

**Meeting Minutes of the Board of Zoning Appeals
Tuesday, October 10th, 2023, at 5:15 PM
City Hall Council Chambers**

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, October 10th, 2023, at 5:15PM with the following members in attendance **McKay Moore, Darren Matz, Dominique Dawkins, Brian Murdoch and Don Bramblett**. Representing for the Planning Department is **Martin Livingston, Community Director, Nan Zhou, Planner II, Tia Keitt, Planner II, and Oksana Holbrooks, Administrative Assistant**.

Roll Call:

Mr. Bramblett: Don Bramblett
Ms. Moore: McKay Moore.
Mr. Matz: Darren Matz.
Mr. Murdoch: Brian Murdoch
Ms. Dawkins: Dominique Dawkins

Mr. Matz: The Freedom of Information Act Compliance. Public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and the requirements of the City of Spartanburg Zoning Ordinance.

Approval of Agenda:

A motion was made by Ms. Moore, seconded Ms. Dawkins to approve the agenda. The motion was approved with a vote of 5-0.

Ms. Moore: I move we approve the agenda.
Ms. Dawkins: Second
Mr. Matz: All in favor of motion say aye?
Attendees: Aye.
Mr. Matz: Okay agenda has been approved.

Mr. Matz: The next topic is the approval of the minutes from the previous meeting. Can I get a motion for approval of the meeting minutes?

Approval of Meeting Minutes from July 11th, 2023.

A motion was made by Mr. Bramblett seconded Ms. Dawkins and Ms. Moore to approve the meeting minutes. The motion was approved with a vote of 5-0. The meeting from September meeting has been canceled due to not enough board members present to meet the quorum.

Mr. Bramblett: I move we approve the meeting minutes.
Ms. Dawkins and Moore: Second.
Mr. Matz: All in favor?
Attendees: Aye.
Mr. Matz: Okay minutes have been approved.

Old Business: None

New Business:

APP-23-020-0012: The City of Spartanburg's Board of Zoning Appeals has received an appeal to the zoning ordinance table of permitted uses to allow a dog grooming business to be located at **200 Dawn Redwood Drive (TMS: 7-09-00-018.14);** with a zoning designation of **B-1 (Neighborhood Shopping District).** Owner: Niren Patel / Applicant: Angie Walker and Tanna Thompson / Agent: Katherine Fulmer and John Easterling.

Project Description and History

A dog grooming business owner requested a Zoning Verification Letter to confirm that a dog grooming business would be allowed at **200 Dawn Redwood Dr. suite 100,** a **B-1 Neighborhood Shopping Zoning District.** Upon review of the city's zoning ordinance, staff confirmed that pet grooming services are not a separate identified uses, but is a recognized service under **Animal Kennels Clinics** (see section 303.6 Table of Permitted Table A#5 - pg 28) and **Veterinary Clinics** (See Table of Permitted uses 303.6 Table B #41 -pg 34). Pet Shops (#77) are an identified Use and is allowed in B-1. Determined to set up a business at this location, staff provided the Agent with options, which included appealing the ordinance. The Applicant decided to appeal the ordinance.

The proposed business location would be at the end cap of a strip center. The shopping center is zoned B-1 and Section 303.6(5) states...[pet] grooming is a permitted activity in B-3 and higher. Pet grooming is **not** an allowed use in B-1, affirmed in Section 303.6(41) where it states...The overnight lodging of pets, if not medically necessary, is prohibited, **as are** clipping (except where medically necessary), grooming, and retail sale of pet products and accessories. An image of this Section is included in the staff report.

Analysis

Zoning Ordinance Consistency

603.3 Appeals.

The Applicant is seeking an appeal to **§303.6 Table of Permitted Uses -Table B #41.** An appeal stays all legal proceedings in furtherance of the action appeal from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property.

