

BOARD OF ZONING APPEALS

MINUTES

Monday, October 27, 2014

6:30 p.m.

**Council Chamber
City Hall**

Members Present:

Levy Young
Ted Gardner
James Zimmerman

Leon Brewer (Alternate)

Staff Members Present:

Mary Adger – Administrative Services Coordinator
Patrina Space – Acting Secretary

- I. **Welcome/Introductory Remarks:** Mr. Levy welcomed all present and introduced members of the Board and staff.
- II. **Invocation:** Mr. Levy Young.
- III. **Approval of Minutes:**

Minutes of the Regular Meeting of August 25, 2014. A **motion** was made by Mr. Gardner and was seconded by Mr. Zimmerman to accept the minutes with a correction on page one to change Mrs. to Mr. All favored the motion.

- IV. **Request No. E-2014-01 by Onnie Kendall to be allowed a special exception for residential use at 321 S. Church Street, Tax Map #187-03-02-017-00, zoned Office Commercial (OC).**

Proponent:

Onnie Kendall, Property Owner

Mr. Kendall stated that he was the property owner and lived in Summerton; however, he purchased the property at 321 South Church Street but did not realize that it was zoned for commercial use until he attempted to turned water service on. As a result, he requested to have his property rezoned.

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Mr. Levy followed by stating that the Board of Appeals did not hear rezoning requests but the Planning Commission did; however, the Board could hear the request for a special exception to use the property for residential use.

Following, Mrs. Adger, for clarity, stated for the Board that the former property owner along with others had their properties rezoned to a commercial zoning; however, Mr. Kendall was informed when he came to have his water turned on that his property could possibly be used for residential purposes by the granting of a special exception without having it rezoned. Mr. Kendall was informed that if he desired to have the rezoning it would take two acres of property (his and/or contiguous properties). Mr. Kendall stated that he desired to request the special exception and that is why he is before the Board.

Mr. Zimmerman inquired if it mattered whether or not the property owner lived there. In response, Mrs. Adger stated that it did not matter if the owner lived there or not.

Mr. Brewer inquired if the commercial zoning would remain attached to the property along with the special exception if granted even if the property was sold again. In response, Mrs. Adger responded that if the property was sold again the zoning would remain the same and the special exception would remain if granted.

No one was present opposing the request.

Next, Mr. Zimmerman made a **motion** that was seconded by Mr. T. Gardner to grant the special exception for residential use at at 321 South Church Street. All favored the motion.

V. Request No. E-2014-021 by Marsha Evans to be allowed a special exception to operate a child daycare at 15 N. Brooks Street, Tax Map #169-15-06-020-00, zoned Core Commercial (CC).

Proponents:

Marsha Dozier Evans, Applicant

Mrs. Evans stated that she requested a special exception to have a child learning center on Brooks Street. Her previous location on Alex Harvin Highway was recently closed as of October 17th due to major problems with renovations to the building.

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Following, Mr. Young stated that a number of letters had been received; however, one letter did address inadequate parking and concerns around dropping off and picking up children. Mr. Young asked Mrs. Evans if she would address those concerns.

In response, Mrs. Evans stated that the front entrance of her property would be used for an emergency exit; however, the rear (the back parking lot) would be used to drop off and pick up children. She also stated that she only had two staff members that drove and only needed two of the parking spaces in the rear of the building. Furthermore, the operational hours would be from 6:30 am to 6:00 pm and on average there may be two parents picking up and dropping off children at same time. Therefore, never will a lot of cars be present at the same time.

Next, Mr. Gardner inquired if the children will have a place to play with the area being located in the heart of down town.

Mrs. Evans responded that the State Fire Marshall and DSS had already looked at a number of commercial childcare centers located in the city limits and utilizing commercial buildings. As a result, they were not required to have a playground on site. Therefore, she would use the area park located near the school district office by commuting back and forth to the park. She further stated that she is renting the building now and will own it after two years.

Mr. Gardner shared that he personally did not believe that the location was a practical place for a childcare center in his opinion. He further stated that the area is too crowded without a good parking facility.

Mr. Sam Levy inquired about the entrance for the property.

Mrs. Evans stated that entrance to the property would be from the back. She also stated that the property owner, Phil Pham, would add steps, slope the area and put in a fence where parents and staff will drop off and pick up children.

Mr. Zimmerman asked Mrs. Evans if she was allotted four or five designated parking spaces behind the building.

In response, Mrs. Evans said, "Correct." She stated the property owner had two buildings with seven parking spots located in the back.

Mr. Zimmerman asked Mrs. Evans if she was saying that the other tenants would allow her to use their spaces.

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In response, Mrs. Evans stated that she would not use the other tenant spaces. The nail technicians from the salon will use the alley way for their entrance and the fence would be located near the big wall.

Mr. Brewer asked Mrs. Evans if she was before the Board last year around the same time.

In response, Mrs. Evans stated "Correct." She said that she had the chiropractic building; however, there was mold among other things that is much more than she had anticipated for repairs.

Following, Mr. Levy said to Mrs. Evans that consideration had to be given to cars traveling in and out behind the building.

Mrs. Evans said that she had addressed her concerns with the Fire Marshall. Traffic would therefore come through the back way where the Item was located (off of Mill Street and not the Brooks Street alley way). She stated that Brooks Street is a busy street.

Mr. Zimmerman asked Mrs. Evans how many children she would be allowed to keep.

