

Meeting Minutes of the Board of Zoning Appeals

Tuesday, April 10, 2012

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, April 10, 2012 at 5:15 P.M. with the following members in attendance: Martha Chapman, Shelley Robbins, Aaron Ryba, Josh Page, Marshall Irby, and Norberto Gliozzi. Representing the Planning Department were Joshua Henderson and Julie Roland. Assistant City Manager, Chris Story also attended the meeting.

Roll Call

Mrs. Chapman, the Chair, stated that public notice of this meeting was given twenty-four (24) hours in advance as required by the Freedom of Information Act. Any appeals from a decision or action of this body are limited to a request for pre-litigation/mediation or an appeal to the Circuit Court, to be filed within thirty (30) days after the decision of this Board in accordance with Section 603.6 of the City of Spartanburg Zoning Ordinance.

Roll call was taken – Six members were present, constituting a quorum.

Approval of Agenda for the April 10, 2012 Meeting

Mrs. Robbins moved approval of the Agenda for the April 10, 2012 meeting, with second by Mr. Ryba. The motion was unanimously approved by a vote of 6 to 0.

Disposition of the minutes from the February 14, 2012 meeting of the Spartanburg Board of Zoning Appeals

Mrs. Robbins moved approval of the February 14, 2012 minutes, with second by Mr. Ryba. The motion was unanimously approved by a vote of 6 to 0.

Old Business

There was no old business for discussion.

New Business

SE 12 2-02 - Request for Special Exception from Ricky Eason, Sr., Pastor on behalf of New Life Christian Fellowship, Owner. The request is to convert the existing structure into a Church. The property is located at 1042 W. O. Ezell Boulevard, which is mainly located in the County of Spartanburg. The house is located inside the City Limits and is zoned R-15, Single Family Residential District, and is further identified as Parcel 110.00 on Spartanburg County Tax Map Sheet 6-21-02.

Mrs. Chapman swore in the following people who would be giving testimony on this case: Ricky Eason, Sr., Pastor, 139 Sawyer Road, Roebuck, S.C. on behalf of New Life Christian Fellowship, Buddy Bush, Building Official for the City of Spartanburg, Mike Ravan of 115 South Lake Emory Drive, Inman, S.C., and Joshua Henderson, Planner.

Mr. Henderson came forward and submitted the staff report, and the revised staff report emailed to all Board Members today, including the slides the Board Members had previously received in their meeting packets into evidence, as Exhibit A. He said this was a Special Exception request for 1042 W. O. Ezell Boulevard, Tax Map Number 6-21-02-110.00, located on the north side of the street between W. O. Ezell Boulevard and Vanderbilt Road; and the request is to allow for a church to be operated out of an R-15 Single Residential property.

[Editor's Note: the revised report the Board Members previously received included the Mandatory Written Findings for the Board to consider when reviewing a variance request and Staff's Analysis of Required Findings as follows:

MANDATORY WRITTEN FINDINGS

- 1) The proposed use will not have an adverse impact on the traffic circulation;
- 2) The proposed use is compatible with the surrounding area including the aesthetic character of the area;
- 3) The proposed use will not be hazardous, detrimental or disturbing to present surrounding land uses due to noise, lights, fumes, or obstruction of air flow on adjoining properties;

- 4) The proposed use is consistent with existing pedestrian and vehicular safety near the property;
- 5) The proposed use will incorporate any important natural features that are part of the site, and any improvements or structures will be oriented to fit the site.

ANALYSIS OF REQUIRED FINDINGS

- 1) *Traffic impact* – The occupancy allowance for this property is 49 people which will require a total of 7 parking spaces. With the amount of cars that will be making trips four times per week (coming and going both on Wednesday and Sunday) it would not impact the traffic count of that area, which is 27,800 estimated. However, there could be a concern with regards to the speed limit and ingress and egress for the property. The speed limit through that area is 45 m.p.h. with cars traveling downhill.
- 2) *Vehicle and pedestrian safety* – The proposed parking will be located at the front of the structure with potential for parking around to the rear of the structure. All parking will be contained on site and will have handicapped accessible parking meeting all requirements.
- 3) *Potential impact of noise, lights, fumes, or obstruction of air flow on adjoining property* – The parcels surrounding the property in question all have the same topography. They are wooded in the front and rear with vegetation separating on both sides. They are setback significantly from the property lines. The impact of the use should have minimal impact on the surrounding properties, however, since they will be required to install a new wider driveway, parking spaces, and building construction that could increase the noise, lights, fumes, or obstruction of air flow for a short time until construction is finished.
- 4) *Adverse impact of proposed use on the surrounding area including the aesthetic character of the area*- The proposed use would have a positive impact on the surrounding aesthetic character by renovating a currently vacant structure.
- 5) *Orientation and spacing of improvements or structures* – The parking will be located in the front and possibly the rear of the building. Based on the proposed use, the required parking is one (1) space per each eight (8) seats for a church to include a handicap van accessible parking space which is a total of seven (7) spaces.
- 6) *Compliance with the Comprehensive Plan* – The 2004 Comprehensive Plan recommends low density residential for this area, which includes compatible uses including churches and church related activities.

