

Meeting Minutes of the Board of Zoning Appeals Tuesday, February 14, 2017

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, February 14, 2017 at 5:15 P.M. with the following members in attendance: Don Bramblett, Anne Poliakoff, Jim Badger, Ryan Gaylord, and Marshall Irby. Joshua Lonon and Reed Teague were absent. Representing the Planning Department were Natalia Rosario, Planner III, and Julie Roland, Administrative Assistant. Assistant City Manager Chris Story and City Attorney Cathy McCabe were also present.

Roll Call

Mr. Bramblett Acting Chair, stated that public notice of this meeting was given twenty-four (24) hours in advance, 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 – Five members were present, constituting a quorum.

Approval of Agenda for the February 14, 2017 Meeting

Mrs. Poliakoff moved approval of the Agenda for the February 14, 2017 meeting, and she was seconded by Mr. Gaylord. The motion was unanimously approved by a vote of 5 to 0.

Disposition of the minutes from the January 10, 2017 meeting of the Spartanburg Board of Zoning Appeals

Mr. Gaylord moved approval of the January 10, 2017 Meeting minutes, with second by Mr. Irby. The motion was approved by a vote of 5 to 0.

Old Business

There was no old business.

New Business:

SE 17 2-01 - Request for Special Exception from Kent Miller, Chairman of Administration, on behalf of Westminster Presbyterian Church, Proposed Buyer. The Special Exception Application, in accordance with Section 603.5, Special Exceptions, of the Zoning Ordinance is to allow Westminster Presbyterian Church to purchase and utilize the properties located at 108 and 112 Pineville Road for Church functions. The purchase of the properties is contingent upon the request being approved. The properties are further identified as Parcels 067.00 and 068.00 on Spartanburg County Tax Map Sheet 7-13-06.

Ms. Rosario, Planner III, came forward and was sworn; and she submitted the meeting packets the Board Members had previously received including the report and slides, written comments received from Mr. Van Clark and from Mr. Epps, as well as a copy of the Board of Zoning Appeals Meeting Packet regarding a similar request from Westminster Church that went before the Board of Zoning Appeals on January 13, 2004 into Evidence, as Exhibit A. She explained the previous special exception regarding two other properties for 104 Pineville Road which was used as a church office and 105 Pineville Road was used for youth activities Ms. Rosario said Assistant City Manager Chris Story and the City Attorney Cathy McCabe were also present if anyone had questions for them as well. She showed a slide of the location map and explained where the church was located, with the main portion of the church being located at 309 Fernwood Drive. Ms. Rosario said the property at 108 Pineville was under contract with the Church to be purchased if the request was approved, and that the homeowner at 112 Pineville Road had asked the church to act on their behalf to seek a special exception as well, not for immediate use by the Church, but in order to allow it to utilize the property if they should purchase it from the current owner in the future. A slide of a very preliminary site master plan for the church was also shown.

Ms. Rosario went over in detail the Mandatory Written Findings for the Board to consider when reviewing a Special Exception Request and Staff's Analysis of Required Findings as follows while also showing slides to better illustrate the request:

- 1) Traffic Impact – Westminster Presbyterian Church has experienced growth in membership recently, and there are some parking issues on Emory and Pineville during Sunday morning services. Ms. Rosario explained to the Board Members she had gone by the Church on a Sunday morning; and said there were some parking issues up Emory and Pineville during the morning service. So there is a current parking issue at the property, although the use of these two parcels are not meant to alleviate the congestion issues, and from Staff's understanding are not to be used as parking. Staff does not see the use of these two parcels as increasing the parking issues that are already present while acknowledging there are parking issues current present.
- 2) Vehicle and Pedestrian Safety – To staff's knowledge, there are no additional parking needs and there is no required additional parking because the church is not expanding its main use. What the purpose of acquiring the proposed two properties according to Staff's knowledge is to use it as additional meeting space. Therefore, staff expects no increases OR decreases in vehicle and pedestrian safety from this particular special exception. The church itself is in need of additional meeting AND parking areas to serve its membership.
- 3) Potential impact of noise, lights, fumes, or obstruction of air flow on adjoining property – Staff does not expect additional impact from proposed uses; but an increase in intensity or a change in the hours of use of these properties like if they were to be used after 5:00 P.M. or if they were to be used as parking; that sort of thing would have a negative impact on the adjacent properties, the area and the aesthetic character of the area.
- 4) Adverse impact of proposed use on the surrounding area including the aesthetic character of the area *Without knowing exactly what the plan is other than to use these as additional meeting space, she could not really speak as to the aesthetic area; however; if they remained used as houses with appropriate buffering and the amount of parking remains the same on those lots as if they were to be used as residential structures, the aesthetic character would not be harmed. However; if they were to use the properties for parking and not have appropriate buffering was not provided it could have a detrimental impact.*
- 5) Orientation and spacing of improvements or structures – Staff has received no plans for demolition or new construction of structures on these two properties. From Staff's understanding, those homes are to remain to be used similar to an office use.
- 6) Compliance with the Comprehensive Plan – The City of Spartanburg Comprehensive Plan envisions this area as a low density residential area. That being said, when the neighborhood was founded, the property that the main portion of the church sits on today was set aside for the presence of the church. That does not mean they do not need to consider the impacts of the churches growth. The use is compliant with the comprehensive plan in that it predates the comprehensive plan and it has always been there. But increasing the intensity of the use without considering its impacts on the adjacent properties would need to be taken into account; and increasing the intensity would not be in compliance with the comprehensive plan.

