

DRAFT MINUTES PROPOSED FOR ADOPTION BY THE BOARD OF ADJUSTMENT
JANUARY 26, 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 *	Sharon Ferris *
John Hutchens X	Justin Mullarkey *
Linda Rich *	Bill Fleming *
Wanda Harrington *	Wiley Carraway X
Tom Taft, Jr. X	Claye Frank*

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

VOTING MEMBERS: Shook, Ewen, Ferris, Rich, Harrington, Fleming, Mullarkey

OTHERS PRESENT: Mr. Merrill Flood, Community Development Director
Mr. Chris Padgett, Chief Planner
Mr. Mike Dail, Planner
Mr. Wayne Harrison, Planner
Mrs. Elizabeth Blount, Secretary
Mr. Bill Little, Assistant City Attorney
Mr. Jonathan Edwards, Communications Technician

MINUTES

Mrs. Harrington made a motion to approve the minutes as presented, Mrs. Rich seconded and the motion passed unanimously.

PUBLIC HEARING ON A REQUEST FOR A VARIANCE BY HUDSON BROTHERS CONSTRUCTION COMPANY-APPROVED

The applicant, Hudson Brothers Construction Company, desires a variance from Section 9-3-5 of the Greenville City Code (Airport Zone Height Limitations). The request is for a variance of 74 feet above the maximum height standard of 177 feet above sea level. The proposed use is located at 518 Moye Boulevard. The property is further identified as being tax parcel number 80032.

Mr. Dail delineated the area on the map. He said that the property is located in the Medical District. The applicant wishes to temporarily raise a crane above the airport overlay height limitations to assist in the placement of an hvac unit on top of the Pitt County Memorial Hospital Central Utilities Plant. The airport overlay height limitation for a structure at this location is 177 feet above mean sea level, 103 feet above ground level at that location. The applicant wishes to raise the crane to a maximum of 251 feet above mean sea level (177 feet above ground level). The variance request is for 74 feet above the maximum allowance.

Zoning of Property: MI (Medical Institutional)

Surrounding Zoning:

North: MI (Medical Institutional)
South: MS (Medical Support)
East: MCH (Medical Heavy Commercial)
West: MI (Medical Institutional)

Surrounding Development:

North: PCMH Related Uses, Ronald McDonald House
South: PCMH Parking Lot
East: PCMH Related Uses
West: Pitt County Memorial Hospital

Description of Property:

The property contains Pitt County Memorial Hospital Central Utilities Plant and has approximately 540 feet of frontage along Moye Boulevard with a total lot area of 2.5 acres.

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 medical development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on January 12, 2012. Notice of the public hearing was published in the Daily Reflector on January 16, 2012 and January 23, 2012.

Variance Criteria:

The Board must find in favor of the applicant on each criteria in order to grant the requested variance.

1. Reasonable Return – The applicant could not comply with the literal terms of the ordinance and still secure a reasonable return or make reasonable use of the property.
2. Unique Circumstances – The hardship of which the applicant complains results from unique circumstances related to the applicants land.
3. Hardship by the Applicants Action – The hardship is not the result of the applicant’s own action.
4. General Purpose of the Ordinance – If granted, the variance would be in harmony with the general purpose and intent of the ordinance and would preserve its spirit.
5. Public Safety and Welfare – The granting of the variance must secure the public safety and welfare and does substantial justice.

Staff and FEDERAL AVIATION ADMINISTRATION Recommended Conditions:

The crane shall be marked and lighted in accordance with FEDERAL AVIATION ADMINISTRATION

requirements.

The crane must be lowered to the ground when not in use and during the hours between sunset and sunrise. The cranes shall be used during daylight hours only.

The FEDERAL AVIATION ADMINISTRATION must be notified at least 5 business days prior to the crane being erected and again when the crane is removed from the site.

The Pitt-Greenville Airport Manager must be notified at least 3 business days prior to the crane being erected and again when the crane is removed from the site.

Any height exceeding 215 feet above ground level (287 above mean sea level), will result in a substantial adverse effect and would warrant a determination of hazard to air navigation. The variance shall remain in effect only so long as the FEDERAL AVIATION ADMINISTRATION approvals (i.e. determinations of "no-hazard") are effective. If the crane is raised above 215 feet above ground level (287 above mean sea level) an immediate stop work order will be issued by the City of Greenville Building Inspections Department.

This determination is based in part on the foregoing description which includes specific coordinates and heights. Any change in coordinates and/or heights will void the determination. Any future construction or alteration, including increase in heights, requires separate notice to the FEDERAL AVIATION ADMINISTRATION.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to 877-487-6867 so a notice to airmen can be issued. As soon as the normal operation is restored, notify the same number.

Crane operations are through March 21, 2012.

The variance shall remain in effect as long as no complaints are received or filed by the Pitt-Greenville Airport Authority.

If any of the conditions stated above shall not be met, then this variance shall become void and of no effect.

Mr. Fleming asked how long will the crane operate.

