

**Smithfield Board of Adjustment
Minutes
Thursday, February 22, 2007
6:30 P.M., Town Hall, Council Room**

Members Present:

John Parrish (Chairman)
Paul Worley (Vice-Chairman)
Eddie Foy
Martha Wooten

Members Absent:

Chap Ragland

Staff Present:

Mark Helmer
Latanya Merritt

Chairman Parrish opened the public meeting.

APPROVAL OF MINUTES FROM NOVEMBER 30, 2006.

Mr. Worley made a motion, seconded by Ms. Wooten to approve the minutes as written. The vote was unanimous.

All persons wishing to speak were duly sworn.

BA-07-01 Valerie A. Cole: Mr. Helmer stated the applicant is requesting a conditional use permit to operate an in-home daycare on property within an R-10 (Residential) zoning district. The property is located on the east side of Aspen Street approximately 900 feet north of its intersection with Dogwood Street. The property is further identified as NCPIN# 260417-01-8789.

Mr. Helmer stated that the planning staff recommends approval of the proposed in-home day care with the conditions that a fenced play area is provided in the rear of the structure.

Mr. Helmer requested the Board to review the petition and take action in accordance with the Findings of Fact for a Conditional Use Permit for an in-home daycare.

Chairman Parrish opened the public meeting.

Chairman Parrish asked what the hours of operation would be and what the ages of the children would be?

Ms. Valerie Cole, a resident of 18 Aspen Drive being duly sworn, stated that the hours of operation would be from 6:30 am to 6:00 pm and the ages of the children would be six week olds to 5 year olds.

Chairman Parrish asked if there would be adequate room for patrons to get on and off the property safely?

Ms. Cole stated yes, and presented pictures showing the view of the driveway.

Being nothing further, Chairman Parrish closed the public meeting.

Mr. Foy made a motion, seconded by Ms. Wooten, to move to the finding of facts. The vote was unanimous.

After reviewing the Finding of Fact:

- (a)** All applicable specific conditions pertaining to the proposed use have been or will be satisfied; *all members stated true.*
- (b)** Access roads or entrance and exit drives are or will be sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency; *all members stated true.*
- (c)** Off-street parking, loading, refuse and other service areas are located so as to be safe, convenient, allow for access in case of emergency and to minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood; *all members stated true with the condition of a fenced play area.*
- (d)** Utilities, schools, fire, police and other necessary public and private facilities and other services will be adequate to handle the proposed use; *all members stated true..*
- (e)** The location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts; *all members stated true.*
- (f)** The type, size and intensity of the proposed use, including such considerations as the hours of operation and number of people who are likely to utilize or be attracted to the use, will not have significant adverse impacts on adjoining properties or the neighborhood; *all members stated true.*

Ms. Wooten made a motion, seconded by Mr. Worley to approve the request for a conditional use permit to operate an in-home daycare. The vote was unanimous.

BA-06-13 Johnston Properties Inc: Mr. Helmer stated the applicant is requesting a 15-foot variance to the required 50-building setback on property within a B-3 (Business) zoning district. The property is located on the north side of North Bright Leaf Boulevard approximately 510 feet northeast of its intersection with Hospital Road. The property is further identified as NCPIN#169416-93-4126.

Mr. Helmer stated that the proposed project is going to be built in the parking lot of Pine Needles Shopping Center adjacent to the existing Pizza Hut, which will be removed upon completion of the new building.

Mr. Helmer stated that the Planning Board has reviewed this application and made recommendation to Town Council for approval subject to this boards approval of the variance. The Appearance Commission has reviewed it as well and made recommendation to Town Council to approve the plan with the condition that the street yard trees be planted around the entire perimeter of the shopping center.

Mr. Helmer stated the Board is requested to review the petition and take action in accordance with the Findings of Fact for a variance.

Chairman Parrish asked if the new pizza hut building would be 15 feet closer to Bright Leaf Boulevard?

Mr. Helmer stated yes.

Mr. Worley stated that the major concern would be the 30-foot dive on the right side of the parking lot not being adequate for traffic to enter into the shopping center.

Chairman Parrish opened the public meeting.

Being no other comments, Chairman Parrish closed the public meeting.

Mr. Foy made a motion, seconded by Ms. Wooten to move to the finding of facts. The vote was unanimous.

After reviewing the Finding of Fact:

- (a) There are exceptional conditions pertaining to the particular piece of property in question because of factors such as its shape, size, or topography, that are not applicable to other lands or structures in the same district, or there is a peculiar characteristic of an establishment

- which makes the parking and/or loading requirements of this ordinance unrealistic; *all members said true.*
- (b) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located; *all members said true.*
 - (c) A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located; *all members said true.*
 - (d) The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare; *Mr. Worley stated true, if northern most driveway is widened to 36 feet.*
 - (e) The special circumstances are not the results of actions of the applicant; *all members said true.*
 - (f) The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure; *all members said true.*
 - (g) The variance is not a request to permit a use, which is not a permitted or conditional use in the district involved; *all members said true.*

Mr. Worley made a motion, seconded by Ms. Wooten to approve the variance with the condition that the eastern most drive entrance along Bright Leaf Boulevard be widened from 30 feet to 36 feet. The vote was unanimous.

Old Business.

There was none.

New Business.

There was none.

Adjournment.

Being nothing further, Mr. Worley made a motion, seconded by Ms. Wooten to adjourn. The vote was unanimous.