

December 15, 2005

The Greenville Board of Adjustment met on the above date at 7:00 PM in the City Council Chamber of the Municipal Building. The following members were present:

Dr. Multau Wubneh, Chairman	
Ms. Ann Bellis	Mr. John Hutchens
Mr. Charles Ward	Ms. Renee Safford-White
Mr. Scott Shook	Mr. Steve Estes

THOSE MEMBERS ABSENT: Mr. Harwell and Mr. Wright

VOTING MEMBERS: Wubneh, Bellis, Hutchens, Ward, Safford-White Shook and Estes

OTHERS PRESENT: Mr. Ed Lynch, Planner
Ms. Kathy Stanley, Secretary
Ms. Sylvia Brown, Code Enforcement Officer
Mr. Les Everett, Chief Building Inspector
Mr. Tim Corley, Engineer
Mr. Bill Little, Assistant City Attorney
Mr. Larry Spell, Council member

MINUTES

Chairman Wubneh asked if there were any corrections to the minutes. Motion was made by Mr. Hutchens, seconded by Mr. Ward to accept the November 17, 2005 minutes as presented. Motion carried unanimously.

REQUEST FOR A SPECIAL USE PERMIT BY CHILD CARE CENTER DEVELOPMENT, LLC – GRANTED WITH CONDITIONS

Chairman Wubneh stated that the first item is a request for a public hearing by Child Care Center Development, LLC. The applicant, Child Care Center Development, LLC, has requested a special use permit to allow the operation of a child daycare facility, pursuant to Section 9-4-78(f)(8)(a) of the Greenville City Code. The proposed is to be located at the 2300 block of Allen Road and is further identified as Tax Parcel 03940.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on December 5, 2005 and December 12, 2005. Those wishing to speak for or against the request were sworn in.

Mr. Lynch delineated the area on the map. Mr. Lynch stated that the property is located within the Laurel Park Subdivision along Allen Road near the intersection of Dickinson Avenue. The proposed structure is 12,082 square feet. The site plan shows one driveway access on Allen Road. The property is zoned Office. The property is located in Vision Area "F" as designated by the Comprehensive Land Use Plan. Management actions for Vision Area "F" support the use of this property for a child daycare facility. The Land Use Plan Map establishes a transitional zoning of Office Institutional /Multi-Family between the Allen Road thoroughfare

corridor to the west and residential areas to the east. Day care facilities are encouraged to be located close and convenient in proximity to residential areas. The site plan as submitted complies with the driveway standards of the City of Greenville. Driveway permit approval of NCDOT shall be required. Mr. Lynch read the definition of a child care facility. Mr. Lynch stated that if the special use permit is approved the proposed use must comply with all NC Building and Fire Codes for a child daycare facility. The proposed must also obtain and comply with all state and federal licensure requirements for such use. Mr. Lynch asked that the proposed Findings of Fact be entered into the record.

Applicant: Child Care Center Development, LLC

Request: The applicant, Child Care Center Development, LLC, desires a special use permit to allow the use of property located at the 2300 block of Allen Road for a child day care facility pursuant to section 9-4-78(f)(8)a of the Greenville City Code.

Location: The proposed use is to be located along the western right-of-way of the 2300 block of Allen Road. Also identified as lots 1 & 2 and a portion of lot 3 of the proposed Laurel Park Subdivision. The property is further identified as being a portion of Tax Parcel Number 03940.

Zoning of Property: O (Office)

Surrounding Development:

Zoning

North: Vacant	Office
South: Vacant	RA-20 (Residential-Agricultural)
East: Single Family Residence	RA-20 (Residential-Agricultural)
West: Vacant	RA-20 (Residential-Agricultural)

Description of Property:

The property is located within the proposed Laurel Park Subdivision along Allen Road. The proposed daycare is to be located on lots 1, 2 and a portion of lot 3 fronting on Allen Road. The proposed structure is 12,082 square feet on a total of 1.96 acres. The site plan as submitted shows one driveway on Allen Road. The Planning & Zoning Commission approved the preliminary plat for Laurel Park subdivision on August 17, 2004. The site plan as submitted complies with the driveway standards of the City of Greenville. Driveway permit approval of NCDOT shall be required.

