



# MINUTES

## BOARD OF ZONING APPEALS

### REGULAR MEETING

Thursday, September 14, 2023 - 4:00 p.m.  
Greenville City Hall Council Chambers

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**NOTICE OF MEETING:** Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Board's Meetings was provided on January 1, 2023 (and revised on August x, 2023) via the Greenville City Website. The Agenda for this Meeting was posted outside the meeting place and was emailed to all persons, organizations, and news media requesting notice. In addition, notice for public hearings was published in the Greenville News, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

A copy of staff reports and recommendations were posted with the meeting agenda.

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**1. Call to Order**

Chairman Chris Price called the meeting to order at 4:01 PM.

**2. Welcome and Opening Remarks from the Chair**

Chairman Chris Price welcomed attendees to the meeting and invited other board members to introduce themselves. Price continued with standard remarks and explained the procedures for the Board of Zoning Appeals public hearing.

**3. Roll Call**

The following members of the Board of Zoning Appeals were in attendance: Chris Price (Chair), Seph Wunder (Vice Chair), Kenneth Betsch, Mark Herro and Stephanie Gates, Krish V. Patel, and Lauren Rounsville

Absent: None

**4. Approval of Minutes**

**A. August 8, 2023 – Workshop**

**B. August 10, 2023 – Regular Meeting**

Ken Betsch motioned to approve as submitted. Seph Wunder seconded. Motion passed 7-0.

**5. Call for Public Notice Affidavit from Applicants**

Staff reported that all public notice affidavits were received.

**6. Acceptance of Agenda**

The agenda was accepted as distributed to the Board.

Stephanie Gates motioned to accept. Seph Wunder seconded the motion. The motion passed 7-0.

**7. Conflict of Interest Statement**

None

## 8. OLD BUSINESS

None

## 9. NEW BUSINESS

### A. S 23-525

Application by Duncan Chapel – TR LLC (Michael Redmon) for a **SPECIAL EXCEPTION** to establish a 'Restaurant, with drive-through' use in a C-2, Local Commercial district at **3227 AUGUSTA ST** (TM# 021100-06-03100) [Vested under Land Management Ordinance]

*Application was presented by Ross Zelenske, Senior Development Planner, with staff recommending approval of the application with conditions.*

- Board asked if Waters Avenue is a City maintained road and if there was a public alley on site.
  - Staff responded that Waters Avenue is a city-maintained road. Augusta Street and Mauldin Road are believed to be DOT roads, but staff would get confirmation if needed. There is no dedicated alley in terms of right-of-way. There is an area behind the building that can be walked and connects the two neighborhoods. It is private property.

#### Applicant Presentation

*Michael Redmon, 7 Cothran Street, Greenville, SC*

- Lives down the street from this property and stated that the goal of this project was to improve the site. Applicant offered to answer any questions.
  - Board asks about the entrance only access off Waters Avenue and if the sidewalks are already existing.
    - Applicant stated that it does not serve both egress and ingress, deterring traffic from accessing the neighborhood. Offered to discuss further options. Sidewalks are existing.
    - Chair clarified that site plan was not being evaluated for approval.
  - Board asked about egress with neighboring lot. Discussed the flow of traffic and how it might impact or be impacted by neighboring businesses.
    - Applicant stated that this connectivity was existing. Discussed conversations with DOT and City staff to create better flow of traffic as well as add landscaping to beautify the entrance. Spoke about the challenges of the site and why it could not comply with the Greenville Development Code. A traffic study is in progress.
  - Board asked if this location had adequate stacking and what the usual amount for stacking is.
    - Applicant stated there were more than the standard amount of stacking for this location. Average stacking amount is 12 cars. There is room for at least 20.

#### Public Comments

*Catherine Craven, 10 Waters Avenue, Greenville, SC*

- Spoke in opposition citing concerns of traffic and impact on pedestrian activities. Provided metric data on Starbucks traffic drive-throughs. Defined Waters Avenue as a residential street that is not designed to be a commercial corridor.
  - Board asks where resident lives in relation to the site.
    - Ms. Craven stated that her residence was on the corner across the street from the site.

