

MINUTES ADOPTED BY THE BOARD OF ADJUSTMENT  
August 24, 2017

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

Bill Johnson, Chair \*  
Kevin Faison \*  
Michael Glenn \*  
Rich Winkler X  
Brad Guth X

Ann Bellis \*  
Thomas Taft, Jr. X  
Rodney Bullock \*  
James Moretz \*

The members present are denoted by an "\*" and those absent are denoted by an "X".

VOTING MEMBERS: Johnson, Faison, Glenn, Bullock, Moretz, Bellis

OTHERS PRESENT:

Ms. Elizabeth Blount, Planner II  
Ms. Amy Nunez, Secretary

Mr. Donald Phillips, Assistant City Attorney  
Mr. Kelvin Thomas, Communications Technician

**MINUTES**

Mr. Moretz made a motion to approve the June 22, 2017 minutes as presented, Mr. Faison seconded and the motion passed unanimously.

Mr. Faison made a motion to approve the July 27, 2017 minutes as presented, Mr. Moretz seconded and the motion passed unanimously.

Attorney Phillips reviewed information. As stated on pages 2 to 3 of the Meeting Handout available to the Public, the EVIDENCE TO BE CONSIDERED BY THE BOARD OF ADJUSTMENT IS AS FOLLOWS:

A. The Board of Adjustment is a quasi-judicial body that makes a decision concerning an application, petition or appeal based on the evidence presented by those in favor as well as those in opposition.

B. The members of the Board of Adjustment are lay persons and as such, the rules of evidence that are followed in a court are relaxed for cases heard before this body.

C. Though the rules of evidence are relaxed, it does not mean they are ignored. Only evidence that is material, competent, and substantial will be considered and may be used by the Board in its decision-making process.

D. The Board may not consider, nor is it admissible to present or offer affidavits, letters or other writings in support of or in opposition to a matter before the Board unless the person who prepared the writing is testifying. These writings are considered hearsay.

1. Statements by a person such as “In my opinion, the application will create a traffic hazard,” is not an admissible opinion and may not be considered by the Board.

a. However, such an opinion may be admissible if it is made by an expert or a person who is qualified to give opinions concerning traffic hazards, is making a presentation to the Board concerning his or her investigation and the basis for his or her conclusion in the report.

b. A lay person can give an opinion but he or she also must present facts to show how the proposal affects his or her piece of property specifically and not just in a general way.

2. A statement that another person who is not present and not testifying either supports or doesn't support the petitioner or application is hearsay and is not admissible.

3. The same rule applies to both the applicant and those in opposition.

Pursuant to North Carolina General Statute 160A-388 and Section 4 of the Board of Adjustment's Rules of Procedure:

4-3. No member of the Board of Adjustment shall participate in either the discussion or vote on any special use permit, variance, or appeal from an administrative officer's decision in any manner that would violate the affected persons' constitutional right to a fair and impartial decision maker. Prohibited conflicts include but are not limited to a member having a fixed opinion prior to hearing the matter and not willing to consider changing his or her mind; and undisclosed ex parte communications with the person before the Board, any witnesses, staff, or other Board members. Decisions on either a request for recusal by a member or objections by a person appearing before the Board shall be decided by a simple majority vote.

4-4. No Board Member shall take part in the hearing, consideration, or determination of any matter in which that Board Member is involved or has a financial or personal interest. Personal interest shall be defined as having a family member involved in the project under consideration, a neighborhood association involvement where a Board Member is on the governing body of such association, or where the Board Member is involved in a conflict or dispute with the applicant on a matter unrelated to the application. If a Board Member has such a conflict, he shall declare the conflict and request to be excused from voting on the issue. A majority vote of the remaining members present shall be required to excuse the member.

4-5. No Board member shall vote on any matter deciding an application or appeal, unless he shall have attended the public hearing on that application or appeal.

4-6. No Board member shall discuss any case with any parties in interest prior to the public hearing on that case, provided however, that members may receive and/or seek information pertaining to the case from any other members of the Board.

If a Board member has had an ex parte communication that also needs to be disclosed at this time.

## **PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY 692 OLIVE, INC–APPROVED**

The applicant, 692 Olive, Inc., desires a special use permit to operate a wine shop pursuant to Appendix A, Use (10)c. of the Greenville City Code. The proposed use is located at 692 E. Arlington Boulevard. The property is further identified as being tax parcel number 44946.

Ms. Blount stated the request is to operate a wine and/or craft beer shop. Although the applicant only requests to sell wine, the use would include craft beer according to City Ordinance 15.019 which was adopted April 2015. She delineated the area on a map. She stated the property is located in the southern portion of the City's jurisdiction. The property contains a 2,668 square foot unit located within Arlington Village.