The conversion of this property would be beneficial by bringing life back to a vacant property, and also would provide a useful service to the surrounding properties and the congregation. Because this is a church use in a residentially zoned area, it does require a special exception. The main concern of this property will be continuing to meet all Building Department requirements and ingress and egress off of the busy street into the driveway. The proposed location for the parking area is adequate, since they will only be required seven (7) spaces.

Staff is of the opinion that the special exception will not cause any adverse consequences for the surrounding neighborhood. However, it is recommended that the special exception be conditioned with the following requirements:

1. That all Building and Fire Inspections Department requirements are met (including, but not limited to, the twenty (20) ft. wide new driveway).
2. No landscape is removed, except that landscape that falls within the twenty (20) ft. new driveway. This condition will make this property now fall under the protected tree ordinance of the City of Spartanburg Zoning Ordinance.
3. That this property is only allowed to operate as a church for religious activities.
4. There cannot be any signage on this property except a small sign on the road with the street address number displayed.

Ricky Eason, Sr., 139 Sawyer Road, Roebuck, S.C., on behalf of New Life Christian Fellowship came forward and said the church had purchased the property located at 1042 W. O. Ezell Boulevard in December, 2011. They were told the property was listed as a County parcel and that it was not subject to additional review. It was not until February of 2012 the church was informed that using the existing structure as a church would require approval of a Special Exception from the Board of Zoning Appeals.

Pastor Eason said they just wanted to take out one wall which was not supported by anything, and their goal was to not disturb the front of the property with the exception of cleaning up the old and dead tree limbs that fell to the ground, in order to make it look nice. He explained from the house back, was located in the County. Pastor Eason explained they would like to have a small 4 x 5 sign to be located near the entrance to the property.

Board Questions:

- Mrs. Chapman asked about the proposed parking lot renovations. Pastor Eason said there would be seven parking spaces now, and if they needed more in the future, they would like to add more at that time.
- Mr. Ryba asked about future expansion. Pastor Eason explained.
- Mr. Gliozzi asked how many people currently attended the church, and how many parking spaces did they have. Pastor Eason said they currently had 45 members, and 12 parking spaces.
- Mr. Gliozzi asked what was the main reason they wished to relocate the church from its current location to the new location. Pastor Eason said they were in someone else's building.
- Mr. Gliozzi asked what prevented them from using the back road in order to access the church, regarding future expansion. Pastor Eason said there was no back road.

Mr. Henderson came forward again and referenced a slide to show how the back of the property dropped off in to a ravine down to Vanderbilt Road. He showed slides of the proposed property and surrounding area in order to better illustrate the request. The house is a 4,110 sq. ft. structure built c. 1958, and the lot contains about 6.9 acres. The property line runs shortly behind the rear wall of the house, with the majority of the property being in the County. He referenced more slides and explained the new driveway where a fire truck would need to drive must be a minimum of 20 ft. wide and must consist of a variety of compacted rock with asphalt. He also explained how people would enter and exit the site. Mr. Henderson concluded his presentation by saying Staff recommended approval of the request, subject to his above mentioned 4 conditions.

Board Questions:

- Mrs. Robbins asked about the width of the current driveway. Mr. Henderson explained it was about 10 feet wide.
- Mr. Page asked if the City has an approval process for the sign. Mr. Henderson explained the signage process.
- Mrs. Chapman asked if the Board needed to establish a maximum size for the sign. Mr. Henderson said that would be the decision of the Board.
- Mr. Page asked about placement of a sign. Mr. Henderson explained they go on square footage; and typically say 10' from the property line. He explained the property line was set back several feet already, and if you went another 10' back from the property line, the sign would end up in the trees up the hill. He further explained if a sign was granted by the Board, Staff would work with the applicant in order to figure out the best placement.
- Mr. Page asked about any damaged landscape. Mr. Henderson explained the City will make sure anything that is done will not cause damage to existing landscape.
- Mr. Gliozzi asked about the distance between the street and the house. Mr. Henderson said he did not know.
- Mr. Gliozzi said if you start putting parking spaces in front of the building, a lot of trees would need to be removed. Mr. Henderson explained the asphalt was already there.
- Mr. Gliozzi asked if all the parking spaces would roll towards the house. Mr. Henderson said yes.
- Mr. Buddy Bush, Building Official for the City, referenced a slide of the parking lot, and explained they would need to be as close as 150 feet from the farthest point of the building to the parking lot.
- Mr. Mike Ravan, the petitioner's contractor explained they were proposing nothing in the asphalt area to the street be disturbed, other than the 20' in the entranceway.
- Mr. Gliozzi mentioned he had received an email from a City Councilman regarding concern destroying trees and landscaping in the area that was inside the City limits, in the event of future expansion. Mr. Henderson explained that was addressed in the conditions, if the Board approved the request tonight.