*Dale Baker, 15 Wilmont Lane, Greenville, SC*

- Reluctantly supports project. Uses the alley regularly and would like to see it preserved. Is glad the building will be demolished and is happy to see it improved even if it creates additional traffic.

*Deborah Duhon, 25 Waters Avenue, Greenville SC*

- Discussed being appreciative of improvements done by the City. Improvement to lot would enhance the area and address longtime problems with homeless populations and cat colonies. The drive through will cause more traffic congestion and pose danger to pedestrian activities. There are three large schools in walking distance. Shared story of cyclist husband had been hit by a car and was badly injured. Expressed concern regarding neighborhood connectivity.

*Marley Grimshaw, 37 Waters Avenue, Greenville, SC*

- Discussed how the site is a source of many issues. Stated that there was no desire for a Starbucks in the neighborhood or increased traffic, but her family and pets enjoy walking the area. Stated that in the 6 years she has been a resident, nothing has occupied that site which has allowed further disrepair.

*Ms. Carlile, 9 Waters Avenue, Greenville, SC*

- Spoke in opposition with concerns that additional traffic poses a safety risk. Agreed that the area needs improvement but does not feel that the additional traffic is appropriate for the neighborhood. The values that made the neighborhood attractive are being diminished by this influx of car traffic.

*Susanne Lueck, 19 Waters Avenue, Greenville, SC*

- Expressed excitement for improvements to come for this site. As a community node, pedestrian and cyclist activities should be protected. There are properties across the street for sale that would be more appropriate for a drive-thru as they are accessed off arterial roads and not neighborhood streets. Concerned another drive-thru would replace Starbucks if application is not approved. Urged Board to deny this application and entered into the record a petition signed by 66 neighbors requesting denial.

Applicant Rebuttal

- Acknowledged the concerns of neighbors regarding traffic and safety. Spoke about how the final plan is still in progress. Applicant stated he is willing to work with staff and neighbors to address safety. Plans for an 8ft masonry wall were discussed in response to safety concerns.
  - Board asked about clarification on landscape buffer.
    - Evergreens are preferred due to year-round greenery. In total, there will be a masonry wall, 8-foot fence, and a 10-foot landscape buffer.
  - Board asked about property lines, vehicular access points, and if the entry point has shifted. Requested timeframe for when the traffic study will be done.

- Entry point has shifted closer to Augusta Street and Mauldin Road. Traffic study is expected to be complete in approximately three weeks.

#### Board Discussion

- Board asked staff about possible plans to move sidewalks away from roadway.
  - Staff provided information about curb-lawn requirements under the Greenville Development Code. Further site development standard details were deferred to the Engineering department.
  - City Engineer, Paul Dow, provided details and answered questions regarding mitigation of additional traffic on Gurley Avenue. Proposed speed hump or similar measures to deter unnecessary traffic through neighborhoods.
- Board asked staff about transferability of special exception and the possibility of another drive-thru replacing Starbucks.
  - Staff explained that substantial changes to approved concept would trigger a requirement to return to the Board of Zoning Appeals and seek approval again.
- Board discussed complications of site as it exists and the adjustments made by the project to mitigate negative impacts. Any development on this lot will improve the site.

**\*Motion: Ken Betsch moved to approve special exception request S 23-525 with conditions. The motion was based on the findings that use is consistent with the Comprehensive Plan, the use would comply with the use-specific standards for the use, that the use is compatible with surrounding lands, and that the use does not have substantial adverse impacts. Additional condition that it is in compliance with traffic study and that the traffic study is incorporated into site plan. Conditions include:**

1. The operation of the establishment shall substantially conform to the testimony of the Applicant and the content of the application.
2. Delivery, waste collection, and similar commercial traffic is prohibited between the hours of 12:00 midnight and 7:00 a.m.
3. The outdoor dining areas of the eating establishment shall not obstruct the movement of pedestrians along adjoining sidewalks, or through other areas intended for public usage, ingress, or egress.
4. The drive-through shall close no later than 9:00 p.m. each day.
5. At any time when the drive-through use is closed to the public, the "pre" and "menu" board shall be turned off and shall remain off until the drive-through use is open to the public.
6. The menu board shall incorporate a photo-cell or similar technology that adjusts brightness of the sign relative to outdoor ambient light.
7. Speakers shall be directed away from nearby residential dwellings and shall not be audible beyond shared lot lines.