The Board must utilize **Section 603.3(A)(1)** and determine if the proposed Appeal meets all the criterion for approval. The Board must hear and decide Appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance;

The Board may grant approval of the appeal in an individual case of unnecessary [site] hardship if the Board makes and explains in writing the following Findings:

Findings

- a. ***There are extraordinary and exceptional conditions pertaining to the particular piece of property;***

Staff does not recognize any extraordinary or exceptional conditions pertaining to this particular piece of property. The space is just over 1200 square feet and is a part of a small strip center, surrounded by larger shopping plaza. Staff talked with the senior building inspector who does not foresee any complications with the locations. Given the use, the Sr. Building Inspector confirmed that an exhaust / ventilation system will be necessary. The business owners, planning staff and the inspector scheduled to meet at the location after the staff report will have been submitted.

b. These conditions do not generally apply to other properties in the vicinity;

Interestingly, PetSmart & PetCo are located in B-1 zoning districts. Both companies are considered pet retailers that *sells pet food, products, and services, as well as certain types of live small animals*. Neither of these locations had to appeal the zoning ordinance, probably because the business is mainly retail, and not animal grooming, or just staff oversight.

Staff talked with the owners who shared that they provide one-on-one services and do not plan to keep pets in kennels. This pet grooming business is a small operation that offers services by appointment only. Need to

c. Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

The application of the Ordinance to this location would **not** effectively prohibit or unreasonably restrict the utilization of the property. The location is in a strip mall and would still be a great space for any business that could fit.

d. The authorization of a Variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the Variance.

No, staff does not believe authorization of this Variance will be of substantial detriment to adjacent properties. Adjacent properties include a nail salon, GameStop, ABC liquor store, and a restaurant. GoodWill, Walmart, a car wash and gas station also surround the location. The pet grooming business could add a need service for pet owners in the surrounding community.

e. In granting a Variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

Attached are conditions of approval, one being the owners schedule a Feasibility Site Visit.

At the October 10, 2023 meeting, the Board **may grant approval** of the Appeal and allow the business to install 319.192 sf of signage, **Approve the appeal with conditions** that includes Staff comments and any additional conditions designated by the board, or **deny** the request. In the case of a denial, the applicant would be required to meet the signage requirements as it is written, or appeal the Board's decision. If necessary, the Board can also **table the matter** for the next meeting and request additional information for review.

In exercising its powers, the Board of Zoning Appeals may, in conformity with the provisions of Section 603, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination, and to that end, has all the powers of the officer from whom the appeal is taken and may direct the issuance of permit approval. The board, in the execution of the duties specified in this chapter, may subpoena witnesses and in case of contempt may certify this fact to the circuit court having jurisdiction.

All final decisions and orders of the board must be in writing and be permanently filed in the office of the board as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the board which must be delivered to parties of interest by certified mail.

Applicant:

Katherine Fulmer, 490 Connecticut Ave, Spartanburg, SC 29302.

Discussion:

The location for this business is conveniently located for shopping and meeting the need for businesses in that area. It should not be a detriment to the other surrounding properties.

A motion was made by Ms. Moore, seconded Ms. Dawkins to approve with a vote of 5-0.

APP-23-00200013 The City of Spartanburg's Board of Zoning Appeals has received an Appeal to the Zoning Ordinance table of permitted uses to allow rental cars in excess of limits located at 249 E. Blackstock Rd. (TMS # 6-21-13-002.00); with a zoning designation of B-1, Neighborhood Shopping District. Owner: Larry O. Harmon; Applicant: Enterprise Rent A Car; Agent: Greyson Furnas.

Project Description and History

The project site is an approximately 66,861 square foot commercial lot located at 249 E. Blackstock Rd. (TMS # 6-21-13-002.00). The lot was in a zoning classification of LOD, Limited Office District, received approval for rezoning to B-1, Neighborhood Shopping District from City Council on September 25, 2023 to accommodate the proposed use of auto rental. The site currently contains one-story building with drive through that was a "Cash n Go"

Currently, Enterprise Rent A Car is located at 238 E. Blackstock Rd, sharing ingress and egress with CPM Federal Credit Union. The applicant, Enterprise Rent A Car is requesting an appeal to the Zoning Ordinance Section 303.6 Table of Permitted Uses **No. 18 Auto, Rental** to allow them to operate the business with no limitation on number of cars, trucks, and trailers with inventory on site.