Ms. Rosario concluded her presentation by explaining the Board Members had the following options:

- 1) The request could be approved by the Board Members as the petitioner requested;
- 2) The Board Members could approve the request with any conditions they saw fit;
- 3) The Board Members could deny the request;
- 4) The Board Members could table the request and ask for additional information

Board Questions:

- Mr. Irby said he rode by the property the other day, and said he was concerned about whether or not they planned to tear down the two houses that sat on the properties; he felt those were nice looking homes and would hate to see all the area turned in to cement.
- Ms. Rosario said it was not 100% the church would put parking there; but from her understanding what the church would like to do if they were to put parking there would be to put in some type of special turf parking, which was grass over a special sub-straight that can hold up cars. When it wasn't being used as a parking lot, it would appear as a lawn.

- Mr. Irby asked which one of the properties she was talking about.
- Ms. Rosario said thought it would be 104 Pineville; and she said she did not believe that 108 or 112 would be used for that. She said if the Board did approve the properties for special exception, to also keep in mind that the church would be allowed by right to use those properties for whatever their use is. She said although it was not in the plan, that one day it could be used for parking or some other use could ensure.
- Mrs. Poliakoff asked unless there were conditions.
- Ms. Rosario said that was correct.
- Mr. Gaylord said he noticed from looking at the minutes presented from the previous special exception request submitted by this church in 2004 that the question of a change in use of the property had been brought up; and that the position of the City at that point had been that any change in use of the property would be reviewed and the City would make a decision regarding any other special exception; and he asked her had that been a change in law or change in policy.
- Ms. Rosario said she believed it was a policy; and as far as what she knew from the Ordinance there was nothing that specific in terms of the change in use; and what she would say to guard against a negative future impact of intensity of a change in use would be #1) changes to any of this would require an entire site plan review process, where they would be required to implement the appropriate buffers which would include anything from a wooden structure and a masonry wall and having the right plantings, etc. #2) as far as coming back before the Board, that was not something that was in the ordinance, that could be a condition that the Board places upon the request regarding any expansions to be supplemented by a more detailed plan, etc.

Mr. Kent Miller of 236 Rock Springs came forward and said he was an Elder of the Church and he was sworn in. Mr. Miller said the church was a neighborhood church and had been one from the very beginning. He said in the original plat that was recorded in 1959, the property that the church sits on right now were not individual lots, but one large tract that said future church; and it was always intended from the beginning that it would be a neighborhood church.

Mrs. Poliakoff asked how far back the property went.

Mr. Miller said it was 4.5 acres. It was everything except the Emory Road property, which had been acquired later.

Mr. Miller said they had always tried to be as good of neighbors as they possibly could. They were growing, but they do not have any plans to be a Mega Church. They are growing because when people come in their doors they like what they hear and see. He referenced a slide of the Master Plan. He said that was drawn for them by an architect about nine months ago for the purpose to see if they could alleviate some of the crowding they had experienced. He pointed to one section and said that it did not exist. He explained the architect had come up with a plan that would enable them to expand; and at the time the other properties were not on the market. Mr. Miller said if they did build and expand it would take a big campaign effort in order to raise the money to do so.

Mr. Bramblett asked Mr. Miller about the buildings that he said were not in place yet that were shown on the plan; what would they be planned for if the church did expand.

Mr. Miller said (if that happened in the future) that would be planned for a children's wing for their growing children's ministry. He said the idea of putting that right there was also regarding a security entrance. They have a day school that operates Monday through Friday which would also be in the same area. When they first had the master plan drawn up there were constrained with how much property they had to work with. Then when the other two properties became available, they thought that would help them especially short term if they could acquire them to use for church purposes. If and when they were able to do a building project, they would probably tear down the structure at 104 which was currently the church office. They would use that property as a lay down area for construction project and then later come back in with the special turf-type parking.

