

MINUTES ADOPTED BY THE BOARD OF ADJUSTMENT

September 25, 2014

The Greenville Board of Adjustment met on the above date at 7:00 PM in the City Council Chamber of City Hall.

Scott Shook, Chairman \*

Charles Ewen \*

Bill Fleming \*

Thomas Taft, Jr. X

Bill Johnson \*

Jeremy Spengeman \*

Claye Frank X

Justin Mullarkey X

Kevin Faison \*

Michael Overton \*

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

VOTING MEMBERS: Shook, Ewen, Fleming, Faison, Johnson, Overton, Spengeman

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

**AGENDA**

Mr. Shook made a motion to add item #5-discussion of October 2014 meeting, Mr. Faison seconded and the motion passed unanimously.

Mr. Ewen made a motion to approve the agenda as amended, seconded by Mr. Faison, and the motion passed unanimously.

**MINUTES**

Mr. Fleming made a motion to approve the August 28, 2014 minutes as presented, Mr. Ewen seconded and the motion passed unanimously.

**PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY ANDRES CASTILLO HELAREZ- APPROVED**

The applicant, Andres Castillo Helarez, desires a special use permit to operate an automotive major repair facility pursuant to Appendix A, Use (9)a. of the Greenville City Code. The proposed use is located at 1508 Dickinson Avenue. The property is further identified as being tax parcel number 04196.

Mr. Dail delineated the area on the map. He stated that the property is located in the center portion of the City at the corner of Manhattan Avenue and Dickinson Avenue. It is located on the major thoroughfare of Dickinson Avenue.

**Zoning of Property:** CDF (Downtown Commercial Fringe)

**Surrounding Zoning:**

North: CDF (Downtown Commercial Fringe)

South: CDF (Downtown Commercial Fringe)

East: CDF (Downtown Commercial Fringe)

West: CDF (Downtown Commercial Fringe)

**Surrounding Development:**

North: Single Family Residences  
South: Electric Supply Co.  
East: Single Family Residences  
West: First Choice Auto Sales

**Description of Property:**

The subject property is 0.25 acres in size, has 100 feet of frontage along Dickinson Avenue and contains a 3,150 square foot building.

**Comprehensive Plan:**

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

**Notice:**

Notice was mailed to the adjoining property owners on September 11, 2014. Notice of the public hearing was published in the Daily Reflector on September 15, 2014 and September 22, 2014.

**Related Zoning Ordinance Regulations:**

Definition:

*Repair; major.* The following activities shall be considered major repair:

- (1) Engine overhaul or dismantling of subparts;
- (2) Body or frame repair;
- (3) Windshield or glass replacement;
- (4) Transmission, starter, alternator or other subpart rework service;
- (5) Welding or metal cutting; and
- (6) Any other repair other than minor repair.

*Repair; minor.* The following activities shall be considered minor repair:

- (1) Engine tune-up; changing of plugs, filters, oil, lubricants, belts, adjustments;
- (2) Change and rotate tires;
- (3) Brake services;
- (4) Electrical system services;
- (5) Radiator services;
- (6) Muffler services; and
- (7) Battery service.

Specific Criteria:

- (1) All wrecked or damaged motor vehicles and parts shall be screened so as not to be visible from adjoining property lines and street right-of-way.
- (2) All vehicles on the premises for repair shall be stored at the rear of the principal structure.
- (3) No vehicle shall be stored on the premises for more than 15 days.
- (4) There shall be no exterior storage of items other than vehicles.

- (5) Sale of vehicles shall be in accordance with Article B, section 9-4-22, definition of automobile, truck, recreational vehicle, motorcycle and boat sales, contained therein.
- (6) Rental or utility trailers, cars and trucks shall be permitted as accessory uses, provided that all units in excess of four shall be screened from adjoining street right-of-way and property lines in accordance with Bufferyard C or with a bufferyard of greater intensity as required by the bufferyard regulations.
- (7) Outdoor displays of products such as tires, oil, wiper blades or other similar products shall be permitted provided they are within ten feet of the principal structure and outside required bufferyards. Signage displayed in conjunction with such display shall be in accordance with the sign regulations.
- (8) All services except fuel sales shall be performed within a completely enclosed building.