- Mr. Gliozzi referenced a slide of the proposed plan, and had another question regarding trees being removed at the driveway. Mr. Henderson and Mr. Ravan explained anything that was current existing vegetation would not be removed, with the exception of any dead vegetation.
- Mr. Ravan mentioned as far as construction, the only thing they were recommending was to remove one wall, and that all City codes would be met regarding occupancy. As far as parking; he explained the existing driveway would be used for parking and would not invade the 20' driveway.

Mrs. Chapman opened the public hearing and asked anyone who wished to speak in favor of the request to come forward.

- Mr. Henderson explained he had received two letters which he entered into evidence as Exhibit B, from two adjoining property owners in support of the request.
- Mrs. Chapman said they would also enter into evidence the email circulated from Councilman Anderson, as Exhibit C.

Mrs. Chapman asked anyone else who wished to speak in favor of the request to come forward. No one else came forward. Mrs. Chapman asked anyone who wished to speak in opposition of the request to come forward. No one came forward. Mrs. Chapman closed the public hearing.

Board Deliberation:

- Mrs. Chapman said she would now address the question regarding the signage size proposed which was a 4 x 5 sign; and asked for Board comments.
- Mr. Ryba felt that size was adequate regarding the speed of the road.
- Mrs. Chapman said that was 4 feet off the ground, 5 foot width of the area; and she asked Pastor Eason to clarify those dimensions. Pastor Eason said as far as the board width, the sign would be 4 feet tall and 5' wide, and would probably be 2 or 3 feet off the ground.
- Mr. Ryba asked about the number of signs. Mrs. Chapman said it was for one sign at the entrance.
- Mrs. Chapman explained they needed to discuss where the sign could be placed.
- Mr. Henderson explained the sign needed to be outside any kind of visibility triangles.
- Mrs. Chapman asked Mr. Henderson if they needed to put a set-back of at least 10 feet from the road. Mr. Henderson said they could; the way the Ordinance read was 10 feet from the property line; but we do have a section of the Ordinance that says a sign can be 5 feet from the street right-of-way, which would be up to the Board to make that decision. He added it should be done in the best manner possible without removing any trees.
- Mr. Irby had a question regarding the right-of-way. Mr. Henderson explained their right-of-way would be outside the property line.
- Mrs. Robbins asked about the distance from the road to the property line. Mr. Henderson thought it was approximately 7 to 8 feet; and taking it back 5 feet from the property line would potentially be about 15 feet give or take from the right-of-way.
- Mr. Page asked Pastor Eason whether or not the sign would be two-sided, and if the sides would be flat and flush.
- Mrs. Chapman said it was indicated that it would be two boards that were joined.
- Mr. Henderson explained if they were separated into an a-shaped sign, you had to classify it as two separate signs per the Ordinance.
- Mr. Irby asked would the sign be double-sided.
- Mr. Henderson said the sign would be double-sided, and not separated in any way; and would have the same information on both sides.
- Mrs. Robbins commented regarding Councilman Anderson's email regarding the aesthetic quality of that corridor; and said that had been a concern of hers for a really long time, and that she considered it the duty of the City to set forth more means to protect that corridor.
- Mr. Henderson said Staff would recommend the sign be a non-illuminated sign, but it would be at the Board's discretion.
- Mr. Ryba asked about the sign ordinance. Mr. Henderson said the ordinance allowed a commercial site to have an illuminated sign; but since this was zoned R-15, and was not a commercial site, Staff recommended a non-illuminated sign.

- Mr. Gliozzi felt the closer the sign was to the property line, the fewer trees would be affected.
- Mr. Henderson said there was no access to the property going east-bound, and you were only concerned with the cars coming from the west.
- Mrs. Chapman felt they needed to determine a minimum distance from the street, and if necessary, set it back further in order to save trees.