Mrs. Poliakoff asked would that be used on that whole property.

Mr. Miller said yes. He did say there were two large oak trees on that property and he would hate to see them go down. He would love to see landscape that incorporated those into the entire picture there. He said the church is proud of the architecture and they are proud of how they keep their property. If any new expansion was done it would be very nice.

Mrs. Poliakoff asked would the current house remain at 104.

Mr. Miller said if that happened if they acquired the other properties they could move the church office into one of the other structures temporarily. Mr. Miller said again the church has always tried to be a good neighborhood. They hold events throughout the year for the membership, as well as the neighborhood; as well as the neighborhood being used which they encourage.

Mr. Badger asked Mr. Miller how many members they had.

Mr. Miller said about 940 members.

Mrs. Poliakoff asked about their greatest need right now.

Mr. Miller explained at the moment it was classrooms that was a high priority.

Mr. Gaylord asked about the average number of members attending on a Sunday.

Mr. Miller said about 550.

Mr. Bramblett asked about the number of services on Sunday.

Mr. Miller explained they had service at 8:15 A.M., 9:30 A.M., and 11:00 A.M.

Mrs. Poliakoff asked Mr. Miller if they had done much to engage the neighborhood residents in what was going on and planned for the church.

Mr. Miller said recently they went to a neighborhood association meeting which he did not get to attend, but some of it had been discussed.

Mrs. Poliakoff asked was this a five year plan.

Mr. Miller said it would be phased in depending on how generous the congregation was.

Mr. Gaylord referenced the area marked as future expansion, and asked if there had been any specific and intended uses for those areas.

Mr. Miller said not really because they did not have those properties yet. He did say in the future they could possibly see them as green space, a little amphitheater, little concerts in the park, etc. Again he said this was not just for church membership but would be for everyone.

Mr. Bramblett opened the public hearing and asked anyone who wished to speak in favor of the request to come forward; and to please write your name and address on the attendance sheet for the record.

- Greg Dominic of 304 Pineville Road came forward and said he had been in the neighborhood for about ten years and attended the church. He uses the playground as well as a lot of other people in the neighborhood. He was in support of the request.
- Kirk Johnston of 142 Fernbrook Circle came forward and asked for a clarification regarding the original drawing of the church regarding where the children's playground was now. He explained the church had planned to relocate the playground and have a nicer and larg about the construction area going over the current playground. He said he spoke to the Fernbrook Neighborhood Association a couple of weeks ago and there were some objections from those living in direct proximity of the church between Emory and Pineville regarding once per week on Sunday's regarding cross-over traffic during the ending and beginning times between 10:30 A.M. and 11:00 A.M. of the next service regarding traffic problems. Mr. Johnston felt if the Exception was approved, a lot of the parking concerns would be eliminated.
- Mrs. Poliakoff asked Mr. Johnston how he felt that would be accomplished.

- Mr. Johnston said because then those properties would belong to the church and then they could use their driveways.
- Mrs. Poliakoff asked about the 104 area being used as parking and as a playground and asked Mr. Johnson would it be used as both.
- Mr. Johnston said he would need to defer that to Mr. Miller.
- Mr. Miller explained that master plan was done before the other properties had come on the market. At the time of the drawing their intention was to put it somewhere else; not to say that it still could not go there. He said the playground area could shift slightly. He said they certainly wanted to use those big trees regarding the playground.
- Mr. Claude Saleeby of 1002 Thomas Road came forward and said he belongs to the church. When the two proposed houses became available to the church they thought it would be an opportune time to obtain them. He said it may be five or six years or more before anything was done. He was in favor of the request.
- Mike Bonner of 209 Pineville Road came forward and said he had lived there 30 years; and he had no problems with the church request. He was in support of the church.

Mr. Bramblett asked anyone else who wished to speak in favor of the request to come forward. No one else came forward. Mr. Bramblett asked anyone who wished to speak in opposition of the request to come forward and list their name and address.