**Zoning of Property:** CG (General Commercial)

### **Surrounding Zoning:**

North: CG (General Commercial)  
South: CG (General Commercial)  
East: CG (General Commercial)  
West: CG (General Commercial)

### **Surrounding Development:**

North: Merle Norman, Steinbeck's, Cubbies, Carolina East Mall  
South: Jeni K, The Absolute Studio, Plum Tree Bistro, Retail Shops  
East: Monza Extra Special, Serendipity, Monkees, Retail Shops  
West: Staples, BW3, AV Nail Spa, Toshiba Solutions, Retail Shops

### **Comprehensive Plan:**

The property is located within the Mixed Use, High Intensity character type as designated by the Horizon 2026 Plan. The proposed use is in compliance with the Future Land Use Plan which recommends commercial and retail development for the subject property.

### **Notice:**

Notice was mailed to the adjoining property owners on August 10, 2017. Notice of the public hearing was published in the Daily Reflector on August 14 and 21, 2017.

### **Related Zoning Ordinance Regulations:**

#### **Definition:**

*Wine and Craft Beer Shop.* An establishment conducted pursuant to G.S. 18B-1001 as amended, and operated as a principal or accessory use, which is authorized to sell wine and/or craft beer in the manufacturer's original container for consumption off the premises, provided however, the permittee shall

be authorized to conduct accessory and incidental wine and/or craft beer tasting on the premises and is further authorized to sell wine and/or craft beer for on-premise consumption, as an accessory and incidental use to the “wine and craft beer shop”, provided the establishment and operation is compliant with section 9-4-103(S). Among the two limited types of alcoholic beverages that may be sold, a “wine and craft beer shop” may sell wine exclusively, craft beer exclusively, or both wine and craft beer provided that the “wine and craft beer shop” has the requisite state permit(s) that allows retail sales of wine and/or malt beverages for consumption on the premises. A “wine and craft beer shop” that does not meet the requirements of section 9-4-103(S) shall be deemed a public or private club for the purpose of zoning and land use classification. For purposes of the wine and craft beer shop use, craft beer is defined as a malt beverage from a brewer with an annual production of 6 million barrels of beer or less. Notwithstanding the foregoing, wine and beer shops may offer retail products and prepared pre-packaged food for purchase as an incidental use.

Specific Criteria:

Section 9-4-103 (S)

- (1) A wine and craft beer shop may sell wine and/or craft beer for consumption on the premises, provided that the on-premise consumption of wine and/or craft beer constitutes an accessory and incidental use to the wine and craft beer shop.
- (2) A wine and craft beer shop that also has the requisite state permit(s) that allows retail sales of malt beverages for on-premise consumption, in accordance with G.S. 18B-1001 as amended, may sell both wine and malt beverages for consumption on the premises, provided that the combined on-premises consumption of wine and malt beverages constitute an accessory and incidental use to the primary retail use wine and craft beer shop.
- (3) For purposes of this section, on-premises consumption of wine and malt beverages shall be deemed an accessory and incidental use to a wine and craft beer shop, provided the combined sale of wine and malt beverages for consumption on the premises does not exceed 40% of the wine and craft beer shop’s total sales of wine and malt beverages including both on-premises and off-premises consumption, for an 30 day period. The term “sales(s)” as used herein shall be the receipt of payment for the wine and malt beverages sold and/or consumed and shall not be a measure of the volume of wine and malt beverages sold and/or consumed.
- (4) Records related to the wine and craft beer shop’s total sales of wine and malt beverages for both on-premises and off-premises consumption shall be maintained on the premises for not less than one year and shall be open for inspection and audit at all reasonable hours when the establishment is open for business by the Zoning Enforcement Officer. The Zoning Enforcement Officer may review the records on the premises or may request that copies of the written records be delivered to the City. The requirements of this subsection shall be for the purpose of determining compliance with subsection (S) (3) above.
- (5) No wine and craft beer shop that includes the on-premises consumption of wine and malt beverages shall be located within a 200-foot radius, including street rights-of-way, of an existing or approved public or private club, dining and entertainment establishment, or other wine and

craft beer shop that include the on-premises consumption of wine and malt beverages. The required measurement shall be from the building or structure containing the wine and craft beer shop to the nearest property line of the parcel containing the existing or approved public or private club, dining or entertainment establishment, or other wine shop that includes the on-premises consumption of wine and malt beverages.