**Other Comments:**

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

**Staff Recommendation:**

Staff is of the opinion that the applicant can meet the criteria for approval if the Board so finds.

Mr. Fleming asked if the property was vacant.

Mr. Dail stated yes for a few months. The most recent activity was a car wash and a non conforming use repair station.

Chairman Shook opened the public hearing.

Mr. Andres Castillo Helarez spoke in favor of the request, with the help of a translator. He wants to operate a tire business to help the community and offer jobs.

Mr. Fleming asked if he had run a business like this before.

Mr. Helarez stated no but has worked for a tire service before.

Mr. Fleming asked if this was a brand new business for him.

Mr. Helarez stated yes.

Mr. Mack Taha spoke in opposition of the request. He is the owner of Mack's Furniture Warehouse and the property that holds Dickinson Fried Chicken. He stated he has been working on improving the look of Dickinson Avenue for the past five years. He has spent a lot of money and is spending more on another property near his warehouse. He stated there are enough tire places. He wants to clean up Dickinson Avenue. It was a struggle when Blessed Hands car detailing was there because they had too many cars that blocked everything. The proposed space is small and he expects cars sticking out in the road. He stated the property should be demolished because it doesn't look good. Letting it be a used tire facility will make it look worse. He stated he is trying to bring brand name retail stores to the buildings he owns to make it look better.

Chairman Shook stated Mr. Taha has done a marvelous job with his property and it looks good. He stated there are criteria that need to be met. Although sworn testimony is heard at this meeting, the arguments made are related to property value and appearance, which are not part of the criteria. He asked if the proposed request would affect Mr.

Taha's property value.

Mr. Taha stated it was not about that. It affects the beauty of the neighborhood. The property looks really bad.

Mr. Fleming asked if it looked bad because no one is there and maybe it would look better with a thriving business.

Mr. Taha stated it is a small lot and he doesn't know how cars, parking, and signage will fit. He stated that the previous car detailing shop had those problems.

Mr. Fleming asked where Mr. Taha's building was in relation to the proposed request.

Mr. Taha stated he wasn't concerned about his building but concerned about the beauty of the whole street.

Mr. Fleming asked if the City has some type of Dickinson Avenue Corridor project.

Mr. Dail stated review of the application was sent to different departments and no comments of such were made.

Mr. Ewen asked if there was sufficient parking for the business.

Mr. Dail stated he believed so.

Chairman Shook stated once the permit is granted and before occupancy, the applicant would have to submit a site plan approved by the City.

Mr. Fleming asked what the parking requirements were.

Mr. Faison stated it looks bad and always has. It's an eyesore but that doesn't mean he can't do business. He would encourage the applicant to paint it and make it look better.

Mr. Taha stated there is not enough room for cars and it would be hard for a business to survive.

Chairman Shook stated that is for the market to decide and not the Board.

Mr. Dail stated the code requirement for parking for auto, truck, or boat repair is one space per two employees plus three storage spaces for each repair stall.

Chairman Shook asked if the applicant needed to meet the requirements even after a special use permit is granted.

Mr. Dail stated only if the Board makes it a condition. This is a reuse of an existing property. The parking requirements he mentioned are typically for new construction. Properties that have already been developed are not held to that standard.

Mr. Fleming asked how many stalls did the building have.

Mr. Dail stated the pictures appear to show 2 or 3.

Mr. Fleming asked if he needed nine spaces and each stall counted as a space.

Mr. Dail stated yes and it appears he has 6-7 spaces outside and 3 inside.

Mr. Ewen stated the University Auto across from campus (ECU) doesn't have a lot of space and run their shop.

Mr. Taha stated the previous business had more cars and would park them all over.

Mr. Ewen stated if that happens, then the applicant would be in violation.

