

Zoning Board of Appeals

City of Rock Hill, South Carolina

January 15, 2019

A public hearing of the Zoning Board of Appeals was held on Tuesday, January 15, 2019, at 6 p.m. in Council Chambers at City Hall, 155 Johnston Street, Rock Hill, South Carolina.

MEMBERS PRESENT: Matt Crawford, Keith Sutton, Michael Smith, Stacy Reeves, John Antrim, Randy Sturgis, Rodney Cullum

MEMBERS ABSENT: None

STAFF PRESENT: Melody Kearse, Shana Marshburn, Dennis Fields, Leah Youngblood, Janice Miller

Legal notice of the public hearing was published in *The Herald*, Saturday, December 29, 2018. Notice was Posted on all property considered. Adjacent property owners and tenants were notified in writing.

1. Call to Order

Chair Matt Crawford called the meeting to order at 6 p.m.

2. Approval of minutes of the December 18, 2018, meeting.

Mr. Sutton presented the motion to approve the minutes as submitted. Mr. Smith seconded, and the motion carried unanimously by a vote of 7-0.

3. Approval of Orders from December 18, 2018, meeting.

Mr. Sutton made a motion to approve the orders as distributed. Mr. Cullum seconded the motion, and the minutes were approved unanimously by a vote of 7-0.

Mr. Crawford announced that Appeal Z-2019-05 by Mr. Timario Gayton had been withdrawn and would not need consideration by the Board.

4. Appeal Z-2019-01: Request by Pastor Carlos Suarez of Iglesia Cristiana El Siloe for a special exception for a large religious institutional use to be located at 986 Myrtle Drive, which is currently zoned Single-Family Residential-4 (SF-4) and is under consideration for rezoning to Single-Family Residential-5 (SF-5). The intent is to use an existing single-family residential dwelling for a visiting pastor's quarters and to establish a playground. Tax map number 629-18-01-003.

Staff member Melody Kearse presented the staff report. A video of the previous evening's City Council meeting regarding the rezoning of this property was shown.

Mr. Antrim asked for an explanation of "normal church hours" in relation to when the playground would be allowed to be used. Ms. Kearse explained that the intent was to allow the playground to be used when the church was open for services or small groups, but not at other times during the week. Mr. Antrim clarified that the intent was for the playground to be allowed to be used during legitimate church activities. Ms. Kearse stated that this was correct.

Mr. Sutton asked whether the house was part of the former church's property. Ms. Kearse stated that it was, and that the former church had rented the property as a residence.

Mr. Sutton asked whether a special exception was required because the church now owned the

house. Ms. Kearse explained that the previous use of the house was residential, and a change to a commercial use would require the rezoning of the property to a zoning district that would allow a church use through one of the allowed approval mechanisms, such as a special exception.

Pastor Carlos Suarez, 1314 Land Grant Road, Charlotte, applicant, speaking through an interpreter, noted that the intent of the church was to be a blessing to the neighborhood and to improve the property. He stated that the main church property did not have a green area, and that the desire was to have an area for the children to play.

Mr. Crawford asked whether the applicant agreed with the conditions that were recommended by staff. Pastor Suarez stated that he agreed with all the recommended conditions.

Mr. Dirk Anderson, 984 Myrtle Drive, adjacent property owner, stated that the church was a wonderful neighbor but spoke about a concern he had with increased water runoff occurring since the church had cleared the vegetation at the property line. He also requested a brick fence with a foundation along the shared property lines in order to help stem the water flow.

Mr. Sutton asked how long Mr. Anderson had lived at 984 Myrtle Drive. Mr. Anderson stated three years.

Mr. Sutton asked whether the vegetation had been removed before or after he moved into his property. Mr. Anderson stated that it was after he had moved in.

Mr. Crawford asked whether the water runoff situation had been better before the vegetation removed. Mr. Anderson stated that it had.

Mr. Les Dickert, 848 Eden Terrace, stated that he represented the neighborhood, and that the neighborhood was in favor of the request.

Mr. Crawford asked Pastor Suarez if the church would be willing to work with staff in order to minimize the water runoff to the neighboring property. Pastor Suarez stated that future plans included replacing the shrubs and trees that had been removed as part of the cleanup of the site.

There being no further questions or comments, Mr. Crawford closed the floor for Board discussion.

Mr. Sturgis presented the motion to approve the special exception as requested with the conditions that:

- the property only be used as quarters for visiting pastors and a playground area for the church's children;
- no parking would be allowed on site except for two vehicles of the visiting pastors; and
- that the church work with staff to alleviate water runoff.

Mr. Crawford seconded the motion.

Ms. Youngblood requested the motion include a condition that the rezoning be approved by City Council.