- (6) A wine and craft beer shop shall not operate after 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, and Thursday or after 12:00 a.m. on Friday and Saturday.
- (7) A wine and craft beer shop shall not require a membership, cover or minimum charge for admittance or service during regular or special periods of operation.
- (8) A wine and craft beer shop that does not meet the requirements of section 9-4-103(S) shall be deemed a public or private club for the purpose of zoning and land use classification.
- (9) The provisions of this section shall apply to all wine and craft beer shops whether operated as a principal or accessory use.

**Staff Recommended Conditions:**

Shall not operate as a private club as defined in Section 9-4-22 of the City of Greenville Zoning Ordinance.

The wine and craft beer shop shall comply with all North Carolina ABC laws.

**Other Comments:**

The proposed project must meet all related NC State fire and building codes prior to occupancy.

**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.

Chairman Johnson opened the public hearing.

Ms. Leah Danak, applicant, spoke in favor of the request. She is the owner of 692 Olive and in October will be five years in operation. Her customers have suggested she sell wine. She feels that wine will complement her current products. She sells vinegars and oils and would add a few bottles with occasional wine tasting.

No one spoke in opposition of the request.

Chairman Johnson asked for staff recommendation.

Ms. Blount stated staff has no objections to the request with the stated staff recommendations.

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

No board discussion made.

Chairman Johnson read the required findings criteria. No objections.

**Mr. Moretz made a motion to adopt the findings of facts, Mr. Glenn seconded and the motion passed unanimously.**

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

**PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY CAROLINA SCALP CENTER, LLC.-APPROVED**

The applicant, Carolina Scalp Center, LLC., desires a special use permit to operate a personal services otherwise not listed (micropigmentation hair restoration) pursuant to Appendix A, Use (15)a. of the Greenville City Code. The proposed use is located at 315 Evans Street. The property is further identified as being tax parcel number 04479.

Ms. Blount stated the request is for personal services otherwise not listed. It is specifically for scalp micropigmentation, which is like hair tattooing for hair loss. She delineated the area on a map. The property is in the northern portion of the City's jurisdiction. The property contain a 6,000 square foot office building with several units inside. The building has approximately 45 feet of frontage along Evans Street and is located in the Uptown District.

**Zoning of Property:** CD (Downtown Commercial)

**Surrounding Zoning:**

- North: CD (Downtown Commercial)
- South: CD (Downtown Commercial)
- East: CD (Downtown Commercial)
- West: CD (Downtown Commercial)

**Surrounding Development:**

- North: Burch Law Office, Self-Help Credit Union, Uptown Nutrition
- South: Hendrix Building, City Parking Lot
- East: Parking lots
- West: The East Group, Schroko's Hair Studio, Vacant Units

**Comprehensive Plan:**

The property is located within the Uptown Core character type as designated by the Horizon 2026 Plan. The proposed use is in compliance with the Future Land Use Plan which recommends commercial and office development for the subject property.

**Notice:**

Notice was mailed to the adjoining property owners on August 10, 2017. Notice of the public hearing was published in the Daily Reflector on August 14 and 21, 2017.

**Staff Recommended Conditions:**

Must obtain a permit from the Department of Public Health as required by NCGS §130A-283, and comply with any other health department requirements including but not limited to sanitation, first aid, vaccinations, health certifications, disposal of needles and other bio hazard waste material.

Must comply with NCGS §130A-283 and 15A NCAC 18A.3200 et seq. (tattoo regulations)

Services shall be limited to scalp micropigmentation only and shall not include body art or body piercing services.

**Other Comments:**

The proposed project must meet all related NC State fire and building codes prior to occupancy.

**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.

Chairman Johnson opened the public hearing.

Mr. Michael Greene, applicant, spoke in favor of the request. Carolina Scalp Center is a hair loss solution for baldness, hair loss and scalp scars. It is a pigmentation process where ink is applied to the scalp. No tattooing or piercing will be done. The Health Department has already inspected the property and it passed inspection.

Mr. Overton, broker for the owner of the building, spoke in favor of the request. It is a good and compatible use with the other offices in the building.

Mr. Bullock asked if there is a special license required.

Mr. Greene stated a tattoo license since it has similar equipment. The business will be like a doctor's office and not a tattoo parlor. He stated he was trained in Houston Texas.

No one spoke in opposition of the request.

Chairman Johnson asked for staff recommendation.

Ms. Blount stated staff has no objections to the request with the stated staff recommendations.

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

No board discussion made.

Chairman Johnson read the required findings criteria. No objections.

**Mr. Moretz made a motion to adopt the findings of facts, Mr. Glenn seconded and the motion passed unanimously.**

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

**With no further business, Mr. Glenn made a motion to adjourn, Mr. Moretz seconded, and the motion was passed unanimously. Meeting adjourned at 6:25 p.m.**

Respectfully Submitted,

Elizabeth Blount  
Planner II