Mr. Dail read specific criteria #1 All wrecked or damaged motor vehicles and parts shall be screened so as not to be visible from adjoining property lines and street right-of-way. He stated any wrecked or damaged vehicle to be repaired would have to be in a fenced area. If the business is just tire repair than vehicles should be coming in, getting tires, and then leaving in a timely manner. All work would need to be done in the building.

Mr. Fleming asked if Mr. Taha was involved in a Dickinson City Project.

Mr. Taha stated he made a request for lighting on Dickinson.

Chairman Shook stated there was a re-paving project there too.

Mr. Faison stated the entertainment district project is closer to 10<sup>th</sup> Street but includes part of Dickinson Avenue.

Ms. Franchine Philpot-Peña spoke in opposition of the request. She and her husband are residents of the property at 1406 Dickinson Avenue. She stated there are currently 9 automotive or tire shops on Dickinson Avenue. The proposed property is an eyesore. The visual impact is awful. Of the nine shops, only one, Import Services at Memorial/Dickinson, is fairly decent. She believes it is because there is property to the back of it where cars are kept. She stated the back of the proposed property appears not be the width of a car. There will be more noise, odor, and smoke. She has been a resident there since 1999. There are children in the area. She stated the previous business, car detail shop, made it almost impossible to get through the area because of so many vehicles on Saturdays. If the new business thrives, the number of cars and tires lying around will pose a hazard. Dickinson Avenue does not need a 10<sup>th</sup> auto repair shop.

Mr. Helarez spoke in rebuttal of the request. He stated that God gives everyone an opportunity to put a business. He had been looking for a long time and now found this place. He stated this is a good place to put a tire shop and he is not doing automotive repair. He stated he has the materials to paint the building and will maintain it clean.

Chairman Shook asked if he intends to paint the building and fix it up.

Mr. Helarez stated yes.

Chairman Shook asked if he knew of the conditions and not leaving cars, tires, or debris outside overnight.

Mr. Helarez stated of course and it will be a quick job, a 10 minute tire change where they come in and they leave. The cars will not be there overnight. He stated that the tires that are removed will be kept inside until disposed at the landfill. The building has enough space inside to keep the tires in.

Mr. Fleming asked how many square feet does the building have.

Mr. Helarez stated he didn't remember.

Mr. Fleming stated he found it and it is 3,150 square feet.

Mr. Helarez stated the garages are big enough to have stuff inside.

Chairman Shook asked for the hours of operation.

Mr. Helarez stated normal hours of 8am to 6pm Monday through Saturday.

Chairman Shook asked for City Staff Recommendation.

Mr. Dail stated City Staff has no objection.

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

Mr. Johnson asked if the space requirement changes since he is only doing tires or is it part of auto repair.

Mr. Dail stated tire changing is considered under the definition as minor repair.

Mr. Overton asked what the City rules are regarding parking on the grass.

Mr. Dail stated vehicles must be parked on improved surfaces.

Mr. Fleming stated he is in favor of the request. It was said there are too many tire repair shops, but the economy will determine that. The place on 5<sup>th</sup> Street in front of the University is in a residential neighborhood and his friends that live in the area think it is great and take their cars there. They see it as an asset to the community. He stated he commends the applicant for going into business for himself. If the property is an eyesore while in business, it is more of an eyesore being vacant. An ongoing business at this location is an asset to the community.

Mr. Ewen stated he agreed with Mr. Fleming. A building in use is better than a vacant building. There are restrictions to the use. He understands the opposition but believes it is on worst case scenario. The Board is not allowed to vote on hearsay or what might happen.

Chairman Shook commended the work Mr. Taha has done in the area. He thanked Ms. Philpot-Peña for coming and stated he is familiar with her house and it is nice. He stated the Board has to have a formal reason to deny the application. If the property becomes an eyesore or if the applicant does things out of the guidelines of the permit, there are remedies behind that.

Chairman Shook read the required findings criteria. No objections.

**Mr. Ewen made a motion to adopt the finding of facts with the stated conditions, Mr. Faison seconded**

and the motion passed unanimously.

