

MINUTES ADOPTED BY THE BOARD OF ADJUSTMENT FOR DECEMBER 16, 2010

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

Dr. Mulatu Wubneh, Chairman*
Charles Ewen * Renee Safford-White *
John Hutchens X Scott Shook *
Linda Rich X Sharon Ferris *
Wanda Harrington * Justin Mullarkey *
Minnie Anderson X

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

VOTING MEMBERS: Ewen, Harrington, Safford-White, Shook, Ferris, Mullarkey,

OTHERS PRESENT: Mr. Mike Dail, Planner
 Mr. Wayne Harrison, Planner
 Ms. Valerie Paul, Secretary
 Mr. Bill Little, Assistant City Attorney
 Mr. Jonathan Edwards, Communications Technician

Chairman Wubneh had the Secretary call the roll for the meeting.

Chairman Wubneh said that Board usually seats seven regular members, but since there were only six members present for the night’s meeting, then all six members would have to vote in favor of the application.

MINUTES

Motion was made by Mr. Mullarkey, seconded by Ms. Harrington to accept the November 18, 2010 minutes as presented. Motion carried unanimously.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY CHRIS WOELKERS

The applicant, Chris Woelkers, desires a special use permit to continue operating a home occupation bed and breakfast inn pursuant to Appendix A, Use (3)d. of the Greenville City Code.

Chairman Wubneh called for all those wishing to speak for or against the case to come forward and be sworn in.

Mr. Dail delineated the area on the map. He said the property is located at 1105 E. Fifth Street and it is zoned R6S (Residential Single Family).

Surrounding Zoning:

North: R6S (Residential-Single Family)
South: OR (Office Residential)
East: R6S (Residential-Single Family)
West: R6S (Residential-Single Family)

Surrounding Development:

North: Single Family Residences
South: East Carolina University (Main Campus)
East: East Carolina University (Ward Guest House)
West: University Auto Care

Description of Property:

The property contains a 3,376 square foot single family residence currently being operated as the Fifth Street Inn. The property has approximately 70 feet of frontage along E. Fifth Street and 150 feet of frontage along S. Library Street with a total lot area of approximately 11,065 square feet.

Comprehensive Plan:

The property is located within Vision Area "T" as designated by the Comprehensive Plan and within the College View Historic District. 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 December 2, 2010. Notice of the public hearing was published in the Daily Reflector on December 6, 2010 and December 13, 2010.

Related Zoning Regulations:

Mr. Dail included a report of specific criteria for Home Occupation; Bed & Breakfast Inns in their packets.

Other Comments:

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

Mr. Ewen asked how often the applicant would have to renew his permit.

Mr. Dail answered that he would have to renew every three years.

Mr. Shook asked if that was normal for a bed and breakfast.

Mr. Dail answered that it is one of the specific criteria for a home occupation- bed and breakfast inn.

Mr. Mullarkey asked if this was the applicant's first renewal.

Mr. Dail answered that it was.

Chairman Wubneh said that his question had been answered about why this bed and breakfast renewal had come before the Board. He asked Mr. Dail to confirm that this type of renewal would come before the Board because it is required in the specific criteria.

Mr. Dail answered that he was correct.

There were no further questions from the Board for staff, so Chairman Wubneh called for the applicant to come forward and address the Board.

Chris Woelkers, owner of the Fifth Street Inn, introduced himself to the Board and offered to answer any questions that they may have.

Mr. Ewen asked how business was going.

Mr. Woelkers answered that it was good to fair. He said that they were full that weekend due to East Carolina University's graduation.

Mr. Shook asked how many guests they can occupy.

Mr. Woelkers answered that they currently have four guest rooms and a fifth additional room is kept private.

Chairman Wubneh asked if they are located in the Historic District.

Mr. Woelkers confirmed that they are.

Chairman Wubneh asked if his neighbors liked the bed and breakfast.

Mr. Woelkers answered that the neighbors do. They are continuing to do renovations to the property.

There were no other additional speakers for or against the application, so Chairman Wubneh asked for staff's recommendation.

Mr. Dail said that staff had no objections to the request.