8. The number of parking spaces between the front of the building and the Augusta Street/Mauldin Road property line shall be reduced to comply with Land Management Ordinance Sections 19-6.5.7.(K) and 19-6.5.7.(M).
9. A barrier or other form of separation approved by the city's Traffic Engineering Division shall be provided between the existing Little Caesars drive through pick-up lane and the proposed development to ensure safe traffic flow.
10. In addition to required landscaping, an opaque masonry wall measuring at least eight feet in height shall be provided along the shared lot line of the abutting residential property.
11. The existing sidewalk along the property's street frontages shall be evaluated for compliance with city's sidewalk directive and reconstructed as required by the city's Engineering Services Department.
12. The pedestrian route from the Augusta Street/Mauldin Road sidewalk to the front of the business shall be distinguished from driving surfaces through the use of durable, low-maintenance surface materials such as pavers, bricks, or scored/stamped concrete to comply with Land Management Ordinance Section 19-6.5.7.(L).
13. A different material shall be used in the drive-through pick-up lane to delineate the drive-through driving surface from the adjacent general driving lanes.
14. The site plan shall be designed to ensure compliance with the findings and recommendations from the traffic study as determined by SCDOT and the city's Traffic Engineering Division.

Seconded by Stephanie Gates.

The motion passed by a vote of 7-0.

**B. S 23-602**

Application by KEEL Concepts (Melissa Hill Threatt) on behalf of Howard Dozier dba Neat Bourbon Bar for a **SPECIAL EXCEPTION** to expand a 'Bar' use operating after midnight in an MXS-D, Shopfront Downtown district at **109 N MAIN ST STE B** (TM# 000100-01-00700)

*Application was presented by Ross Zelenske, Senior Development Planner, with staff recommending approval of the application.*

Applicant Presentation

*Howard Dozier, 101 Walnut Street, Greenville, SC*

- Provided history of this business, explained request to increased occupant capacity, and offered to answer questions. Building permit has been submitted for construction of additional bathroom to allow increase in occupancy.

Public Comments

- None

Board Discussion

- Board asked why the Applicant is seeking to increase occupancy.

- The business has been popular and additional space is requested in response to demand.

**\*Motion: Seph Wunder moved to approve the special exception request S 23-602 with conditions. The motion was based on the findings that use is consistent with the Comprehensive Plan, that the use will comply use-specific standards for the use, that the use is compatible with surrounding lands, and that the use does not have substantial adverse impacts. Conditions include:**

- 1. Operation of the facility shall be limited to a "nightclub/bar," as defined by this Code, and shall substantially conform to the statements of the applicant and the content of the application. Modification of the facility's operation shall require the applicant to seek a modification of the special exception permit. Operation of the business shall comply at all times with the provisions of the South Carolina Alcoholic Beverage Control Act and the regulations of the department of revenue.**
- 2. Hours of operation shall be substantially consistent with those stated by the Applicant and not exceed past 2:00 a.m.**
- 3. Delivery, waste collection, and similar commercial traffic is prohibited between the hours of 12:00 midnight and 7:00 a.m.**
- 4. The Applicant shall take reasonable measures to ensure that the business and its patrons comply with City ordinances and State laws intended to preserve the public peace, safety and order, including but not limited to: occupancy loads, prohibitions on disorderly conduct and public intoxication, prohibitions on noise in violation of the City's noise ordinance, adequate patron parking and applicable neighborhood parking restrictions.**
- 5. At all times during its occupancy, the Applicant shall assign a manager on the premises who shall ensure compliance with the terms of the special exception use permit, this Code, and the applicable S.C. Code of Laws and Regulations.**
- 6. The Applicant and all its managers and employees responsible to serve any alcoholic beverage (current and future) shall participate in the merchant education/server training program offered by the Phoenix Center or comparable program offered by other vendors approved by the city police department. Evidence of satisfactory completion of this training for each employee shall be retained on-site and available for inspection by the administrator and the city police department. Current personnel shall receive training within 90 days of the date of the granting of a conditional use permit and future personnel shall receive training within 30 days of hire.**
- 7. The Applicant shall retain a minimum of two (2) security persons of which at least one must be positioned outside the business from the hours of 10:00 p.m. and 1:15 a.m. on Thursdays, from 10:00 p.m. to 2:15 a.m. on Fridays and Saturdays, and at any time while open for business when it is reasonably anticipated that a larger-than-average number of patrons may occupy the premises. The security person(s) must possess a "Security Officer Registration Certificate" pursuant to Chapter 18 of Title 40 of the SC Code of Laws, or as an alternative, may be an off-duty sworn law enforcement officer.**

