



City of Greenville
Board of Zoning Appeals
Minutes of the February 11th, 2021 Regular Meeting
Virtual Meeting – City Hall 4:00 PM
Meeting Notice Posted on January 27th, 2021
Minutes prepared by Matt Lonnerstater

Members Present: Chris Price (Chair), Seph Wunder (Vice-Chair), Stephanie Gates, Luis Martinez, Nika White, Frederick Turner, Ken Betsch

Members Absent: None

Staff Present: Kristopher Kurjiaka, Senior Development Planner; Leigh Paoletti, Assistant City Attorney; Jonathan Graham, Planning Director; Courtney Powell, Planning Administrator; Matthew Lonnerstater, Development Planner; Austin Rutherford, Development Planner; Harold Evangelista, Development Planner; Ross Zelenske, Development Planner

NOTICE OF MEETING: Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Board's Meetings was provided on January 1, 2020 via the Greenville City Website. The Agenda for this Meeting was posted outside the meeting place (City Council Chambers in City Hall) and was emailed to all persons, organizations, and news media requesting notice. In addition, notice for public hearings was published in the Greenville News, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

CALL TO ORDER: Chairperson Price called the meeting to order at 4:00 PM.

APPROVAL OF MINUTES: The Board approved the minutes for the January 12th, 2021 Agenda Workshop and January 14th, 2021 Regular Meeting and Public Hearing

PUBLIC NOTICE AFFIDAVITS: In order

ACCEPTANCE OF AGENDA: The Board approved the February 11th, 2021 agenda as presented.

CONFLICT OF INTEREST: None stated.

NEW BUSINESS:

A. S 21-29

Application by Shraddha Patel (Anki, LLC) for a **SPECIAL EXCEPTION** to operate a liquor store at **109 W. STONE AVE.** (TM# 000900-04-01900).

Staff report presented by Matthew Lonnerstater

- Note: Full staff report is on file at the Planning Office and at www.greenvillesc.gov/agendacenter
- **Staff Recommendation: Approval with conditions.**
- Luis Martinez asked staff if the City has a policy on distance separation between like businesses.
 - Planner Lonnerstater clarified that the Land Management Ordinance does not contain separation for requirements for liquor stores outside of State law.
- Stephanie Gates asked if staff could clarify the types of alcoholic items that would be sold by the tenant. Planner Lonnerstater deferred to the applicant.

Applicant presentation:

- Mr. John Plank, 135 Johnson Dr., Simpsonville, SC, representative for ANKI, LLC, explained that the business owner intends to operate a higher-end liquor store. Mr. Plank stated that the lease stipulates limitations on selling less than 750 mL of certain types of spirits and sets minimums for the number of mini bottles that can be sold.

Public comments:

- Susan McClarty, 204 E. Hillcrest Dr., spoke in opposition of the application as both a resident and on behalf of the Greenville Homeless Alliance. Ms. McClarty stated that the proposed liquor store would go against the goals of the Greenville Homeless Alliance.
- Jennifer Fouse Sheorn, Cleveland St., pastor/director of Triune Mercy Center, spoke in opposition of the application. Ms. Fouse Sheorn stated that there are already six liquor stores within walking distance of Triune, and that an additional liquor store would complicate the mission of Triune Mercy Center
- Chairman Price asked Mr. Plank to respond to the public comment.
 - Mr. Plank stated that he would provide a copy of the lease to staff. Through operating a higher-end liquor store, the business owner does not want to operate a store that promotes bad behavior.

Board Discussion

- Seph Wunder stated that it would be beneficial to have a copy of the lease/addendum for the Board's discussion and motion.
- Stephanie Gates expressed concern about tying a condition of approval to the lease language, as the lease could be modified.
- Luis Martinez expressed concern over taking action on the item without having a copy of the lease language and recommended deferring the agenda item to the next meeting. Nika White agreed.
- Planner Lonnerstater presented a copy of the written lease, as provided by the applicant. The lease states, *"The premises shall be used as an upscale ABC store for off-premises consumption of wine and liquor only, with other general merchandise/accessories relatable to an ABC Store; provided, however, that the premises shall not be used for the sale of cannabidiol ("CBD") or ancillary products associated with the sale of CBD. Wine sales will be limited to a minimum of 750 ml per unit and mini bottles shall only be sold in quantities of three or more per transaction."*
- Luis Martinez asked why the 750 ml limit was only limited to wine.
 - John Plank clarified that wine is often seen as a lower-end product; beer would not be sold at the ABC store, per state law.
- Nika White asked the applicant to differentiate between a regular ABC store and an up-scale ABC store.
 - John Plank responded that the up-scale character would be based on the products sold and limitations as listed in the lease.
- Frederick Turner stated that an issue may arise where customers are not aware that the store is a "higher-end" store.
- Nika White asked how the business owners intend to indicate the minimum sales requirements.
 - John Plank responded that they would have signage at the register.
- Chairman Price stated that the property functions as a public place as it features a pizza restaurant, barbecue restaurant, and brewery. Ken Betsch concurred and added that the proposed use is compatible with surrounding uses.
- Assistant Attorney Paoletti clarified that state law regulates signage pertaining to liquor.

