

DRAFT OF MINUTES PROPOSED FOR ADOPTION BY THE GREENVILLE BOARD OF ADJUSTMENT  
February 26, 2009

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

Ann Bellis *	Charles Ewen*
Wanda Harrington *	John Hutchens *
Scott Shook X	Charles Ward*
Renee Safford-White *	Linda Rich *
Louis Treole *	

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

VOTING MEMBERS: Wubneh, Bellis, Harrington, Hutchens, Ward, Safford-White, Rich

OTHERS PRESENT: Mr. Mike Dail, Planner  
Mr. Wayne Harrison, Planner  
Mrs. Sarah Radcliff, Secretary  
Mr. Bill Little, Assistant City Attorney  
Mr. Chris Kelly, Engineering Assistant  
Jonathan Edwards, Communications Technician  
Merrill Flood, Community Development Director  
Lieutenant Ivey, Greenville Police Depart  
Investigator J.M. Sasser, Pitt County ABC Board

MINUTES

Motion was made by Mr. Hutchens, seconded by Ms. Harrington to accept the January 22, 2009 minutes as presented. Motion carried unanimously.

PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY DORIS BLAND

The applicant, Doris Bland, desires a special use permit to operate a home occupation; child day care pursuant to Section 9-4-78(f)(3)a. of the Greenville City Code. The proposed use is located at 1406 Eden Place. The property is further identified as being Tax Parcel Number 19651.

Chairman Wubneh asked all who wished to speak for or against the case to come forward and be sworn in.

Mr. Dail delineated the area on the map. He stated the property is located in the Colonial Heights neighborhood of Greenville on the corner of Eden Place and Tryon Drive. The property and all adjoining properties are zoned R9S, Residential Single-Family. The property is surrounded by single-family residences on all sides. The property is located within close proximity to major thoroughfares, being East Tenth Street and Southeast Greenville Boulevard.

**Description of Property:**

The property contains a 1,479 square foot single family dwelling and has approximately 93 feet of frontage along Eden Place and approximately 105 feet of frontage along Tryon Drive with a total lot area of 0.23 acres.

**Comprehensive Plan:**

The property is located within Vision Area "I" 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. The property contains a single family dwelling and a home occupation is considered an accessory use to a single-family dwelling.

**Notice:**

Notice was mailed to the adjoining property owners on February 12, 2009. Notice of the public hearing was published in the Daily Reflector on February 16 and February 23, 2009.

**Staff Comments:**

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

If approved, the applicant shall comply with the following pursuant to Section 9-4-86(v), Specific Criteria:

- (1) Except as otherwise provided, all home occupations shall comply with all of the following standards.
  - a. Shall only be permitted within single family dwelling units;
  - b. Shall not be permitted within any detached accessory structure or building;
  - c. Shall constitute an accessory use to the principal use;
  - d. Shall not occupy more than twenty (20) percent of the mechanically conditioned enclosed floor space of the dwelling unit;
  - e. Shall not employ more than one (1) 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, Signs; 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 in Addition to 9-4-86(v):**

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.

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

**Other Comments:**

The proposed project must meet all related NC State 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.

Doris Bland spoke on behalf of her request.

Ms. Bellis asked if there was a way to access the fenced-in play area other than from the outside.

Ms. Bland said the area was accessible through a side door in her garage.

Mr. Ward asked what the ages of the children would be.

She said she currently had a 2 year old and an 18 month old and would have a newborn to keep in a couple of weeks. She said the ages would vary, especially in the summer time when children were out of school.

No one else spoke in favor or opposition to the request.

Chairman Wubneh asked for staff's recommendation.

Mr. Dail stated staff had no objections to the request.

Chairman Wubneh read the criteria for granting/denying a special use permit. He asked for a motion to approve the findings of fact. Motion was made by Ms. Bellis, seconded by Mr. Ward. Motion carried unanimously.

Chairman Wubneh then asked for a motion to approve the petition. Motion was made by Ms. Safford-White, seconded by Ms. Harrington. Motion 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.

