Nail Spa, Abbey Flooring, Subway

Description of Property:

The subject property contains a 16,592 square foot commercial building with multiple units and is part of the larger West Fire Tower Village Shopping Center. The property is 1.86 acres in size and has 350 foot of frontage along W. Firetower Road. The applicants unit is 1,800 square foot in size. The majority of the units in the applicants building are vacant. Existing uses in the building are Sprint and America's Mattress.

Comprehensive Plan:

The property is located within Vision Area "E" as designated by the Comprehensive Plan. The proposed use is in general 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 August 9, 2012. Notice of the public hearing was published in the Daily Reflector on August 13, 2012 and August 20, 2012.

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. See also definition of billiard parlor; pool room.

Staff Recommended Conditions:

No loitering permitted outside of the establishment.

Trash receptacle must be placed outside of the establishment.

Police Comments:

No negative impact expected to public safety due to location.

Other Comments:

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

Mr. Neil Hoover, applicant, spoke in favor of the application. He stated that the enterprise has been in business for six years. They are a business center that provides fax, copy and print services and sells internet time. The business is a nice, clean, professional and friendly environment. The business is open 24 hours. Security is on site after 9 pm. They have not had any problems.

Mr. Taft asked if the current location was on Evans Street.

Mr. Hoover stated yes.

Mr. Taft stated that the business is well kept.

Mr. Fleming asked how many other locations were in North Carolina.

Mr. Hoover stated that he personally had ten other locations and that the company has 100 + locations within the state.

Mr. Fleming asked the applicant if he had plans to move to Greenville.

Mr. Hoover stated no.

Mr. Fleming asked if the applicant would hire a manager to run the business.

Mr. Hoover stated yes. He personally has approximately 100 employees and each business center has about eight employees.

No one spoke in opposition to the application.

Mr. Dail stated that staff has no object to the request.

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

No board discussion.

Chairman Shook read the criteria. No objections.

Ms Rich made a motion to adopt the finding of facts with the city recommendations, Mr. Fleming seconded and the motion passed unanimously.

Mr. Fleming made a motion to approve the petition, Mr. Frank seconded and the motion passed unanimously.

OTHER INFORMATION

Mr. Dail stated that City Council adopted a new procedure for Family Care Homes to locate closer than ¼ mile within the city's jurisdiction. The new procedure is called Reasonable Accommodations. Applicants have to fill out an application and then appear before the Board of Adjustments for approval. A case is expected in September. The city would like to have a training workshop to inform you of the new procedure and the governing rules.

Chairman Shook asked if the hearing would be similar to a Historic Preservation request rather than a special use permit.

Attorney Little stated the hearing would be closer to a variance hearing. It is a two step process: (1) the need for a reasonable accommodation and (2) ensure the desired property is zoned correctly.

Mr. Fleming asked the time of day and how long the training will last.

Mr. Dail stated the training should last for one hour and any time Monday through Friday.

Mr. Taft asked if the training could be done after work.

Mr. Dail stated that the next meeting is September 27 and there is a three day advertising requirement so the workshop will have to be held during the first three weeks of September.

Mr. Mullarkey suggested September 12 from 5-6:30 pm and the board tentatively agreed.

Mr. Dail stated that due to the short notice he realized that all the board may not be able to attend but the majority is needed.

ELECTION OF CHAIR AND VICE CHAIR

Chairman Shook stated that the board must elect a Chairman and Vice-Chairman. He opened the floor for chairman nominations.

Mr. Ewen nominated Scott Shook for re-election, Mr. Fleming seconded.

No other nominations were made. All board members were in agreement with the nomination and Mr. Shook was re-elected Chairman for the Board of Adjustment.

Chairman Shook opened the floor for vice-chairman nominations and stated that the current vice chair was Mr. Charles Ewen.

Mr. Fleming nominated Mr. Charles Ewen for re-election, Mr. Mullarkey seconded.

No other nominations were made and Chairman Shook closed the nominations. All board members were in agreement with the nomination and Mr. Ewen was elected Vice-Chairman for the Board of Adjustments.

With no further business, Mr. Taft made a motion to adjourn, Ms Rich seconded, and it passed unanimously. Meeting adjourned at 7:43 p.m.

Respectfully Submitted

Michael R. Dail, II
Planner