

MINUTES ADOPTED BY THE BOARD OF ADJUSTMENT
March 24, 2016

The Greenville Board of Adjustment met on the above date at 6:00 PM in the City Council Chamber of City Hall.

Scott Shook, Chairman-*
Charles Ewen, Co-Chair *
Kevin Faison *
Justin Mullarkey X
Jim Watts *
Jeremy Spengeman *
Claye Frank *
Thomas Taft, Jr. X
Bill Johnson X
Rich Winkler X

The members present are denoted by an “*” and those absent are denoted by an “X”.

VOTING MEMBERS: Shook, Ewen, Frank, Faison, Watts, Spengeman

OTHERS PRESENT: Mr. Bill Little, Assistant City Attorney
Mr. Michael Dail, Planner
Ms. Amy Nunez, Secretary
Ms. Jewel Jones, Communications Technician

MINUTES

Mr. Watts made a motion to approve the February 25, 2016 minutes as presented, Mr. Ewen seconded and the motion passed unanimously.

PUBLIC HEARING ON A REQUEST FOR SPECIAL USE PERMIT BY PRUDIE BROWN- APPROVED

The applicant, Prudie Brown, desires a special use permit to operate a home occupation child day care pursuant to Appendix A, Use (3)a. of the Greenville City Code. The proposed use is located at 114 Azalea Drive. The property is further identified as being tax parcel number 08272.

Mr. Dail delineated the area on the map. He stated that the property is located in the southeastern portion of the City’s jurisdiction.

Zoning of Property: R9S (Residential Single Family)

Surrounding Zoning:

North: R9S (Residential Single Family)
South: R9S (Residential Single Family)
East: R9S (Residential Single Family)
West: R9S (Residential Single Family)

Surrounding Development:

North: Single Family Residences

South: Single Family Residences
East: Single Family Residences
West: EB Aycock Middle School

Description of Property:

The subject property is located in the Dellwood Neighborhood, is 0.30 acres in size and contains a 2,273 square foot single family residence.

Comprehensive Plan:

The property is located within Vision Area “C” as designated by the Comprehensive Plan. The proposed use is in general compliance with the Future Land Use Plan which recommends residential development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on March 10, 2016. Notice of the public hearing was published in the Daily Reflector on March 14, 2016 and March 21, 2016.

Related Zoning Ordinance Regulations:

Definition:

Home occupation. An activity conducted for financial gain as an accessory use to a detached single-family dwelling unit by a member of the family residing in the dwelling unit.

- (1) Home occupation shall meet all of the following characteristics:
 - (a) Shall only be permitted within detached single-family dwelling units;
 - (b) Shall not be permitted within any accessory building;
 - (c) Shall constitute an accessory use to the principal use;
 - (d) Shall not occupy more than 20% of the mechanically conditioned enclosed floor space of the dwelling unit;
 - (e) Shall not employ more than one person other than those persons legally residing within the principal use dwelling;
 - (f) Shall not be visible from any public right-of-way or adjacent property line;
 - (g) Shall not involve the on-site sales of products;
 - (h) Shall not involve any outside storage of related materials, parts or supplies;
 - (i) Shall have signage in accordance with Article N; and

- (j) Shall not create any hazard or nuisance to the occupants residing or working within the principal use dwelling or to area residents or properties.

Staff Recommended Conditions:

Day care must comply with all state licensing requirements and regulations for home based child day care facilities.

Applicant may provide service for no more than five (5) children at a time.

Three parking spaces must be provided and parking area must be improved to meet city standards before operation of home occupation.

All accessory structures, including but not limited to playground equipment and pools must be located in the rear yard.

A fenced in play area shall be installed in the rear yard. Fence and play area must meet state requirements.

Staff Recommendation:

Planning staff is of the opinion that the request can meet all the development standards required for issuance of a special use permit upon proper findings by the Board.

Mr. Watts asked if the three required spaces were on the property or street.

Mr. Dail stated it is on the property and the required spaces already exist.

Chairman Shook opened the public hearing.

Ms. Prudie Brown, applicant, spoke in favor of the request. She stated she has been in child care for 14 years and this request is for small children at the early development stage. She has held a four star license when she worked in New Bern, NC. She has moved to Greenville and wants to start her business here.

Mr. Faison asked for the age group and the hours of operation.

Ms. Brown stated 0-6 years of age and the hours are 6am to 6pm.

Mr. Watts asked if there is going to be other adult supervision.

Ms. Brown stated she is qualified by the State for up to 5 children. Her husband recently retired and will be home.

Mr. Faison asked if the back yard was fenced.

Ms. Brown stated yes.

Mr. Levy Brown spoke in favor of the request. He stated it is his wife's work but since he is retired he will be

around to help. He stated she does a fine job and has been doing it for many years.

Mr. Faison asked how long they have lived in Greenville.

Mr. Brown stated about two years but only four months at this property.