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

**PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY GENE ADAMS AND JASON ADAMS- APPROVED**

The applicants, Gene Adams and Jason Adams, desire a special use permit to operate an automotive major repair facility pursuant to Appendix A, Use (9)a. of the Greenville City Code. The proposed use is located at 103 W. 9<sup>th</sup> Street. The property is further identified as being tax parcel numbers 81895 and 24211.

Mr. Dail delineated the area on the map. He stated that the property is located in the center portion of the City, at the corner of W. 9<sup>th</sup> Street and Evans Street. It is the location of A&B Auto Repair. The current use is non-conforming. They wish to expand the use and cannot do it if it is non-conforming. A special use permit would make it a conforming use as a major automotive repair for which it has been in operation for numerous years. It is along the major thoroughfare of Evans Street.

**Zoning of Property:** CDF (Downtown Commercial Fringe)

**Surrounding Zoning:**

- North: CDF (Downtown Commercial Fringe) & OR (Office Residential)
- South: CDF (Downtown Commercial Fringe) & OR (Office Residential)
- East: CDF (Downtown Commercial Fringe)
- West: CDF (Downtown Commercial Fringe)

**Surrounding Development:**

- North: CPA Office, Residential
- South: Chiropractic Medical Office
- East: ECU Parking Lot, Clemons Law Firm
- West: East Carolina Labor, Tire Store

**Description of Property:**

The subject property is 0.592 acres in size, has 165 feet of frontage along W. 9<sup>th</sup> Street and 165 feet of frontage along Evans Street and contains a 4,500 square foot commercial building which houses A&B Auto Repair.

**Comprehensive Plan:**

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

**Notice:**

Notice was mailed to the adjoining property owners on September 11, 2014. Notice of the public hearing was published in the Daily Reflector on September 15, 2014 and September 22, 2014.

## **Related Zoning Ordinance Regulations:**

### **Definition:**

*Repair; major.* The following activities shall be considered major repair:

- (1) Engine overhaul or dismantling of subparts;
- (2) Body or frame repair;
- (3) Windshield or glass replacement;
- (4) Transmission, starter, alternator or other subpart rework service;
- (5) Welding or metal cutting; and
- (6) Any other repair other than minor repair.

*Repair; minor.* The following activities shall be considered minor repair.

- (1) Engine tune-up; changing of plugs, filters, oil, lubricants, belts, adjustments;
- (2) Change and rotate tires;
- (3) Brake services;
- (4) Electrical system services;
- (5) Radiator services;
- (6) Muffler services; and
- (7) Battery service.

### **Specific Criteria:**

- (1) All wrecked or damaged motor vehicles and parts shall be screened so as not to be visible from adjoining property lines and street right-of-way.
- (2) All vehicles on the premises for repair shall be stored at the rear of the principal structure.
- (3) No vehicle shall be stored on the premises for more than 15 days.
- (4) There shall be no exterior storage of items other than vehicles.
- (5) Sale of vehicles shall be in accordance with Article B, section 9-4-22, definition of automobile, truck, recreational vehicle, motorcycle and boat sales, contained therein.
- (6) Rental or utility trailers, cars and trucks shall be permitted as accessory uses, provided that all units in excess of four shall be screened from adjoining street right-of-way and property lines in accordance with Bufferyard C or with a bufferyard of greater intensity as required by the bufferyard regulations.
- (7) Outdoor displays of products such as tires, oil, wiper blades or other similar products shall be permitted provided they are within ten feet of the principal structure and outside required bufferyards. Signage displayed in conjunction with such display shall be in accordance with the sign regulations.
- (8) All services except fuel sales shall be performed within a completely enclosed building.

## **Staff Recommended Condition:**

Recombination of lots required and site plan approval required prior to City issuance of a building permit for proposed expansion.

## **Other Comments:**

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

## **Staff Recommendation:**

Staff is of the opinion that the applicant can meet the criteria for approval if the Board so finds.