***Motion: Ken Betsch made a motion to approve the Special Exception request S 21-29 for a liquor store at 109 W. Stone Avenue based on the findings outlined in the Staff Report and the testimony of the applicant. Conditions of approval include:**

- 1. Wine sales shall be limited to a minimum of 750 ml per unit and mini bottles shall only be sold in quantities of three (3) or more per transaction.**
- 2. Loitering, solicitation, and disorderly conduct is prohibited at all times. Rules consistent with the provisions of the Greenville Code of Ordinances shall be posted in conspicuous locations and shall be enforced by the proprietors.**
- 3. The Special Exception Permit is limited to the Applicant, ANKI, LLC, and is not transferrable.**

Luis Martinez seconded the motion.

The motion was approved by a vote of 6-1, with Nika White voting no.

B. V 21-60

Application by Josh and Erin Hudson for a **VARIANCE** to side setback requirements located at **121 W. AUGUSTA PL** (TM# 021500-03-01801)

Staff report presented by Matt Lonnerstater

- Note: Full staff report is on file at the Planning Office and at www.greenvillesc.gov/agendacenter
- **Staff Recommendation: Denial**

Applicant presentation:

- Josh Hudson, applicant, 121 W. Augusta Pl., stated that the variance request is actually for 2 ft. 2 in., not 4 ft.; the proposed addition would align with the existing setback of the deck. Due to an error made by a previous contractor, the existing deck does not meet the required side setback. The adjacent property owner has signed an affidavit stating no objection to the application. Mr. Hudson stated that the proposed addition would be consistent with the character of the existing house and the character of the neighborhood.
- Chris Price clarified that new homes would need to meet setback standards of the Ordinance.
- Seph Wunder asked Mr. Hudson to clarify how the application meets criteria #2, that the special circumstances are not the results of the applicant.
 - Mr. Hudson stated that the contractor who constructed the deck made an error regarding the perceived/actual property line.
- Erin Hudson, applicant, stated that the house was constructed in 1941, meeting the 'extraordinary and exceptional conditions' criteria, and that the lot is an unusual shape.
- Ken Betsch asked if the addition could be placed at another location or reduced to a size which meets setback standards.
 - Ms. Hudson stated that it would be detrimental to place the porch addition off the rear of the house and that reducing the width of the porch would not be cost beneficial or practical.
 - Chairman Price clarified that project costs typically should not be considered as part of the variance request.

Public comments:

- Scott and Marcia Baker, 117 W. Augusta Pl., stated their support for the variance request. Ms. Baker clarified that, based upon the layout of their house, they will not likely add onto the southern side of their house. Ms. Baker stated that there is adequate space between the two houses. Mr. Baker stated that it was unclear where the shared property line was located.

Board Discussion

- Stephanie Gates stated that the issue could be resolved by moving the property line.
 - Chairman Price concurred and clarified that all six Ordinance criteria need to be met in order to grant a variance.

***Motion: Ken Betsch made a motion to deny the Variance request V 21-60 for a variance to the side setback requirements at 121 W. Augusta Pl. based on the findings outlined in the Staff Report, specifically the following findings: there are not extraordinary and exceptional conditions pertaining to the property; the special circumstances are the result of the actions of the applicant; the dimensional standards and measurements of the ordinance would not unreasonably restrict the utilization of the property overall; the variance is not necessary to make possible the reasonable use of the land; the authorization of the variance will result in a substantial detriment to the public good and adjacent property; and the granting of the variance will not be consistent with Sections 19-1.3 of the Land Management Ordinance**

Seph Wunder seconded the motion.

The motion was approved by a vote of 7-0.

OTHER BUSINESS: None

Meeting adjourned at 5:37 PM