Mr. Hudson answered four hours in operation but mobilizing and de-mobilizing will take additional time.

Mr. Fleming asked the time of day the crane will operate.

Mr. Hudson answered they will probably mobilize in the morning and be done mid afternoon at the latest.

Chairman Shook asked were there any questions for staff.

No questions were asked for staff.

Chairman Shook asked the applicants to state their names.

Applicants' names were Tim McDonald, Chief Facilities Officer for Vidant Health (formerly known as Pitt County Memorial Hospital) and Lynn Hudson, President of Hudson Brothers Construction Company.

Mr. Hudson stated that his company was chosen by Vidant Health to renovate the central utility plant which included placing a heating and air conditioning unit on the roof. They are asking for the proper permits and authority to perform the work.

Mr. Ewen stated that a variance was approved in October and asked was this variance for a different place.

Mr. McDonald explained that the variance in October was for the children's hospital and this variance is for a property east of the children's hospital.

Chairman Shook stated that the board also approved a variance for the Heart Center and that the Heart Center has a permanent variance because it is a few feet above the restriction. He also stated that the FEDERAL AVIATION ADMINISTRATION asks the city to put a zoning ordinance on the height restrictions. The FEDERAL AVIATION ADMINISTRATION states that there are no problems as long as they are meeting the conditions.

Mr. Dail agreed to the chairman's statement.

With there being no further speakers in favor or against the application, Chairman Shook called for staff recommendation.

Mr. Dail stated that the staff had no objections to the variance as long as the applicant abides by the conditions recommended by the Federal Aviation Administration.

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

With there being no comments made during Board Discussion, Chairman Shook read the criteria.

Mr. Ewen made a motion to approve the finding of facts as presented, Mrs. Harrington seconded and the motion passed unanimously.

Mrs. Harrington made a motion to approve the petition request for a variance with the conditions, Mrs. Rich seconded and the motion passed unanimously.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY ANDRE HEDGEPEETH-APPROVED

The applicant, Andre Hedgepeth, desires a special use permit to operate a game center pursuant to Appendix A, Use (6)d. of the Greenville City Code. The proposed use is located at 1204 N. Memorial Drive. The property is further identified as being tax parcel number 44159.

Mr. Dail delineated the area on the map. He said that the request was for a game center or a beach bingo operation

located on property north of the river on Highway 11, directly across from the airport. The property is located in the northern portion of the city's jurisdiction.

Zoning of Property: CH (Heavy Commercial)

Surrounding Zoning:

North: CH (Heavy Commercial)
South: CH (Heavy Commercial)
East: IU (Unoffensive Industry)
West: IU (Unoffensive Industry)

Surrounding Development:

North: Vacant Commercial Building, Hardees, Active Construction Site (Dollar General)
South: Trade Gas Station, Blount Gas Company, Mini-Storage
East: Vacant Property
West: Pitt Greenville Airport

Description of Property:

The subject property contains a 27,016 square foot commercial building with two units and has approximately 260 feet of frontage along N. Memorial Drive and 152 feet of frontage along Airport Road and has a total lot area of 2.92 acres. Currently, Dollar General is located within a 6,046 square foot unit in the building. The applicants proposed unit contains 20,970 square feet.

Comprehensive Plan:

The proposed use is in general compliance with the Future Land Use Plan which recommends commercial development for the subject property. The request is located along a major thoroughfare – North Memorial Drive and Airport Road.

Notice:

Notice was mailed to the adjoining property owners on January 12, 2012. Notice of the public hearing was published in the Daily Reflector on January 16, 2012 and January 23, 2012.

Related Zoning Ordinance Regulations:

Definition of a Game Center which states 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 purpose 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 game centers regardless of the number of participants.

Staff Recommended Conditions:

1. No loitering permitted outside of the establishment.
2. Trash receptacles must be placed outside of the establishment.
3. The applicant must comply with any annual state licensing requirements for beach bingo operations that

may be imposed in addition to any licensing requirements of the City of Greenville.

4. The special use permit is subject to the applicants continue compliance with the operation requirements and restrictions provided in Chapter 14, Article 37 of the North Carolina General Statutes for Beach Bingo Operations.

Other Comments:

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

Chairman Shook asked for clarity on the fourth staff recommendation condition.

Attorney Little explained that the application was incorporated under the statutory requirements for beach bingo in order for them to operate as a for-profit organization. They are restricted to a certain dollar amount for prizes and permission to obtain an ABC permit but not serve alcohol while a game is in progress.

Mr. Ewen asked if the criterion helped classify beach bingo as not gambling.

Attorney Little stated that he was not sure and he would leave that decision for the general assembly to determine.

Chairman Shook asked the applicant to come forth and state his name.

Mr. Hedgepeth introduced himself. He stated that he had been doing bingo for more than twenty years. He also stated that it gives older and younger people in the community something to do.

Mr. Mullarkey stated that he was not familiar with how bingo operated and asked if alcohol would be serve.

Mr. Hedgepeth stated no alcohol will be served.

Chairman Shook asked if the organization would have an alcohol permit.