- Mr. Edwin Epps of 109 Pineville Road came forward and said they lived directly across from the church office; and his house was one of the ones that would be most affected by what the church would like to do. He said he was also speaking on behalf of his neighbor Mr. Bill Fields who was on vacation this week that had also spoke to Ms. Rosario by phone and email. He said one of their concerns that they were not approached by anyone from the church regarding their plans. He said no one from the church had approached any of the people facing Pineville and Emory regarding the vagueness of the church plans. They were also concerned about the master plan itself, regarding the fact that there would be a lay-down area for construction right in front of their house. Also where the church office and the youth building was; back in 2004 when the request came to the Board it was not for parking issues. Again the plans are very vague. Other areas of the plan that concern them are the potential uses of the two proposed houses, and to use them in the future for parking. He said the uses were problematic at best. The talk about greenspace parking, the two green areas on the master plan were not specified as green space parking and even if they were they would object to that as well. He felt it would be a negative impact on his home. Specific concerns there had been reference made to parking and he submitted three photographs he had taken this past Sunday morning which were submitted into evidence for the record as Exhibit B. He explained one of them was at 105 Pineville Road, and two additional houses down the street that had cars in front of them as well. Parking was an issue not only in terms of whether or not they were in his yard or not, but when he and his neighbors are backing out into the street on Pineville Road and there are other cars coming by, or whether you were just walking down the road it was a safety issue. Also regarding neighborhood peace and quiet. Neighbors had expressed concerns regarding noise level when activities were going on. There are frequent loud events when the weather is warm that uses loud speakers. He can hear announcements, songs, etc. on many occasions when he is walking his dog way around the neighborhood. The attractiveness of the church properties comment he said where the youth activities were held that the property owner had to drop the price of his home because of that he felt. He said they are not opposed to the church or any church or their mission. He said in fact his children had used the playground many times. He just felt there would be a negative impact due to a lot of the vague plans and felt it was a risky thing to do. He said no-one in the neighborhood was approach ahead of time regarding any of the plans.
- Mr. Gaylord asked Mr. Epps was the photograph he submitted representative of any given Sunday.
- Mr. Epps said it was representative of any given Sunday when the weather was warm.

- Mr. Bramblett asked Mr. Epps about the time of day when he would hear a lot of noise as he had mentioned.
- Mr. Epps said until maybe 8:00 PM on a Sunday.
- Mr. William Bagwell of 203 Beechwood Drive came forward and said he was opposed to the request. He moved in neighborhood in early 1990's; and he felt all of the residential values would be lowered and the value of their properties would go down. He felt that all of the neighbors paid their share of taxes and that they should be protected from this by the City of Spartanburg. Mr. Bagwell also felt that the church could change their times around a little bit in order to alleviate the current piling of cars and safety issues.
- Ms. Renee Meehan of 112 Beechwood Drive came forward and said she was opposed to the request. She lived about a block from the church. She felt the church was good as a small church. She and her husband had tried to increase the value of their home since moving into the neighborhood and would continue to do so. She did not want her property value lowered. She asked the Board Members to please deny the petition. She said their neighborhood covenants should apply. She said she attended a neighborhood meeting on February 4, 2017 and there was no mention of removing the church office and having it become a construction lot or parking. She is concerned about the maintenance and upkeep of the properties if the church should take control of them. Ms. Meehan also explained to the Board Members there was a real safety issue involved.
- Mr. Gaylord asked Ms. Meehan if there was currently restrictive covenants in effect for that neighborhood.
- Ms. Meehan said there was.
- Mr. Gaylord asked her if the restrictive covenants mentioned parking in yards.
- Ms. Meehan said she would need to contact her attorney.
- Mr. Bramblett asked about violations of the neighborhood codes; and asked if she had anything specific.
- Ms. Meehan said she did not say that; that she had asked didn't their neighborhood covenants apply.
- City Attorney Cathy McCabe said she could speak regarding the covenants and restrictions; and they were drafted initially when the neighborhood was formed in 1950's; and if they were amended in 1989 to allow for a residential block to have a waiver of the covenants and restrictions based on 50% of the property owners agreeing to that; and in 2004 when they got the special exception they met the requirement; and in this case they would again have to meet that requirement. That issue was not before this Body tonight. She explained the issue before this body was whether they rezone or not and if they rezoned, then the petitioner would have to comply with that to clear their title.
- Fran Racine of 200 Pineville Road came forward and said she could see straight across into the youth building and back yard and that whatever was going on there, she could see all of that. She said the impact that was spoken about earlier, was more than just the people across the street could see; that it went deeper into the neighborhood than that. She also said either she misunderstood what had been said or it was very murky. She said as she understood what the gentleman from the church had said, she thought it was to be the future expansion of the pre-school and of the chapel in an area she had pointed out to on the slide. She said in order for them to expand where they said they would, they would have to expand into a parking lot and the playground. She said if they made the expansion as the plan showed, the potential of a playground. She said what she had not heard was how were they going to solve their parking problem, and the safety issues. She would like to hear what the proposed solutions to those two problems were
- Mr. Joe Maddox of 496 Overland Drive came forward and said the church had never been a problem for him in the 33 years he had lived there; but he had two concerns: 1) the plan was extremely vague; and 2) the youth house for young life: 1) the house was not very well maintained and did not look like other houses in the neighborhood; and 2) the kids especially park out in the yard, not even in the

parking areas. He said earlier there was 66 cars parked out in the yard even when there was available parking spaces at the time in the parking lot.