Comprehensive Plan:

The property is located in Vision Area "F" as designated by the Comprehensive Land Use Plan. Management actions for Vision Area "F" support the use of this property for a child daycare facility. The Land Use Plan Map establishes a transitional zoning of Office Institutional /Multi-Family between the Allen Road thoroughfare corridor to the west and residential areas to the east. Day care facilities are encouraged to be located

close and convenient in proximity to residential areas. It is the determination of staff that the nature of the proposed use is in general compliance with the Horizons Comprehensive Land Use Plan.

Comments:

Day care; child. An establishment which provides for the care and supervision of six (6) or more children away from their homes by persons other than their family members, custodians or guardians for periods not to exceed eighteen (18) hours within any twenty-four-hour period.

(e) *Child day care facilities.*

- (1) All accessory structures, including but not limited to playground equipment and pools must be located in the rear yard.
- (2) The minimum lot size shall be increased by a ratio of one hundred (100) square feet per child in excess of five (5).
- (3) Outdoor play area shall be provided at a ratio of one hundred (100) square feet per child and shall be enclosed by a fence at least four (4) feet in height. Further, all playground equipment shall be located in accordance with the bufferyard regulations.
- (4) If located in a residential district, a residential appearance of the site shall be maintained to the greatest possible extent.
- (5) Employee parking shall be at the rear of the structure when a child day care facility is located in a residential district.

Notice:

Notice was mailed to the adjoining property owners on December 1, 2005. Notice of the public hearing was published in the Daily Reflector on December 5, 2005 and December 12, 2005.

Staff Comments:

The proposed will require full site plan approval by the City. The applicant must be able to obtain driveway approval from the NC Department of Transportation.

If approved the proposed use must comply with all NC Building and Fire Codes for a child daycare facility. The proposed must also obtain and comply with all state and federal licensure requirements for such use.

Mr. Charlie Manning, spoke on behalf of the request. Mr. Manning stated that presently they have a child day care facility in Washington, NC. Mr. Manning stated their goal is to serve 190 children. All necessary requirements will be met.

No one spoke in opposition.

Chairman Wubneh then read the criteria in granting/denying a special use permit.

Motion was made by Mr. Ward, seconded by Mr. Estes, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Mr. Hutchens, seconded by Ms. to adopt the amended findings of fact to include the following conditions: (1) The proposed will require full site plan approval by the City. (2) Must be able to obtain driveway approval from the NC Department of Transportation. (3) Must comply with all NC Building and Fire Codes for a child daycare facility. (4) Must also obtain and comply with all state and federal licensure requirements for such use. Motion carried unanimously.

Motion was made by Ms. Bellis, seconded by Mr. Shook, to approve the request. 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.

REQUEST FOR A SPECIAL USE PERMIT BY SHEETZ, INC. – GRANTED WITH CONDITIONS

Chairman Wubneh stated that the next item is a request for a special use permit by Sheetz, Inc. The Applicant, Sheetz, Inc., have requested a special use permit to allow gasoline sales and outdoor dining activities, pursuant to Section 9-5-78(f)(10)b&j of the Greenville City Code. The proposed is to be located at the southwest corner of Firetower Road and County Home Road and is further identified as Tax Parcel 60939.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on December 5, 2005 and December 12, 2005. Those wishing to speak for or against the request were sworn in.

Mr. Lynch delineated the area on the map. Mr. Lynch stated advised the Board that a revised site plan has been placed in front of each member. Mr. Lynch stated that the applicant has reduced the size of the structure and does not affect staff's report. The proposed use is to be located at the southwest corner of Firetower Road and County Home Road. The applicant is required to obtain a special use permit for the outdoor dining due to its proximity to the Arlington Park subdivision. Gasoline or automotive fuel sales requires a special use permit in the General Commercial zoning district. The property is located within Vision Area "D" of the Comprehensive Plan. The Land Use Plan Map recommends commercial use for this property. Gasoline sales and outdoor dining would be in general conformity with the Comprehensive Land Use Plan. Mr. Lynch stated that staff would recommend that the applicant shall obtain all proper permits and comply with applicable building and fire codes. The kerosene pump must be located at least twenty feet from the structure and twenty feet from the gasoline pumps. Mr. Lynch asked that the findings of fact be entered into the record.