Mr. Sturgis presented a replacement motion to approve the special exception as requested with the conditions that:

- the property only be used as quarters for visiting pastors and a playground area for the church's children;
- no parking would be allowed on site except for two vehicles of the visiting pastors,

- that the church work with staff to alleviate water runoff; and
- that City Council approve the rezoning to Single-Family Residential-5 (SF-5).

Mr. Crawford seconded the motion to replace the original motion with the above, and the Board passed that change unanimously by a vote of 7-0.

Mr. Crawford then called for a vote on the motion, Mr. Sutton seconded, and the motion carried unanimously by a vote of 7-0.

Mr. Sturgis presented the findings, specifically noting there were no road capacity issues, the use was appropriate, the design of the site minimized impacts, there would be no injury to adjacent properties, and a site plan had been prepared.

5. Appeal Z-2019-02: Request by Carl Dicks of VFW Post No. 3746 for a variance from the required parking standards and the required side buffer yard for a fraternal lodge use to be located at 1404 Crawford Road, zoned Neighborhood Office (NO). Tax map number 599-02-01-002.

Mr. Smith recused himself, as a member of the VFW Post No. 3746.

Staff member Shana Marshburn presented the staff report, adding the variance for the side buffer yard would not be required. After further review of the site plan, the project would be able to meet that requirement.

Mr. Crawford observed that the site plan included in the staff report was different from the one shown in staff's presentation. Ms. Marshburn stated that one shown in the presentation was the most recent version.

Mr. Sutton asked whether the biggest change between the two site plans was the parking orientation from diagonal to straight. Ms. Marshburn stated that this was correct.

Mr. Crawford asked why this was being presented to the Board if the Neighborhood Office (NO) zoning district no longer allows fraternal lodges. Ms. Marshburn stated that site had been rezoned in 2014 to allow for an expansion but within the past 18 to 24 months, the Zoning Ordinance had been amended, and fraternal lodges had been removed from the NO zoning district. She added that the VFW had until May to break ground on the new building before they would need to seek another rezoning to a different zoning district in order to do so.

Mr. Carl Dicks, 2740 Tiffany Drive, applicant, stated that new building would be approximately 60 feet by 90 feet, and the site was approximately 1.8 acres. He added they had already been approved for financing and would begin the process to obtain permits when the special exception was received.

Mr. Charlie Robinson, 2085 Cavendale Drive, spoke in favor of the request, providing a detailed history of the founding of the VFW Post. He introduced Mr. Bobby Plair, providing a history of Mr. Plair's service during World War II. He stated that they had met with the community and received positive feedback on their plans.

Mr. Melvin Poole, 1634 Crestdale Road, spoke in favor of the request, noting the Post had just celebrated its 80th anniversary. He added that a larger facility would allow them to provide additional services to the community, including the summer feeding program for students, community improvement workshops, community meetings, and veterans' services.

Mr. Crawford asked whether there was ample parking for the Post during regular meetings. Mr. Poole stated that parking was sufficient for their meetings and they also had an agreement with Mt. Sinai Church of Christ to allow them to use the church parking lot for overflow parking.

Mr. Crawford asked how many times a month the overflow parking would be necessary. Mr. Poole stated it would not be much, only on holidays and special occasions.

Mr. Crawford asked whether they would work with the church in order to ensure events would not happen at the same time. Mr. Poole stated that they had worked out an agreement with the church so each would notify the other of upcoming events, as the Post had agreed to allow the church to use their parking lot for overflow as well.

Ms. Patricia Godlewski, 2766 Nuthatch Drive, expressed concern that only two handicap parking spaces would not be adequate to serve the needs of the lodge. Mr. Crawford stated that this was part of the plan review process and would be addressed later if needed.

Mr. Bobby Plair, Jr., 1126 Haile Street, spoke in favor of the request, noting specifically the positive effect that the Post had on the community.

There being no further questions or comments, Mr. Crawford closed the floor for Board discussion.

Mr. Sutton provided the motion to approve the variance from the required parking standards as presented by staff. Mr. Sturgis seconded, and the motion carried unanimously by a vote of 7-0.

Mr. Sutton presented the findings, specifically noting the original building had been constructed in the 1930s, a religious institution was its neighbor, the Post would be deprived of the use if parking standards were enforced as they would be required to construct a building smaller than the previous one, and the use does not harm the public good.

Mr. Smith returned to his seat on the dais.

6. Appeal Z-2019-03: Request by Jerry Anderson and Bennett James of Rock Hill Elks Lodge No. 1318 for special exceptions for a fraternal lodge use and an event center use, and a reduction in the required separation for the event center use from residential uses, at 535 Hollis Lakes Road, which is currently zoned Neighborhood Office (NO) and is under consideration for rezoning to Office & Institutional (OI). Tax map number 589-01-01-055.

Ms. Kearse presented the staff report. A video of the previous evening's City Council meeting regarding the rezoning of this property was shown.