ANNUAL REVIEW OF PUBLIC AND PRIVATE CLUBS OPERATING PURSUANT TO AN APPROVED SPECIAL USE PERMIT

Mr. Dail stated staff was required to do an annual review of all public and private clubs operating under a Special use Permit and report it to the Board of Adjustment. He said reports were provided in the packets of activities of these clubs and information he had gathered from various departments in the city and county.

Ms. Bellis stated she would like more detailed information from the reports and asked if it was available.

Mr. Dail said a representative from the police department could address those questions; however no one was available for this meeting. He said there was a representative from the ABC Board available if they had any questions for him.

Ms. Bellis said there were several clubs with ABC violations and asked how many they could have before it would be considered a problem.

Investigator Sasser from the Pitt County ABC Board stated certain violations carried more weight than others. With violations such as gambling, prostitution and drug use there is a limit of 2 violations within a 12 month period before the permit is revoked. He said for other violations the fine or suspension time would increase for each offense.

Ms. Bellis asked if he had a record of the particular violations for each club.

Mr. Sasser said some may be ABC violations and some may have been issued by Greenville PD. He said he normally works the downtown area and has a pretty good working knowledge of the clubs. He gave a breakdown of some of the clubs and their violations to the Board and said more specific information could be obtained and brought back to the Board.

Mr. Treole asked how they dispose of the infractions.

Mr. Sasser stated the violations are civil violations and normally the person who owns the club will get a letter stating they have received a violation. They can either have there permit revoked for a set number of days or pay a fine. They can also call for a hearing.

Mr. Treole asked if they could find out the disposition of the infractions.

Mr. Sasser said that information could be obtained.

Mr. Ewen asked if any of the clubs were on a watch list.

Mr. Sasser said not that he was aware of, however they are not always given that information from the Commission in Raleigh.

Mr. Hutchens asked Mr. Sasser in his professional opinion if there was any particular club that should be looked at more closely.

Mr. Sasser said not in his opinion. He said there were approximately twenty clubs that have mixed beverage permits and none of them have excessive numbers.

Ms. Safford-White asked what was considered excessive.

Mr. Sasser said 3-5 violations in a year's time.

Dr. Wubneh asked if the ABC Board had general guidelines that state that information.

Mr. Sasser said they did not. They could either issue a fine, suspend the permit or revoke the permit.

Ms. Bellis asked if they could possibly do a six month review on some of the clubs with problems.

Mr. Little stated the Ordinance provides for a one year review unless there is a specific condition. He said if the Board had concerns for a specific club, they could schedule a hearing for that club and place new conditions if necessary.

Dr. Wubneh asked if the Ordinance gave any specific guidelines as to whether the violations were excessive or not.

Mr. Little said it does not. He said the Board has to make its decision based on the facts presented. He said the Board could hold open the report until they get more information.

Mr. Hutchens asked if there was someone in law enforcement who could say whether a certain club has been a problem and needs to be looked at more closely.

Mr. Little said Major Smeltzer could probably address that.

Merrill Flood, Director of the Community Development Department said the Board could make a list of clubs that they want more information on and they would have Major Smeltzer address their concerns at the next meeting.

Dr. Wubneh asked if the Board wished to table the matter until the next meeting and if there were any specific concerns that the Board would like to pass on to the Planning Department.

Ms. Bellis said she would like to know whether the bars with several assaults and fights occurred inside or outside of the club.

Mr. Hutchens said he would like to get the professional opinion from Major Smeltzer rather than asking for specific clubs.

Dr. Wubneh said he would like to wait until speaking with Major Smeltzer before siting specific clubs.

Mr. Dail asked if there were any more questions for Mr. Sasser or a need for him to come back to the next meeting.

Dr. Wubneh said the Board was satisfied with the ABC matters and he did not need to come back.

Motion was made by Mr. Hutchens, seconded by Ms. Rich to table the matter until the next meeting. Motion carried unanimously.

With no further discussion, the meeting adjourned at 7:45p.m.

Respectfully Submitted

Michael R. Dail, II  
Planner