Chairman Wubneh closed the public hearing and called for Board discussion.

Mr. Mullarkey commented that he had lived in the same neighborhood for a couple of years and he had found it to be a joy to have in the neighborhood. He has talked to people that have stayed there and he heard that it was excellent.

Chairman Wubneh read the criteria and called for a motion to approve the finding of facts.

Ms. Harrington made the motion, Ms. Safford White seconded and it carried unanimously.

Mr. Ewen made a motion to approve the application, Ms. Harrington seconded and it carried unanimously.

Based on the facts found by the Board and the evidence presented, the Board orders that this permit be renewed and subject to full compliance with all of the specific requirements stated in the Zoning Ordinance of the City of Greenville for the proposed use.

Chairman Wubneh recognized that Ms. Farris had joined the meeting and said that she would be able to vote.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY JACKIE PARKER AND DEMETRICE WILSON

The applicants, Jackie Parker and Demetrice Wilson, desire a special use permit to operate a mental health, emotional or physical rehabilitation day program facility pursuant to Appendix A, Use (8)ff.(1) of the Greenville City Code.

Chairman Wubneh called for all those wishing to speak for or against the case to come forward and be sworn in.

Mr. Dail delineated the area on the map. He said the property is located at 500 Dexter Street, Suite C and it is zoned OR (Office Residential).

Surrounding Zoning:

- North: R15S (Residential-Single Family)
- South: OR (Office Residential)
- East: OR (Office Residential)
- West: OR (Office Residential)

Surrounding Development:

- North: Greenville Church of God, Single Family Residences (Sedgefield Park Subd.)
- South: Vacant (Former Beef Barn), State of NC Division of Community Corrections
- East: Multi-family (Sedgefield Townes)
- West: Guiding Lives Counseling Center, Neogenesis, The Etiquette School of Greenville, Multi-family (Dexter Place Apartments)

Description of Property:

The property contains a 13,884 square foot office building with multiple units (Dexter Center) and has approximately 280 feet of frontage along Dexter Street and 190 feet of frontage along St. Andrews Drive with a total lot area of approximately 1.14 acres.

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 office/institutional/multi-family development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on December 2, 2010. Notice of the public hearing was published in the Daily Reflector on December 6, 2010 and December 13, 2010.

Related Zoning Regulations:

Mr. Dail included a definition of a mental health emotional physical rehabilitation day program facility in the Board’s packets.

Staff Recommend Conditions:

The facility must comply with all requirements, licensing, rules, health certifications, background checks and other requirements imposed or directed by the NC Division of Health, Human Services; the Commission or Council on MR/Developmental Disabilities; and Community Alternative Programs for DD/MR adults and/or juveniles.

At no time will clients of the training center be permitted to wait or be outside without being accompanied by a staff member of the training center to supervise and ensure proper behavior of the clients including but not limited to aggressive actions, littering, fighting, yelling, loitering or other unacceptable behavior.

Other Comments:

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

Mr. Shook said that the Board had already approved this same location.

Mr. Dail said that on June 24, units A & B of this same building had been approved for the same type of use. In August, a different applicant had submitted a request for this same unit, but they withdrew the application.

Mr. Shook asked Mr. Dail to confirm that it was in the same building, but it was not the same unit.

Mr. Dail answered that he was correct.

Chairman Wubneh asked if there is anything in the ordinance in reference to the concentration of these types of activities in one area, as far as spacing them out.

Mr. Dail answered that there are not.

With there being no further questions from the Board for Mr. Dail, Chairman Wubneh called for the applicants to come forward and address the Board.

Mr. Jackie Parker and Ms. Demetrice Wilson introduced themselves to the Board. Ms. Wilson said that they are trying to operate a psycho-social rehabilitation program that will provide services for adults from ages 18 – 55 years old. They would be supervised at all times.

Ms. Harrington asked how many people they would be able to deal with at one time.

Ms. Wilson answered that when the Division of Facility Services comes out to give them their license, they will let them know how many people they can see during a certain amount of time. The hours of operation will be from 8:00 a.m. – 2:30 p.m.

Ms. Harrington asked if they would base their numbers on the size of their facility.