Mr. Joe Goodson Jr., resident of 102 Azalea Drive, spoke in opposition of the request. He stated their neighborhood is small. It is next to Aycock School and Memorial Baptist Church, which has a day care center, which bring a lot of traffic in the morning, afternoon, and events. It is a cut thru area from Red Banks Road to Greenville Boulevard. A speed bump was placed. He suggested that being allowed 5 children could create shifts like 5 children in the morning, 5 children in the afternoon and 5 children in the evening. He stated the request would cause more traffic than they already have. It is a safety concern since children walk to/from school and play in the street. They already have two group homes in the neighborhood without problem but he feels that the neighborhood cannot absorb any more change.

Mr. Watts asked what kind of group homes and how close to the request.

Mr. Goodson stated substance abuse recovery and about 100 yards.

Mr. Jack Metts, resident of 102 Camellia Lane, spoke in opposition to the request. He stated Dellwood Drive is the one main thoroughfare in the neighborhood which connects Red Banks Road with Greenville Boulevard. There is a lot of traffic. He stated his first concern is foot traffic since there are no sidewalks in the neighborhood. His second concern is the appropriate or best use for the property. He stated it is disrespectful of the applicant to already be running a daycare without the Board's permission.

Mr. Watts asked if the day care was already operating.

Mr. Metts stated it appears so since he has seen cars and children on the property.

Mr. Watts asked if he had observed children being dropped off or picked up.

Mr. Metts stated no but has seen children playing in the fenced yard.

Mr. Garland Anderson, adjacent property owner, spoke in opposition of the request. He enjoys his back yard, has a dog in the back yard, and there is a dead tree in his yard that he hasn't pulled down yet. He doesn't want the children to get hurt.

Mr. Stearle Pittman, resident of 200 Dellwood Drive, spoke in opposition to the request. He stated he has lived there since 1973. The community has changed but no businesses he is aware of. People do not understand the neighborhood stop signs. It is dangerous for children playing in the street and it is not a place for a day care.

Mr. Spengeman asked how long had the school and church been in the neighborhood.

Mr. Pittman stated they were there when he moved into the neighborhood.

Mr. Walt Mercer, resident of 204 Dellwood Drive, spoke in opposition to the request. He stated the neighborhood is

small. More traffic came once properties became rentals and group homes began. The neighborhood cannot keep taking in change. Property values have been affected. It is not a place for a business. He stated he had a small petition from neighbors opposing the request.

Chairman Shook stated the petition would be taken under advisement but people need to be present to testify.

Mr. Ewen asked if there were requirements for day cares around group homes.

Mr. Dail stated there are no City standards.

Chairman Shook stated that group homes do not require special use permits.

Mr. Faison stated that he is familiar with group homes as his business. They are governed by the Department of Social Services and are protected under the Mental Health and Disability Act. Due to mental health rights, notification is not sent out to adjoining properties when a new location is established.

Chairman Shook stated the Board does not determine what can or cannot be done in a neighborhood. It would require a covenant or association. The condition of 5 children is a normal City condition and is not specific to this request. If an association or covenant stated otherwise, it would be between them and the property owner and not the City.

Mr. Dail stated it would be a legal matter unrelated to the City.

Ms. Brown spoke in rebuttal. She stated the property is fenced and her schedule is filed with the State. Children have one hour a day to be outside. Drop off/pick up will not be at the same time. She stated she has liability insurance for the day care. She is trying to make a honest living.

Mr. Watts asked if item G on page 6 of her application was an oversight. It stated it would create a nuisance.

Ms. Brown stated it was an oversight. It should read it will not create a nuisance.

Chairman Shook asked the applicant if she understood the rules, regulations and City ordinances.

Ms. Brown stated yes.

Chairman Shook asked for the Staff Recommendation.

Mr. Dail stated Staff has no objection with the stated conditions.

Chairman Shook closed the public hearing and opened for board discussion.

Mr. Spengeman stated he understood the traffic concern but did not believe the request would cause a nuisance.

Attorney Little stated there was an issue raised about various shifts. The applicant specifically stated a time frame from 6am to 6pm. This is indicated as only one shift and the applicant would be bond to that as a condition if the Board approves the application. If there was any noise disturbance, it would fall under the City Noise Ordinance.

Chairman Shook asked the applicant if she understood and agreed to comply with Attorney Little's statement.

Ms. Brown stated yes.

Mr. Watts stated he was concerned with the proximity of the group homes.

Mr. Spengeman stated the school and church are already there and the group homes are not an issue.

Mr. Faison stated group homes require supervision 24 hours a day. He stated that it is very rare to have incidents outside of the residential facility and they are monitored by the State. He also stated he frequents this neighborhood since he has children that attend school in the area. He is aware of the traffic and suggested the neighborhood take their concerns to the School Board. The cars from the day care will not have an impact.

Chairman Shook read the required findings criteria. No objections.

Mr. Ewen made a motion to adopt the finding of facts, Mr. Spengeman seconded and the motion passed unanimously.

Mr. Faison made a motion to approve the petition with the stated conditions, Mr. Spengeman seconded and the motion passed unanimously.

With no further business, Mr. Ewen made a motion to adjourn, Mr. Frank seconded, and it passed unanimously. Meeting adjourned at 6:40 p.m.

Respectfully Submitted,

Michael R. Dail, II
Planner