Mr. Ewen asked if the building was on the National Register since it is one of those iconic gas stations.

Mr. Dail stated he did not believe so.

Mr. Overton asked if he they wanted to build an additional building.

Mr. Dail stated they want to build an additional storage building on to this structure. It is shown on the site plan included in the packet.

Chairman Shook opened the public hearing.

Mr. Mike Baldwin, representative for the applicants, spoke in favor of the request. He stated the building was built in 1935 as a Pure Oil Service Station. In 1976, and since then, it has been A&B Auto, a family owned business. This is the 3<sup>rd</sup> step of the process for them to add an addition to the building for storage. Being a non-conforming use, they first had to go the Planning & Zoning Commission to correct the zoning to be all CDF (downtown commercial fringe). It was a unanimous approval at both the Planning & Zoning Commission and City Council. He stated he has three letters from adjoining property owners in approval of the request. This is a striving business that also does work for the City Government as well as others. Auto repair is a special use in the CDF zoning. The storage building addition has been well received and with approval of the special use, they will move forward with the site plan for it.

Mr. Ewen asked if the existing building was going to be altered in any way besides attaching the addition.

Mr. Baldwin stated yes, that it will have a shared wall with the 1,500 square foot addition.

Mr. Overton asked if it would blend in architecturally.

Mr. Baldwin stated he did not know.

Mr. Ewen stated it appears that the addition is hiding behind and hopefully will not be seen from the front.

Mr. Baldwin stated fencing with slats, or some type of fencing, will be required with 100% visual barrier.

Mr. Fleming stated the pictures show parking on the grass. He asked if there were paved surfaces.

Mr. Baldwin stated that everything will have to be brought into conforming use and current codes including parking on improved surfaces.

No one spoke in opposition of the request.

Chairman Shook asked for City Staff Recommendation.

Mr. Dail stated City Staff has no objection.

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

No comments made during board discussion.

Chairman Shook read the required findings criteria. No objections.

**Mr. Ewen made a motion to adopt the finding of facts with the stated conditions, Mr. Fleming seconded and the motion passed unanimously.**

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

**PUBLIC HEARING ON A REQUEST FOR A SPECIAL USE PERMIT BY DVM SERVICES REALTY INC.- APPROVED**

The applicant, DVM Services Realty, Inc., desires a special use permit to operate a veterinary clinic pursuant to Appendix A, Use (7)f. of the Greenville City Code. The proposed use is located at 3210 S. Evans Street. The property is further identified as being tax parcel number 42353.

Mr. Dail delineated the area on the map. He stated that the property is located in the southern portion of the City and was formally the Kingdom Hall of the Jehovah's Witnesses. It is along the major thoroughfare of Evans Street.

**Zoning of Property:** OR (Office Residential)

**Surrounding Zoning:**

North: CG (General Commercial) & OR (Office Residential)  
South: RA20 (Residential Agricultural)  
East: O (Office)  
West: OR (Office Residential)

**Surrounding Development:**

North: Lynncroft Shopping Center  
South: Single Family Residence, Undeveloped  
East: WNCT-TV Channel 9 Studios  
West: Lynncroft Condominiums

**Description of Property:**

The subject property is 1.012 acres in size, has 210 feet of frontage along Evans Street and contains a 5,000 square foot commercial building.

**Comprehensive Plan:**

The property is located within Vision Area "D" as designated by the Comprehensive Plan. The proposed use is in general compliance with the Future Land Use Plan which recommends office/institutional development for the subject property.

**Notice:**

Notice was mailed to the adjoining property owners on September 11, 2014. Notice of the public hearing was published in the Daily Reflector on September 15, 2014 and September 22, 2014.

**Staff Recommended Condition:**

No outdoor animal boarding permitted.

**Other Comments:**

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

**Staff Recommendation:**

Staff is of the opinion that the applicant can meet the criteria for approval if the Board so finds.

Chairman Shook opened the public hearing.