Ms. Wilson said that was correct.

Chairman Wubneh asked for their staff numbers.

Ms. Wilson said that the Division has a regulation in place that mandates 1 staff member for every 8 patients (1:8), but they would have a 2:8 ratio because there will be a supervisor on site at all times to supervise the 1:8 ratio.

Mr. Mullarkey asked how big their office will be.

Mr. Parker answered that it will be about 2,000 sq. feet.

There were no other speakers in favor of the application.

Mr. James Blackwell of 312 St. Andrews Drive came forward and swore in to speak against the application. He stated that he has been in the neighborhood since 2005. He is concerned that the patients will not be supervised properly and will roam throughout the neighborhood. He does not feel very comfortable with this type of facility being in his neighborhood.

Chairman Wubneh asked if Mr. Blackwell if he heard the City's recommendation that was listed in the staff report stating that patients are not allowed outside without the presence of a staff member. He asked Mr. Blackwell if that recommendation would be satisfactory.

Mr. Blackwell answered that if he could be assured that they would be supervised then he would feel a lot better.

Chairman Wubneh said that they are supposed to be supervised, but if they do not then they can essentially lose their license to operate their business. He asked if that would be satisfactory.

Mr. Blackwell answered that he is retired and he wants his retirement to be a peaceful one. His main concern is the neighborhood.

Mr. Ewen asked Mr. Dail to confirm that there is another counseling place with the same strictures in that same building.

Mr. Dail answered that he was correct.

Mr. Ewen asked Mr. Blackwell if he had any issues with the existing business.

Mr. Blackwell answered that he did not because he did not know that it was there.

Mr. Dail said that they have not received any complaints about that business, or any others that the Board has approved.

Ms. Ferris asked how long it had been in business.

Mr. Dail answered that they had their permit approved in June 2010. There is another one that has been operating there, maybe Guiding Lives Counseling Center had been there for multiple years, which is something similar to this, and Neo-Genesis had not quite reached it. He said that he may have switched the names.

Mr. Shook said that if what he can remember is right, then Guiding Lives Counseling Center was in a business similar to this one and they were planning to expand into this type of business.

Mr. Ewen asked Mr. Blackwell if he would feel better if the new counseling service were put under the same strictures as those other businesses that were mentioned.

Mr. Blackwell answered that he would as long as that was the case then he would be okay with it.

Mr. Ewen said that the City shares his concerns and that is why they put recommendations on the permit.

Mr. Shook read a portion of the Staff Recommendation to Mr. Blackwell: *At no time will clients of the training center be permitted to wait or be outside without being accompanied by a staff member of the training center to supervise and ensure proper behavior of the clients including but not limited to aggressive actions, littering, fighting, yelling, loitering or other unacceptable behavior.* He stressed the part that said “At no time...” so if there is any loitering then it needs to be reported to the City because that would be grounds for the business to lose their permit. He encouraged Mr. Blackwell to obtain a copy so that he can know the rules for this business and the others that are in that area.

Ms. Harrington said that one of the criteria that the Board looks at is the health and safety of the neighborhood. If they had any doubt at all that there would be any issues then they would not approve it.

Mr. Blackwell said that if it is supervised, controlled, and out-of-sight- out-of-mind, then he would feel alright about it.

Mr. Mullarkey said that no one would be staying at the facility. Under this use, the longest someone could stay there would be 18 hours out of a 24 hour day.

Ms. Wilson said that this type of facility is the lowest level of care for these types of consumers.

Mr. Mullarkey asked Ms. Wilson to confirm that no one will be outside waiting for a ride or anything.

Ms. Wilson confirmed that there would not be. She said that PSR is the lowest level of care that they can receive. It is basically a step down where they would help their clients find jobs. They will not take aggressive clients. Their staff will be trained and most of them will have four-year degrees and their Masters degrees. No one will be unsupervised and no one will be there longer than six hours. It is almost like an adult day care. They would not take any high risk consumers.

Ms. Ferris said that the zoning ordinance specifies that there is not to be any mentally ill patients that would be a danger to others, so that has been taken into account with the definition of a day treatment facility.