Applicant: Sheetz, Inc.

Request: The applicant, Sheetz, Inc., desires a special use permit to allow

gasoline sales and outdoor dining pursuant to Section 9-4-78(f)(10)b & j of the Greenville City Code.

Location: The proposed use is to be located at the southwest corner of Firetower Road and County Home Road. The property is further identified as being a portion of Tax Parcel Number 60939.

Zoning of Property: CG (General Commercial)

<u>Surrounding Development:</u>	<u>Zoning</u>
North: CVS Pharmacy	CG (General Commercial)
South: Vacant	CG (General Commercial)
East: Gas Station	CG (General Commercial)
West: Vacant	CG (General Commercial)

Description of Property:

The proposed use is to be located at the southwest corner of Firetower Road and County Home Road. The subject site is approximately 1.83 acres, with frontage along both Firetower and County Home roads. The applicant proposes driveway access along both streets.

The applicant is required to obtain a special use permit for the outdoor dining due to its proximity to the Arlington Park subdivision. Gasoline or automotive fuel sales requires a special use permit in the General Commercial zoning district.

Comprehensive Plan:

The property is located within Vision Area "D" of the Comprehensive Plan. The Land Use Plan Map recommends commercial use for this property. Gasoline sales and outdoor dining would be in general conformity with the Comprehensive Land Use Plan.

Notice:

Notice was mailed to the adjoining property owners on December 1, 2005. Notice of the public hearing was published in the Daily Reflector on December 5, 2005 and December 12, 2005.

Staff Recommendation:

The applicant shall obtain all proper permits and comply with applicable building and fire codes. The kerosene pump must be located at least twenty feet from the structure and twenty feet from the gasoline pumps.

Planning staff is of the opinion that the request can meet all of the developmental standards required for the issuance of a special use permit.

Mr. Dwight Vernelson, Rivers and Associates, spoke on behalf of the applicant.

Mr. Vernelson stated the Mr. John Maxwell, and Jamie Gohart with Sheetz, Inc., are in attendance to answer any questions. Mr. Vernelson stated that Sheetz, Inc. has approximately 320 stores and looking forward to coming to Greenville. Mr. Vernelson advised that all the stores provide kerosene sales.

Mr. Jamie Gohart stated that the food sales are breakfast, lunch and dinner items available 24 hours a day.

There was discussion as to music being played outside at the dining area.

Mr. Little advised that if there is outside music it would have to comply with the noise ordinance and requirements.

Mr. Gohart advised that music is played 24 hours a day at the pumps and not at the outside dining area.

Mr. Little advised that the ordinance does not prohibit the music but if heard outside the property lines or a complaint is filed then the Police Department could direct the applicant that no music would be played between 11 PM and 7 AM.

No one spoke in opposition.

Chairman Wubneh then read the criteria in granting/denying a special use permit.

Motion was made by Mr. Estes seconded by Mr. Ward, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Mr. Ward, seconded by Mr. Estes to approve the amended findings of fact to include the following conditions (1) Shall obtain all proper permits and comply with applicable building and fire codes. (2) The kerosene pump must be located at least twenty feet from the structure and twenty feet from the gasoline pumps and (3) That there be no outside music from 11 PM to 7 AM. Motion carried unanimously.

Motion was made by Mr. Hutchens, seconded by Mr. Ward, to approve the request. 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.

REQUEST FOR A SPECIAL USE PERMIT BY TAMMY BOVIALL – GRANTED

Chairman Wubneh stated that the next item is a request for a special use permit by Tammy Boviall. The applicant, Tammy Boviall, has requested the renewal of a special use permit to allow the continued operation of a public/private club, pursuant to Section 9-4-78(f)(6)m of the Greenville City Code. The existing public/private club is located at 3811 East Tenth Street and is further identified as Tax Parcel 02156.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on December 5, 2005 and December 12, 2005. Those wishing to speak for or against the request were sworn in.