Mr. Sutton asked whether the owners would be allowed to subdivide or sublease the property if it were rezoned to OI. Ms. Kearse stated that there would be requirements for road frontage and lot size if this was desired. Ms. Youngblood stated that the Board could place a condition on the special exception approval to limit the approval to this use only if desired.

Mr. Sutton asked whether the Rock Hill Police Department (RHPD) was currently being contacted prior to events held by the Elks lodge. Ms. Kearse stated that it was not.

Mrs. Reeves asked whether other event centers in the area were required to contact the RHPD prior to events. Ms. Kearse stated that they were not. Then there was general discussion over the history of the American Legion's special exception, which also had required the RHPD to be notified prior to parties being held at the Cherry Road site so that officers could provide advice about the appropriate amount of security for the party. The special exception approval was

rescinded *when* a young person was killed at a party after the Legion had failed to notify the RHPD.

Mr. Sutton asked whether the Elks Lodge had outdoor events at its current location and the hours for those. Ms. Kearse stated that the Elks Lodge did not have any outdoor events at its current location except in partnership with other organizations, such as during Come-See-Me.

Mr. Sutton asked whether the Elks Lodge had events past 11 p.m. currently, and what its typical hours were. Ms. Kearse stated that the hours of operation during the week were 5 to 9 p.m. on weeknights for members, and 5 to 10 p.m. on weekends for members, and the rental hours were until midnight with cleanup allowed until 1 a.m. She added the use had existed prior to zoning regulations being adopted by the City.

Mr. Crawford asked how the requests should be handled procedurally in terms of one vote for all three or three votes, one for each request. Ms. Kearse stated that the lodge use and the event center use should be voted on separately, and that the request to reduce the required separation from residential uses should be included as part of the event center use since it would not be allowed unless the required separation also was reduced.

Mr. Cullum asked whether the lodge had an existing history of issues with the police. Ms. Kearse stated that the lodge had a good record. (A summary of police calls for service was included as part of the staff report).

Mr. Cullum asked about the reasoning behind the suggested condition for the lodge to notify the RHPD prior to events. Ms. Kearse stated this was due to the previous instance with a similar fraternal organization that had rented its facility for parties.

Mr. Crawford asked about the procedure for contacting the RHPD. Ms. Kearse stated that the police department would discuss the event and would make recommendations about security as appropriate. She added that staff had asked the police department if they had concerns about the Elks' requests, and that they did not. Ms. Youngblood added that the group did have a good history of not allowing parties to get out of hand, but that it had experienced once instance where it had rented the facility to someone for a "birthday party" that was actually a promoted party, and that the intent of staff's recommendation was for police officers to be able help protect the Elks against inadvertently being misled into renting to someone who may be part of a gang or otherwise may not be being honest about their true intentions with the facility.

Mr. Sutton stated his concern that this was overregulation. There was general discussion as to the reasoning behind staff's recommendation for the lodge to notify RHPD prior to renting the facility.

Mr. Sturgis asked whether the Brakefield events center was required to notify the RHPD of events prior to holding them. Ms. Youngblood stated that it was not. (It was approved prior to the issue with the American Legion.)

Mr. Crawford asked whether RHPD had the authority to deny an event. Ms. Youngblood stated that the intent was not for the RHPD to be able to deny an event, but simply to help the lodge screen for any potential security issues and provide advice about that.

Mr. William Malone, 373 Pinetuck Lane, applicant, provided a brief history of the organization. He stated that did not disagree with staff's recommendations but requested clarification regarding the one where the event center use was being tied to a nationally-recognized fraternal organization. Ms. Youngblood explained that this was so that if the Elks decided to move on

from the site in the future, only another nationally-recognized fraternal organization would be able to rent the facility as an events center if it also was located on the site. This was because the ZBA was not allowed to limit the approval just to the Elks lodge, but it could tie the use down to allow it only if a similar organization controlled the use, and that this was important because if this had been a request to have a private events center in this location, staff probably would not have recommended approval due to the surrounding neighborhoods.

Mr. Sutton asked how many times the facility was rented on a monthly basis. Mr. Malone stated that during the summer, the property was rented twice a month. He added that the lodge was prohibited from advertising the rentals due to national policy, and it typically rented only to members or others who knew about the facility by word of mouth.

Mrs. Reeves asked whether the lodge was satisfied with having events end at 11p.m. and the facility vacated by midnight. Mr. Malone stated that this was fine.

Mr. Crawford asked whether the lodge had concerns about limiting the approval for this use only, and having to return to the Board if they wanted to subdivide the property. Mr. Malone stated that this was fine, as the lodge had no plans to subdivide the property.

Mr. Crawford asked whether the lodge was concerned with the condition of notifying RHPD prior to renting the facility for events. Mr. Malone stated that he did not mind if this was placed as a condition on the approval. He added that the lodge understood the reasoning behind this requirement, as other situations have happened for this to be necessary.