Mr. Mike Baldwin, representative for the applicant, spoke in favor of the request. He stated this is a well received use for the area. It will be an emergency room for dogs and cats only. He stated the unusual operating hours are to be: weekdays 5:30pm to 8:00am, weekends will be open 24 hours and open all holidays. This will be a facility when people cannot get to the normal vet office or when things happen. There will be some minor upfit work to the building. It is a nice looking facility that is well landscaped and well kept. The Jehovah's Witnesses are moving to Winterville and building themselves a new hall. He stated this is not Dr. Batten's first emergency facility. He has three locations: Wilson, Fayetteville and Knightdale. He stated Dr. Batten has experience. He stated it is in compliance with the Comprehensive Plan and fully satisfies the finding of facts.

Mr. Overton asked if any outside improvements or changes to the site plan to what is currently there.

Mr. Baldwin stated Dr. Batten intends to add on to the building and that will be shown on a site plan and done in conformance with City codes.

Mr. Faison asked for clarity on dogs and cats only. He asked if it included small house animals.

Mr. Baldwin stated for small animals.

Mr. Ewen asked if there was another emergency vet clinic.

Mr. Baldwin stated there is one by Dr. McLawhorn at the corner of Clifton and Commerce. He stated there used to be one near the Walgreen's at the corner of Evans Street and Greenville Boulevard.

No one spoke in opposition of the request.

Chairman Shook asked for City Staff Recommendation.

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

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

No comments made during board discussion.

Chairman Shook read the required findings criteria. No objections.

**Mr. Ewen made a motion to adopt the finding of facts with the stated conditions, Mr. Fleming seconded**

**and the motion passed unanimously.**

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

**AMENDMENT TO THE BOARD OF ADJUSTMENT RULES OF PROCEDURE FOR MEMBERSHIP COMPOSITION-APPROVED**

Mr. Dail stated that in the past the Board has had issues obtaining quorums for some meetings. In order to remedy that, the City Council in August (2014) changed the City Code for the requirements of the membership for the Board. At one point, the City Code allowed 2 regular members and 1 alternate member to reside within the EJT (extra territorial jurisdiction) and were appointed by the Pitt County Board of Commissioners. The change is for 1 regular member and 1 alternate member as appointed by the Pitt County Board of Commissioners in the City Code. The Board tonight needs to vote on the amendment of the rules of procedures.

Chairman Shook stated that before there were 2 regular and 1 alternate county members.

Mr. Dail stated yes and that it is now 1 regular and 1 alternate.

Mr. Fleming asked if it was hard to get people from the ETJ to be on the committee.

Mr. Dail stated yes.

**Mr. Fleming made a motion to approve the amendment change, seconded by Mr. Overton, and it passed unanimously.**

**DISCUSSION OF CHANGE OCTOBER 2014 BOARD OF ADJUSTMENT MEETING- APPROVED**

Chairman Shook stated there is a conflict of events in the City on Thursday October 23, 2014, which is the next scheduled Board of Adjustment meeting. He requested to cancel the meeting and reschedule it for Wednesday October 22, 2014.

Mr. Fleming stated it would be a good idea.

Chairman Shook stated there could be a possibility of conflict of appearance or attendance by applicants, the public, members, or staff.

Attorney Little stated there are 2 options. The rules say that prior to a meeting the Chair can cancel if there are no items on the agenda or the Chair, or 3 members, can request a special meeting. A motion can be made to amend the October 23<sup>rd</sup> meeting to make it a called meeting for October 22<sup>nd</sup> so that notices can be sent out and the meeting be advertised in time in accordance to the law. It only takes 72 hours for notice of a special meeting. The full 10 day notice is necessary if there is something on the agenda.

**Chairman Shook made a motion to cancel the October 23, 2014 meeting and have a special meeting on Wednesday October 22, 2014, seconded by Mr. Fleming, and it passed unanimously.**

**With no further business, Mr. Overton made a motion to adjourn, Mr. Fleming seconded, and it passed unanimously. Meeting adjourned at 7:57 p.m.**

Respectfully Submitted

Michael R. Dail, II  
Planner