Mr. Lynch delineated the area on the map. Mr. Lynch stated this request is for the renewal of a special use permit to continue the operation of a public or private club. The existing use is located at 3811 East Tenth Street, near the intersection of Port Terminal Road and Tenth Street. The subject property is approximately one acre and is located near the corner of Tenth Street Extension and Port Terminal Road. There is a small commercial strip center that includes a florist, and the applicants business. There is a parking lot that would accommodate approximately 20 vehicles. Vehicular access is on Tenth Street with two driveways. The property is located within Vision Area "C" as designed by the Comprehensive Plan. Management actions for Vision Area "C" are to maintain residential character of NC 33 corridor; medium density is appropriate. The intersection of Tenth Street and Port Terminal road serves as a neighborhood commercial focus area for the surrounding residences. The request is consistent with the Comprehensive Land Use Plan. Mr. Lynch read the definition of a public or private club and specific criteria that the applicant must meet if the permit is granted. Mr. Lynch asked that the findings of fact be entered into the record.

Applicant: Tammy Boviall

Request: The applicant, Tammy Boviall, desires the renewal of a special use permit to allow the continued operation of a public or private club pursuant to Sections 9-4-78(f)(6)m and 9-4-86(f) of the Greenville City Code.

Location: The existing use is located at 3811 East Tenth Street, near the intersection of Port Terminal Road and Tenth Street. The property is further identified as being Tax Parcel Number 02156. The property is located outside City Limits.

Zoning of Property: CG (General Commercial)

Surrounding Development:

Zoning

North: Cliff's Seafood Restaurant	CN (Neighborhood Commercial)
South: Residential	RA-20 (Rural Residential)
East: Vacant Land	RA-20 (Rural Residential)
West: Vacant Land	CH (Heavy Commercial)

Description of Property:

The subject property is approximately one acre and is located near the corner of Tenth Street Extension and Port Terminal Road. There is a small commercial strip center that includes a florist, and the applicants business. There is a parking lot that would accommodate approximately 20 vehicles. Vehicular access is on Tenth Street with two driveways. This public/private club was formerly known as 'Ricky's Place'.

Comprehensive Plan:

The property is located within Vision Area "C" as designed by the Comprehensive Plan. Management actions for Vision Area "C" are to maintain residential character of NC 33 corridor; medium density is appropriate. The intersection of Tenth Street and Port Terminal road serves as a neighborhood commercial focus area for the surrounding residences. The request is consistent with the Comprehensive Land Use Plan.

Notice:

Notice was mailed to the adjoining property owners on December 1, 2005. Notice of the public Hearing was published in the Daily Reflector on December 5, 2005 and December 12, 2005

Staff Comments:

Definition of a Public or Private Club [zoning regulations]:

An establishment of which the principal use is entertainment and which:

1. May be open to the general public;
2. May require a membership, cover or minimum charge for admittance or service during regular or special periods of operation;
3. May provide live or recorded amplified music;
4. May provide a floor show;
5. May provide a dance area;
6. May offer a full service bar;
7. May offer food services;
8. May provide food attendant (waiter/waitress) table ordering and busboy services; and
9. Does not qualify under the definition of "restaurant, fast food" or "restaurant, conventional" as contained herein.

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

- (11) (a) A special use permit for a public or private club is subject to revocation in accordance with the provisions of this subsection (f)(1). Nothing herein shall prohibit or restrict the authority of the board of adjustment to rescind or revoke a special use permit for a public or private club in accordance with the provisions of section 9-4-83.
- (b) An annual review shall be conducted by the director of planning or his authorized representative of a public or private club which has received a special use permit for the purpose of determining and ensuring compliance with applicable laws, codes, and ordinances including, but not limited to, noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The findings of the director of planning or his authorized representative as a result of this annual review shall be compiled in a written staff

report.