Mrs. Chapman asked if the Board Members were ready to talk about correcting #4 of Staff's recommended conditions.

- Mr. Page asked if they should state 4' x 5' foot or a maximum square footage.
- Mrs. Chapman said they should determine the maximum size of the sign.
- Mr. Page then asked if they were going to list the sign as a total square footage or list the dimensions.
- Mr. Ryba felt since the application submitted evidenced that 4' x 5' would meet their needs, they should make it the same.
- Mrs. Robbins felt the Board should state no more than 2' off the ground for the shortest pole.
- Mr. Irby felt the maximum height of the sign should be no more than 6 feet high.
- Mr. Gliozzi felt the Board should establish a maximum distance from the property line.
- Mrs. Chapman said the applicant wanted to set the sign back 20 feet. Mr. Gliozzi said if they did that they would have to clear out more trees.
- Mr. Page liked the idea of a minimum and allowing it to be pushed back as little as necessary.
- Mrs. Chapman said the applicant cannot take out a live tree to put up a sign; and they could only take out dead or fallen trees.
- Mr. Henderson said if in the future a tree seemed to be causing some type of safety hazard, and Staff was called, they would contact a certified Arborist to assess the tree. He said that would be the only time a tree removal might be warranted.
- Mrs. Robbins felt they should stipulate as close to the property line as visibility allowed, and only as far as possible within the limitations of the guidelines.
- Mrs. Robbins also felt the sign should be permanently constructed and permanently installed.

Mr. Ryba made a motion to approve Number 4 of the Conditions of the Special Exception Request revised by the Board as follows:

Sign may be constructed determined by the Board of Zoning Appeals as follows:

- Maximum size: 4' high x 5'; wide and double sided;
- Maximum height of 6' off the ground;
- Sign must be of permanent construction and permanently installed;
- Sign Location shall be as close to property line as possible within the limitations of the setback requirements and visibility triangle;
- Sign must be non-illuminated.

The motion was seconded by Mr. Page, and was unanimously approved by a vote of 6 to 0.

Mrs. Chapman said Number 4 of the Conditions had now been approved as amended by the Board.

Mr. Henderson pointed out regarding trees, as you left the property there was a tree either on the proposed property or the adjoining property that was causing a visibility obstruction to traffic traveling west-bound on W. O. Ezell Boulevard. He recommended to the Board Members that all visibility obstructions be taken care of prior to the opening of the Church.

Mr. Buddy Bush, Building Official for the City, said explained when you came down W. O. Ezell Boulevard and turned in to the property, that a fire truck would need a radius to turn in; and said left and right of that they would need to allow the truck enough room, and they may notice some trees removed in that area. He also noted the 20' width may have trees left and right, and any limbs that overhung, so they would have to clear 13.5' to allow truck clearance.

Mr. Henderson said that would also fall under the City's tree permit, and they would need to go out and show how to properly trim the trees, so it was not done in a manner that would harm the trees.

Mrs. Robbins made a motion to approve the Special Exception request with all the revised changes by the Board as follows:

1. That all Building and Fire Inspections Department requirements are met (including, but not limited to, the twenty (20) ft. wide new driveway).
2. No landscape is removed, except that landscape that falls within the twenty (20) ft. new driveway. This condition will make this property now fall under the protected tree ordinance of the City of Spartanburg Zoning Ordinance. Also visibility obstructions shall be taken care of prior to Church opening.
3. This property is only allowed to operate as a church for religious activities.
4. Sign may be constructed determined by the Board of Zoning Appeals as follows:
 - Maximum size: 4' high x 5' wide, and double sided;
 - Maximum height of 6' off the ground;
 - Sign must be of permanent construction and permanently installed;
 - Sign Location shall be as close to property line as possible within the limitations of the setback requirements and visibility triangle;
 - Sign must be non-illuminated.

The motion was seconded by Mr. Ryba, and was unanimously approved by a vote of 6 to 0.

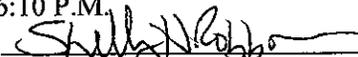
[Editor's Note: Board Member Martha Chapman left the meeting at 6:05 P.M.]

Staff Announcements

Mrs. Roland informed the Board Members that Martha Chapman's term would be expiring on June 30, 2012; and if anyone knew of someone that would wish to serve on the Board to please let Staff know. Also Mr. Ryba's term was up for reconsideration, and for him to complete a form if he wished to be considered for reappointment.

Mrs. Roland also briefed the Board Members on upcoming Continuing Education classes that would be given by the ACOG.

There being no other business, the meeting adjourned at 6:10 P.M.


Martha Chapman, Chair

Edited by Julie Roland, Administrative Assistant