- Mr. Ken Darr of 234 Beechwood Drive came forward and said he had a lot of respect for the church. He had observed that the church was on its way to being a mega-church. He said obviously the plan was to take the whole block; and that it would not be a neighborhood church anymore. If it turned into a mega-church it would affect traffic, noise, and aesthetics. He did not think the Board should grant the request.
- Mrs. Carol Epps of 109 Pineville Drive came forward and said her husband had spoken earlier and she said parking had come up a lot; but she would rather have cars parked in her yard on Sunday other than a construction site or parking lot across the street from her house.
- Ms. Anne Elliott of 116 Pineville Road came forward and said she had mixed feelings about it all. She said Ms. Cindy's Foster's house that they did have a contract on went over into her yard about three feet. She said she did worry that there was not a concrete master plan. She felt it was too vague at the moment.
- Mr. Bramblett referenced the slide and asked her where her house was. She explained.
- Mr. Bramblett asked if she noticed a lot of noise from the young life building. She said she did notice noise at times and parking issues at times. Ms. Elliott said she kind of agreed with Mr. Darr.
- Mr. Bramblett asked Ms. Elliott is she had an agreement with the church.
- Ms. Elliott explained that she was not sure. She mentioned a visit from the church she had received after shortly purchasing her home some years ago in 2001 letting her know the church had first refusal on her house; but she could not find it in her deed.
- Mr. Bramblett asked could anyone from the church answer to that.
- Mr. Miller said he was not aware of anything like that.
- Mr. Bramblett asked Mr. Miller what about 108 and 112 Pineville Road.
- Mr. Miller said there was no agreements; and he explained that the existing master plan was done with the existing property they had. After they had done the plan, 112 came on the market; and then they had spoken with the lady that owned 108 Pineville Road.
- A gentleman in the back of the audience who did not identify himself or come forward got up and said it was his understanding the church had offered to buy the house at 112 Pineville Road if this request passed. He said the lady tried to sell the house for 2 ½ to 3 years and he was told by a realtor there was never an offer made near her appraised value.
- Mr. Bramblett asked Mr. Miller was that a condition regarding the house at 112 Pineville Road.
- Mr. Miller explained there were two stipulations, and they were not sure if they were dealing with a zoning or use issue. They had had both properties appraised and the appraiser put it in at the going rate for the neighborhood; and in talking to the appraiser he asked him how it would affect the other property owners. The appraiser had told him they would not affect any of the neighborhood property owners.

Mr. Bramblett asked anyone else who wished to speak regarding the request to come forward. No one else came forward. Mr. Bramblett closed the public hearing.

Board Deliberation:

- Mr. Irby was not comfortable approving the request with the information that they had been given so far; and since there seemed to be such vagueness and so many questions and concerns from the neighborhood .
- Mrs. Poliakoff agreed with Mr. Irby and felt the plan was also too vague. Her concern was it could become anything a year from now and she would like to see more specifics.

- Mr. Gaylord agreed.
- Mr. Badger said looking at the map from the Good City Architects that the plan was to have the entire block; and the building that was on the plan was not the one that was on the ground. He felt it was too vague as well.
- Mr. Bramblett said he thought growth at the church was a good thing; however, on the other side you had to be cognitive of the concerns of the neighborhood. He explained his main concern would be the parking and also with safety. He agreed there was also a lot of vagueness. Mr. Bramblett said they could table the request for a while to give the church more time to talk with the neighbors, etc. Or he explained if they denied the request the church could come back to them in a year with a more definitive plan.

Mr. Irby made a motion to deny the request; and he was seconded by Mrs. Poliakoff. The motion to deny the request was approved by a vote of 3 to 2, with Mr. Gaylord and Mr. Badger opposed.

Mr. Bramblett said the church would receive a letter and an order in the mail regarding the decision.

Staff Announcements

There were no Staff Announcements.

There being no further business the meeting adjourned at 7:03 P.M.



Don Bramblett, Acting Chair

-Edited by Julie Roland, Administrative Assistant