- (c) At a meeting of the board of adjustment, the director of planning or his authorized representative shall present to the board of adjustment the staff report of a public or private club for which the annual review includes a finding of one or more instances of non-compliance with applicable laws, codes, and ordinances including, but not limited to, noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The special use permit holder as specified under subsection (4) below shall be provided notice of the meeting and a copy of the staff report.
 - (d) Based on the staff report, the board of adjustment, by a majority vote, may either determine that a rehearing is not required for the special use permit or order a rehearing on the special use permit. An order for a rehearing shall be based upon a determination by the board of adjustment that either (i) the use of the property is inconsistent with the approved application, (ii) the use is not in full compliance with all specific requirements set out in Title 9, Chapter 4 of the Greenville City Code, (iii) the use is not compliant with the specific criteria established for the issuance of a special use permit including conditions and specifications, health and safety, detriment to public welfare, existing uses detrimental, injury to properties or improvements, and nuisance or hazard, or (iv) the use is not compliant with any additional conditions of approval established by the board and set out in the order granting the permit. The rehearing shall be in the nature of, and in accordance with the requirements for a hearing upon a special use permit application. After the rehearing and in accordance with the provisions of section 9-4-81, the board of adjustment may grant a special use permit with conditions imposed pursuant to this subsection (f) and section 9-4-82 or deny the special use permit. The grant or denial of the special use permit by the board of adjustment after the rehearing shall constitute a revocation of the previously granted special use permit for a public or private club.
 - (e) The requirements and standards set forth in this subsection (f)(11) are in addition to other available remedies and nothing herein shall prohibit the enforcement of applicable codes, ordinances and regulations as provided by law.
- (2) The owner(s) and operator(s) of a public or private club shall collect and properly dispose of all litter and debris generated by their establishment or patrons immediately following the closure of business or not later than 7:00 AM each morning following any period of operation. All litter or debris shall be collected from within the boundaries of the establishment, associated parking areas, adjacent sidewalks and public right-of-ways or other adjacent public property open to the public. In addition, the owner(s) and operator(s) of a public or private club shall comply with the provisions of Title 11, Chapter 9 of the City Code

whether or not the establishment is a nightclub, bar or tavern.

- (3) In addition to subsection (2) above, the board of adjustment may establish specific and reasonable litter and trash mitigation standards or requirements.
- (4) The special use permit shall be issued to the property owner as listed on the tax records of the county. When the ownership of any property, which has a special use permit for a public or private club, is transferred to a new owner by sale or other means, the new owner shall sign and file with the office of the director of planning an acknowledgement of the rights, conditions and responsibilities of the special use permit prior to operation of the use under the permit. The acknowledgement shall be made on forms provided by the planning office.
- (5) Any public or private club that has been issued a special use permit by the board of adjustment, that is subject to mandatory annual renewal, shall continue under the terms and conditions of the issued special use permit, until the expiration of said permit. All subsequent special use permit approvals for said location shall be subject to the specific criteria set forth under this subsection (f).

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.

Mr. Little stated that at the Board's direction he contacted Agent Greg Murphy of the NC ALE and asked about this establishment. Agent Murphy advised there have been no problems. Mr. Little stated he would contact Agent Murphy and obtain information if there have been any violations at any of the public or private clubs.

Chairman Wubneh asked if staff could make it part of the record to include a report from your office either stating there has been violations or there has not been any violations.

Mr. Little advised that would be included in staff's findings of fact if he receives the report prior to packets being distributed.

Mr. Robert Stevenson spoke on behalf of the request. Mr. Stevenson stated that there have been no violations at the establishment.

No one spoke in opposition.

Chairman Wubneh then read the criteria in granting/denying a special use permit.

Motion was made by Mr. Estes, seconded by Mr. Hutchens, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Ms. Bells, seconded by Mr. Ward, to approve the request. 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.

REQUEST FOR A SPECIAL USE PERMIT BY WINFORD CHEEK – GRANTED

Chairman Wubneh stated that the next item is a request by Winford Cheek. The applicant, Winford Cheek, has requested a special use permit to allow a major auto repair business, pursuant to Section 9-4-78(f)(9)(a) of the Greenville City Code. The proposed use is located at 1508 Dickinson Ave and is further identified as Tax Parcel 04196.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on December 5, 2005 and December 12, 2005. Those wishing to speak for or against the request were sworn in.

Mr. Lynch delineated the area on the map. The proposed use is to be located at 1508 Dickinson Avenue. The proposed use is located at an old service station located at the north corner of Dickinson Avenue and Manhattan Avenue. The structure has been used for a car wash and detailing shop for the past several years. The property is located within Vision Area "G" of the Comprehensive Plan. The Land Use Plan Map recommends Mixed use/Office/Institutional for this property. The subject property has been used for only commercial purposes since 1936. It is staff interpretation that the continued commercial use as a Major automobile repair would be in general conformity with the Comprehensive Land Use Plan. Mr. Lynch read the specific criteria for a minor or major repair facility. Mr. Lynch asked that the findings of fact be entered into the record.