Mrs. Patricia Godlewski, 2766 Nuthatch Drive, spoke regarding the public notification process, stating she did not believe that a notification range of 300 feet from the property was enough, and that a lot of people in neighborhood were not aware of this public hearing. She stated that she was not against the request but thought that the 11 p.m. end time was a good idea. She added that she did not see a need for the lodge to call the police department prior to events because if there were any issues, she would call the police herself. She added that she did not want to see any parties or festivals outside, and that in some areas the existing buffer could use some supplemental plantings.

Mr. Cullum requested clarification about the radius for the public notification. Staff showed the map of who had been notified, and explained that the City notifies people in a larger radius than is required by state law.

There were no further questions or comments. Mr. Crawford closed the floor for Board discussion.

Mr. Crawford presented the motion to approve a special exception for the fraternal lodge use. Mr. Sutton seconded, and the motion carried unanimously by a vote of 7-0.

Mr. Crawford presented the findings, specifically noting this was not a bar or nightclub use, that the use was compatible with the surrounding uses, that there was an adequate buffer, that there were to be no changes to the site, that the site was already developed, that there was adequate traffic access, and that the use would not injure neighboring property values.

Mr. Crawford presented the motion to approve a special exception for the event center use and the associated reduction in separation from residential uses with the conditions that:

- events would end at 11 p.m. and facility would be vacated by midnight;

- the lodge would notify the Rock Hill Police Department prior to rentals for events;
- the primary use of site is for a nationally-recognized fraternal organization;
- the approval is for this application only;
- no outdoor activities other than youth sports may take place; and
- City Council approves rezoning of the property to Office & Institutional (OI).

Mr. Sturgis seconded, and the motion carried unanimously by a vote of 7-0.

Mr. Crawford presented the findings, specifically noting that there would be no parties held outdoors, a Management of Impacts plan had been submitted, the Lodge agreed to contact RHPD prior to renting the facility, the facility would not be a bar or nightclub, the limited hours of operation would be enforced in order to make the use compatible with the surrounding area, the design of the site minimized impacts to the surrounding uses, there were no environmental impacts, roads would not be impacted, and the lodge agreed to comply with all laws and regulations. In addition, he noted that the separation reduction would not have any greater impact than permitted uses in the district since there would be no outdoor parties held.

7. Appeal Z-2019-04: Request by Joshua Calderon of Enterprise Holdings for special exceptions for an automobile rental use, an automobile sales use, and a commercial truck rental and sales use to be located at 1020 N. Anderson Road, zoned General Commercial (GC). Tax map number 634-07-01-029.

Mr. Fields presented the staff report.

Mr. Antrim asked about double-stacked parking on the site plan. Mr. Fields stated that ordinance allowed for tandem-style parking this use type if located beyond the front plane of the structure.

Mr. Cullum asked whether this would replace the current location of the business on Cherry Road at the K-Mart shopping center. Ms. Kearse stated this new facility would replace the one currently located at K-Mart.

Mr. Cullum asked where excess rentals would be located. Mr. Fields stated that they would all be located on this new site, as it was much larger than the current one.

Mr. Crawford asked whether this was a new development that would have to meet design requirements. Mr. Fields stated it would have to meet the required design standards for new construction.

Mr. Joshua Calderon, 527 Rough Hewn Way, applicant, stated Enterprise wanted to relocate to a much larger and more efficient facility.

There were no further questions or comments. Mr. Crawford closed the floor for Board discussion.

Mr. Sutton presented the motion to approve the special exceptions as presented. Mrs. Reeves seconded, and the motion carried unanimously by a vote of 7-0.

Mr. Sutton presented the findings, specifically noting the design proposed minimized impacts to the surrounding area, the use would comply with all use-specific standards, no test drives would

take place on residential streets, there would be no PA system, and the site plan provided for stormwater control measures designed to minimize environmental impact.

8. Appeal Z-2019-05: Request by Timario Gayton for a variance from the front yard setback for a single-family residential dwelling at 1519 Stroupe Street, zoned Single-Family Residential-4 (SF-4). Tax map number 599-03-07-023.

Mr. Crawford noted this item had been withdrawn from consideration by staff and no action was required by the Board.

9. Other Business

a. Continuing Education calendar.

Ms. Kearse noted the Board had been given a calendar for upcoming continuing education events.

b. Adopt 2019 Calendar

Ms. Kearse noted an error in the raindate scheduled for September on the Board's approved calendar. Mr. Crawford presented a motion to approve the corrected meeting calendar. Mr. Sturgis seconded, and the motion carried unanimously by a vote of 7-0.

10. Adjourn.

There being no other business, the meeting adjourned at 8:18 p.m.