Such an appeal shall be submitted no later than ten (10) days after the start of construction or within thirty (30) days after a decision by a board, commission, or bureau, or a decision of the Zoning Administrator, whichever is lesser. Such notice of an appeal, special exception, or variance shall be accompanied by a check **in the amount of \$50 payable** to the City of Spartanburg to partially defray the cost of giving public notice of such hearing, none of which shall be refundable. The officer from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which action appealed was taken from.

An appeal stays all legal proceedings in furtherance of the action appeal from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by this Board or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown. To hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance.

Analysis

Zoning Ordinance Consistency

The project site has a zoning designation of B-1 – Neighborhood Shopping District. The zoning designation of the site currently DOES NOT allow for auto rental usage in general. However, also in the current Zoning Ordinance, Auto, Rental business will be allowed on site under the restriction(s) addressed in No. 17 from 303.6 Table of Permitted Uses.

The Board must utilize **Section 603.3(A)(2)** and determine if the proposal meets all the criterion for approval. To hear and decide Appeal from the requirements of the Zoning Ordinance when strict application of the provisions of the Ordinance would result in unnecessary hardship. An appeal may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
- b. These conditions do not generally apply to other properties in the vicinity;
- c. Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- d. The authorization of a Variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the Variance.
- e. In granting a Variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

Findings

1. ***There are extraordinary and exceptional conditions pertaining to the particular piece of property;***

Currently, the site is surrounded by Duke Energy Utility to the right side of the property, and a one-story building with several offices. Currently, Enterprises sits on a smaller site on the other side of E. Blackstock Rd. (238 E. Blackstock Rd) with very limited parking spaces on site. The proposed location, 249 E. Blackstock Rd., has a bigger parking lot in the rear of the property allowing Enterprise Rent A Car to have more inventory on site serving customers without the need of leasing spaces from other properties accommodating the inventory.

2. ***These conditions do not generally apply to other properties in the vicinity;***

Properties to the right side of the project site is a utility site owned by Duke Energy, the site to the left of the project site is housing some offices with enough parking spaces on site. Properties directly across from the project site are a used car dealer, Burns Buy Here Pay Here of Spartanburg, with a zoning designation of B-3, General Business District, and a strip mall center with retail stores. Both the used car dealership and the strip mall center have ample parking spaces on site accommodating parking needs.

3. ***Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and-***

The current Zoning Ordinance 303.6 Table of Permitted Uses either DOES NOT allow Auto Rental in general under B-1, Neighborhood Shopping District, or it restricts the number of cars, trucks, and trailers with inventory on site. The restriction(s) from the current Zoning Ordinance will NOT allow Enterprise Rent A Car to operate completely or have no more than 10 cars, or 5 trucks on the property at one time under the current new zoning designation for the site.

4. ***The authorization of a Variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the Variance;***

Approval of the appeal would not be of substantial detriment to the adjacent properties and would not influence the property values, public health, safety, or general welfare of the public. However, by allowing Enterprise Rent A Car to operate on the site, it is suggested that they may need to work on their due diligence with the neighborhood behind the site to make sure that the noise level is acceptable.

5. ***In granting a Variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare;***

Approval of this appeal will be specific to this site and will NOT AFFECT the zoning ordinance and staff enforcement of the current requirements.

Applicant:

Enterprise Rent A Car; Agent: Greyson Furnas
Greyson Furnas, 400 E Shore Dr, Spartanburg, SC 29302.

Public Comments:

Andrew Betze, 8 Harrier Ct, Irmo, SC 29063.
Phillip Stone, 246 S Spring St, Spartanburg, SC 29306.

Discussion:

The business is utilized appropriately. It will allow the applicant to have more parking space in the rear for more convenient customer parking in front.

A motion was made by Mr. Murdoch, seconded Ms. Dawkins to approve with a vote of 5-0.

Staff announcements.

The meeting was adjourned at 6:15 PM.



Darren Matz , Chairman