Applicant: Winford Cheek

Request: The applicant, Winford Cheek, desires a special use permit to allow major auto repair pursuant to Section 9-4-78(f)(9)a of the Greenville City Code.

Location: The proposed use is to be located at 1508 Dickinson Avenue. The property is further identified as being a portion of Tax Parcel Number 04196.

Zoning of Property: CDF (Commercial Downtown Fringe)

Surrounding Development:

Zoning

North: Residential
South: Warehouse
East: Residential
West: Commercial

CDF (Commercial Downtown Fringe)
CDF (Commercial Downtown Fringe)
CDF (Commercial Downtown Fringe)
CDF (Commercial Downtown Fringe)

Description of Property:

The proposed use is located at an old service station located at the north corner of Dickinson Avenue and Manhattan Avenue. The structure has been used for a car wash and detailing shop for the past several years.

Comprehensive Plan:

The property is located within Vision Area "G" of the Comprehensive Plan. The Land Use Plan Map recommends Mixed use/Office/Institutional for this property. The subject property has been used for only commercial purposes since 1936. It is staff interpretation that the continued commercial use as a Major automobile repair would be in general conformity with the Comprehensive Land Use Plan.

Notice:

Notice was mailed to the adjoining property owners on December 1, 2005. Notice of the public hearing was published in the Daily Reflector on December 5, 2005 and December 12, 2005.

Specific Criteria:

(b) *Major or minor repair facilities.*

- (1) All wrecked or damaged motor vehicles and parts shall be screened so as not to be visible from adjoining property lines and street right-of-way.
- (2) All vehicles on the premises for repair shall be stored at the rear of the principal structure.
- (3) No vehicle shall be stored on the premises for more than fifteen (15) days.
- (4) There shall be no exterior storage of items other than vehicles.
- (5) Sale of vehicles shall be in accordance with Article B, section 9-4-22, definition [of] automobile, truck, recreational vehicle, motorcycle and boat sales, contained therein.

Staff Recommendation:

Planning staff is of the opinion that the request can meet all of the developmental standards required for the issuance of a special use permit.

The applicant shall obtain all proper permits and comply with applicable building and fire codes.

Mr. Winford Cheek spoke on behalf of the request. Mr. Cheek stated that he would be repairing and rebuilding automatic transmissions. Mr. Cheek stated he would be moving his business from North Greene Street to this area.

No one spoke in opposition.

Chairman Wubneh then read the criteria in granting/denying a special use permit.

Motion was made by Mr. Estes, seconded by Ms. Bellis, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Mr. Ward, seconded by Mr. Hutchens, to approve the request. 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.

AMENDMENT TO THE BOARD OF ADJUSTMENT RULES OF PROCEDURES. APPROVED

Chairman Wubneh stated that the last item is an amendment to the Board's Rules of Procedures.

Mr. Little stated that the legislature has passed some technical amendments for Board of Adjustment or any fact finding board. Mr. Little advised that there are two amendments, conflicts of interest and voting. Mr. Little explained the current rules and the proposed rules. Mr. Little stated that the proposed rule states that 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; undisclosed ex parte communications with the person before the board, any witnesses, staff or other board members, a close familial, business or other associational relationship with the affected person or a financial interest in the outcome of the matter before the board. 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. Mr. Little stated that as for voting, the proposed rule states The concurring vote of four-fifths (4/5) of the full membership of the Board shall be necessary to reverse any order, requirements decision, or determination of the Code Enforcement Official, grant a variance or special use permit. Full membership of the Board shall be defined as seven (7) members, except it shall not include vacant positions or disqualified members, e.g. if six (6) members are present and one member is disqualified, then five (5) members shall constitute full membership for voting purposes on the issue before the Board and not negate the Board's quorum. A simple majority of the Board shall be required to make an interpretation. A four-fifths (4/5) majority shall be required to pass the findings of fact.

Motion was made by Mr. Ward, seconded by Mr. Shook to approve the amendments. Motion carried unanimously.

Chairman Wubneh recognized the letter from Councilmember Pat Dunn that was included in the packets.

There being no further business the meeting adjourned at 8:30 PM.

Respectfully submitted

Ed Lynch, AICP
Planner

APPROVED

Multau Wubneh, Chair