Mr. Hedgepeth stated that no alcohol permit would be needed and just bingo would be played in the facility.

Mr. Mullarkey asked what the operating hours would be.

Mr. Hedgepeth stated that the hours would be from 2 pm to 12 or 1 a.m.

Mr. Mullarkey asked what the limitations that the general assembly established for jackpot winnings, prizes, etc.

Mr. Hedgepeth stated that he believed it was \$10 per bingo and that the games can be played simultaneously.

Mr. Ewen asked how much each bingo card cost.

Mr. Hedgepeth stated they would value between twenty-five cents to one dollar.

No one else spoke in favor of the application.

Mr. Urban Turnage representing Community Christian Church spoke against the application. Mr. Turnage stated that the church was concerned about the age group of the bingo participants and the flow of traffic leaving the facility. Mr. Turnage expressed his concern also about the building being able to be rented for parties.

Mr. Fleming asked Mr. Turnage for clarity that the church is not opposed to the beach bingo establishment.

Mr. Turnage stated that Mr. Fleming was correct. He also stated that he would like some type of condition added to the special use permit.

Mr. Mullarkey asked what the church's normal worship times are.

Mr. Turnage stated that the Wednesday night Bible Study is from 7:30 pm to 9:30 pm and Sunday night service every quarter from 7 pm to 9:30 pm.

Mr. Mullarkey asked what time does the Sunday services begin and end.

Mr. Turnage stated that one service begins at 8:15 am and end around 9:30 am and the second one begin at 10 am - 12:30 pm or 1 pm.

No one else spoke in opposition against the application.

Mr. Hedgepeth spoke in rebuttal concerning the children being able to participate at the establishment. The facility does have an age limit of 10 and up. The children age 10 would have to be with the parent and they could not purchase bingo cards. He also stated that no drinking would be allowed and no parties would be held unless the facility was celebrating the customers that have birthdays that month.

Mr. Ewen asked what age the parent would not have to accompany the child.

Mr. Hedgepeth answered age 16.

Mr. Ewen asked would the facility be open on Sundays.

Mr. Hedgepeth answered yes.

Mr. Mullarkey asked if Mr. Hedgepeth would be willing to limit his hours of operation on Sunday.

Mr. Hedgepeth answered that he would be willing to open later than 2 pm on Sundays.

Mr. Mullarkey asked if Mr. Hedgepeth would he be willing to ensure that any renters of the building not serve alcohol and that the events would not interfere with the church services on Sundays.

Mr. Hedgepeth agreed.

Chairman Shook asked Mr. Dail to explain other uses of the property with its current zoning and the uses with the

special use permit.

Mr. Dail explained that the property is zoned heavy commercial which could include auto sales, mobile home sales, general retail, etc. Game centers are places where people could rent the facility. If the property goes from it occasionally being rented to always being rented for private parties, then it will change into a private convention use. Private convention use in a heavy commercial zone does require a onetime special use permit to enable the applicant to rent the facility on a continuous basis for private parties. The applicant is able to rent the facility for a private function that does not require a cover charge to enter.

Mr. Hedgepeth stated that the facility would be used for bingo only.

Mr. Mullarkey asked Mr. Hedgepeth how many other beach bingo establishments that he owned and/or operated.

Mr. Hedgepeth stated that he operates three in Wilson and Rocky Mount.

Mrs. Rich asked if any security was used.

Mr. Hedgepeth answered that security is used. Security arrives at 6 pm and stay until closing. Security patrols the parking lot and walk out customers at night.

Mr. Fleming asked would any special lights be installed for the parking lot.

Mr. Hedgepeth answered that he had not seen the property at night but if need be he would.

Mr. Mullarkey and Mr. Dail stated that the parking lot currently has lights.

After no more questions for the applicant, Chairman Shook asked for the city recommendation.

Mr. Dail stated that the city has no objection to the application with the requested conditions.

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

Mr. Mullarkey made a motion that the board restrict opening time on Sundays to 3 pm, Mr. Fleming seconded.

Mr. Ewen stated that he did not see the benefit of the facility opening an hour later.

Mr. Mullarkey asked was there anyone from the church that could comment on Mr. Ewen's statement.

A member from the church stated that it depended on the flow of the service and the events on that particular day.

Mrs. Rich stated that if the church is having a function after service then the congregants may be on the premises longer than 2 pm.

Attorney Little stated that the public hearing was closed and the comments given are for informational purposes only.

The vote for the condition was reinstated and it passed unanimously.

With there being no additional discussion, Chairman Shook read the criteria.

Mr. Ewen made a motion to approve the Finding of Fact with the city's condition and to include no alcohol served on the premises and the facility would only be used for bingo operations, Mr. Mullarkey seconded and it passed unanimously.

Mrs. Harrington moved to adopt the petition with the conditions, Ms. Ferris seconded and it passed unanimously.

With no further discussion, motion was made and properly seconded to adjourn at 7:36 p.m.

Respectfully Submitted

Michael R. Dail, II
Planner