Mr. Blackwell said that he just wanted to be sure.

The Board thanked Mr. Blackwell for coming out and expressing his opinion.

Mr. Carlos Hemanes swore in to speak against the application. He said that he has lived in the neighborhood for twenty years. He is opposed to the application because he does not feel that the applicant has the resources to supervise their clients. He suggested that they try neighborhoods like Lynndale, Brook Valley, or Westhaven. He does not feel that his neighborhood needs this type of business. He noted that he had appeared before in opposition of another business that had applied to operate in the same area. He does not feel that the City will send inspectors to check up on the site because he does not feel that the City has the resources to do so. He said that there had been a family in their neighborhood that just got transferred to Texas that had housed two kids with mental problems. He said that they were lucky that they were transferred to Texas.

Mr. Mullarkey asked if the man that got transferred to Texas was a resident.

Mr. Hemanes answered that he was a resident.

Mr. Mullarkey said that it was not a business then.

Mr. Hemanes said that the man had two kids from New York that had problems.

Mr. Mullarkey asked if they were his children.

Mr. Hemanes said that they were not and they would go up and down the street unsupervised. He again suggested that they try another neighborhood like Lynndale and he said that he would fight against this application. He asked that the Board not allow them to do business in his neighborhood.

Ms. Safford-White asked if he specifically have had any problems on his property.

Mr. Hemanes said that he has some neighbors behind him and it used to be a nice place. Now people are cutting through his ditch to go through.

Chairman Wubneh asked if he was having any problems from the existing businesses that are already there.

Mr. Hemanes said that the only thing that they have is a daycare that they fought to restrict to no more than five children.

Chairman Wubneh clarified that he is only asking about the businesses that are in that building.

Mr. Hemanes said that he did not have a problem with them because he did not know that they were there. He said that they were snuck in because he did not receive a letter that they are going to open up a business over there. He does not feel that the City has the resources to check up on the area. He asked that the Board not allow the service.

Mr. Mullarkey asked Mr. Hemanes on what grounds should the Board not allow the applicant to have their permit. He said that it fits within the zoning and the Board would not be able to inflict their opinion.

Mr. Hemanes said that he has had cases where institutions that are similar to this one have brought kids in. Once they come in with their business, even if there are problems, you will not be able to get them out. He again asked that the Board deny the application. He is concerned about the mental state of the customers of this business.

Chairman Wubneh thanked Mr. Hemanes for coming before the Board.

There were no further speakers against the case so Chairman Wubneh asked Mr. Dail for the staff recommendation.

Mr. Dail said that staff had no objections to the request.

Chairman Wubneh closed the public hearing and called for Board discussion.

Mr. Mullarkey applauded both of the speakers that came out to speak at the public hearing. He said that if there is any problem with police response maybe the City can patrol that area, but he does not feel that these people will be

wandering around.

Mr. Ewen asked if there have been any other problems with the other businesses.

Mr. Dail answered that there have not been.

Mr. Ewen said that he did not see a problem.

Chairman Wubneh said that with the guidelines that have been given to the Board, the only thing that they can do is put conditions on the permit. If there are any problems then they should report the issues to the City and that would be grounds for taking away the permit.

Ms. Ferris said that there have been permits that have been revoked due to non-compliance of specifications.

Chairman Wubneh read the criteria and called for a motion to approve the finding of facts.

Mr. Ewen made the motion, it was seconded by Mr. Shook and it carried unanimously.

Mr. Shook made a motion to approve the petition, Ms. Safford-White seconded and it carried unanimously.

Based on the facts found by the Board and the evidence presented, the Board orders that this permit be granted and subject to full compliance with all of the specific requirements stated in the Zoning Ordinance of the City of Greenville for the proposed use.

Attorney Little gave an update on Mr. John Hutchens health status. He said that it will probably be a couple of meetings before he would be able to join them again.

Chairman Wubneh said that he allowed Mr. Hemanes to go on because he sensed that he was upset, so he allowed him the chance to get it out.

With no further discussion, motion was made and properly seconded to adjourn at 7:51 p.m.

Respectfully Submitted

Michael R. Dail, II
Planner