Mrs. Evans responded that she desired to have an open floor concept that would allow her to have up to 130 children; however, that is on hold now. Presently, she could average 30-35 children. She also stated that the State Fire Marshall does all of that type of regulating now.

Opponents:

Sam Levy, Business Owner

Mr. Levy stated that he owned two businesses downtown located at 21 and 25 North Brooks Street. He also stated that he has been located in the area since 2000 which is about 14 years and has seen a lot of businesses come and go.

Mr. Sam Levy stated that he is against it because downtown is not adequate for a child daycare. He further stated that parking is so congested in the back of the buildings and that it is just unbelievable. Also, he said that the nail salon only has four spots. He added that he knew the gentleman sitting in the audience there had some of the spots and that he did not believe all belong to Phil. He ended by saying that he hoped that Mrs. Evans could find a different location.

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Terry Land, Business Owner

Mrs. Land started off by stating that she was a little confused because Mrs. Evans was speaking about private property. Mrs. Land stated that there was no public parking in the rear of the buildings. All of the area in the back of the building is privately own land. Mrs. Land stated that, as previously said by Mr. Sam Levy, the nail technicians took up about four parking spaces that have been assigned. Everybody knew that this piece of property was the old Surburban building. It was one building that was about 65 feet wide in the back and four cars were already using those allotted spaces.

Mrs. Land stated that Mrs. Evans would have to cross private property to get to that allotted space and that she (Mrs. Land) as a property owner had concerns about children running out to a car being picked up by a parent on her private property. Therefore, she would ask the committee to please respect her private property rights as to who can be on her private property and who cannot.

Mr. Zimmerman asked Mrs. Land where her property was located.

Mrs. Land stated that when you entered by the Item and turned right, her property abutted the Items' property. My husband and I own the Manning Finance and Manning Realty. Their property began from their building and ran all the way back -- up to back to the property line adjacent to the Item.

Mr. Land stated that she believed the Board also had an email or letter of opposition for the Jones' in which she was almost certain that Mrs. Evans would have to cross the Jones' property to get back the to the property that she is speaking of.

Mr. Zimmerman stated that he was not familiar enough with entrance and exits in the vicinity.

Mrs. Land stated it was all private property and that there was no public property in the rear. She further stated that the City did not own any property except what was recently bought with its building.

Ruth Lambert, Business Owner (Brooks Street)

Mrs. Lambert stated that she was against a daycare locating downtown. She stated that she was in the building next door to the one Mrs. Evans was renting. She stated that she was concerned about the noise level but that she was really concerned about the business and safety of the children. As far as the parking goes, she stated that they all got along but that it was very congested back there. Mrs. Lambert stated that Mrs. Evans may be able to come in by The Item but she did not know how she could get through to the property.

Also, she again pointed out that the nail techs came through the alley way. In

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addition, she did not think the daycare was conducive to what the Downtown Manning Revitalization was trying to do. Mrs. Lambert stated that she was just opposed to a daycare in there. She said that when she looks out of her shop and see the police, fire trucks and ambulances going through there and don't know how fast those vehicles are going through she would hate to see a child get hit. Furthermore, she would hate to be the one to hit a child back there in the back of the buildings. There is no space for a playground.

David Swartz, 7 W. Boyce Street, Owner of Schwartz Department Store

Mr. Swartz stated that his property extends to back of the property where a lot of people park. His main concern is what the daycare will make the town look like having it in the business district. He said he just did not think we need that type of business in the business district; it makes the town look bad.

No one else was present for the daycare.

Rebuttal

Mrs. Evans

In her rebuttal, Mrs. Evans stated that businesses come and go and that it appeared that many have used the back parking and never had any problems using the area. In addition, she stated that everyone talked about parking spaces with the exception of the last gentleman. Mrs. Evans stated that cars come and go like with all businesses as well as employees. And, there seem to have been no problems before. She said that she did not understand how this would be a problem now and that no one understood that nothing would come from the front. Also, in Mrs. Evans view, she did not believe the same as everyone that the police traveling fast through the area would affect the children inside of the center. Plus, she said if you cannot see a child when you are backing up back there, then you would not see an adult backing up there either. Mrs. Evans stated that she did not believe that anybody would hit someone. She further stated that she did not have any past problems with kids running into her day care where she was for five years and do not believe she will have any problems with children going out of building a few feet away from the building to their parents' vehicle.

As for what will the city limits look like downtown in five years, Mrs. Evans stated that every time she paid her taxes, she brought money. Money that she believed benefited the city. The City has never had a daycare in the city limits around the courthouse; therefore, we do not know how the district will look. But, it will

provide income and bring business to the city. Mrs. Evans then said that no matter where she is located business will come.

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Following, Mr. Levy said that the question is not whether or not we want child care in the city limits Mrs. Evans but whether or not we want it downtown.

Mrs. Evans made no further comments.

Following, Mr. T. Gardner made a **motion** that the request be denied at this time. The motion was seconded by Mr. Zimmerman. There was no further discussion. All favored the motion.

VI. Board Comments:

There were no Board comments.

Mrs. Adger reminded everyone about the upcoming orientation and continuing education training sponsored by Santee Lynches and Clarendon County.

VII. Adjournment:

Mr. Zimmerman **moved** to adjourn. Mr. Gardner seconded the motion. All favored the motion.

Time: 6:45 pm

Respectfully submitted,

Patrina Space, Acting Secretary