**No other employee may serve in the capacity of a security person unless so certified. If more than two incidents involving a police response to the business occur within a six-month period, the City of Greenville can then require that one of the two required security person positions be an off-duty sworn law enforcement officer. Repeated incidents requiring calls for service from law enforcement may be grounds for revocation of the permit.**

- 8. The Applicant shall designate staff at all ingress/egress points to be responsible for the monitor of flow of patrons and confirmation of compliance with allowable occupant capacity.**
- 9. No interior sound amplification (other than an indoor PA system), live entertainment, or disc jockeys shall be permitted.**
- 10. No exterior sound amplification shall be permitted.**
- 11. Exterior doors shall remain closed except to provide ingress and egress between the hours of 10:00 p.m. and 2:00 a.m.**
- 12. The life safety plan and floor plan shall be revised by a licensed architect to ensure the new fire alarm, occupancy counts, and restroom facilities are correct. The amended life safety plan shall remain in close keeping to the currently proposed occupancy count of 120.**
- 13. The use shall comply with the Technical Advisory Committee findings and recommendations.**

**Seconded by Lauren Rounsville**

**The motion passed by a vote of 7-0.**

**C. S 23-616**

Application by BL Companies (Lee Bakely) on behalf of Whataburger Restaurants, LLC (Anita Thomas) for a **SPECIAL EXCEPTION** to operate a 'General food and beverage (up to 6,000 SF) with accessory drive-thru' use after midnight in an MX-2, Mixed Use 2 district at **1601 LAURENS RD** (TM# 025700-08-00101)

*Application was presented by Ross Zelenske, Senior Development Planner, with staff recommending denial of the application.*

- Board asked about differences between the Land Management Ordinance and Greenville Development Code. Requested clarification about drive thru use under either ordinance.
- Board asked if there are other 24-hour food establishments along Laurens Road. Asked if request to operate 24 hours applied to both drive-thru and restaurant.
  - There are none that staff are aware of. Request to operate 24 hours applies only to drive-thru, however a special exception is required for any use that operates past midnight.
- Board asked if staff's primary reason for denial is based on the lack of intention to limit parking or access to neighborhoods in late night hours.
  - Staff stated that there were concerns that were not addressed but could be mitigated through conditions, if approved. This late-night use primarily created concern for surrounding neighborhoods.
- Board requested to see the map of subject property and surrounding neighborhoods.

Applicant Presentation

*Anita Thomas, 3152 Bending Birch Place, Charlotte, NC*

- Discusses nationwide business model and desire to maintain consistent operations at this location.

Public Comments

*Joe Farmer, 207 Alpine Way, Greenville, SC*

- Spoke in opposition and stated that there was not a need for this business or its late-night hours. Expressed concerns about business owners from out-of-state applying the same model to every city they occupy. Concerned that approval of this application would set an undesirable precedent. Agrees with staff's recommendation to deny based on the lack of need and impact on local residents.

*Michael Austin, 104 Ridgeway Drive, Greenville, SC*

- Spoke in opposition on behalf of the Eastlynn Neighborhood. Thanked Council for attending their neighborhood meeting. Spoke about concerns of loitering, increased traffic, excessive noise and lighting, and unpleasant odors. Cited an article titled, "The Ins and Outs of Drive Thrus and Why They Are Bad for Cities." Explained how this use did not meet the intent of the GVL2040 plan. Requested denial.

*Anita Clark, 45 Simmons Avenue, Greenville, SC*

- Spoke in opposition and criticized the business for timing their application to avoid denial under the Land Management Ordinance. Stated that this use was not pedestrian friendly or cohesive, as intended in the comprehensive plan. Referenced CDC data about retail food environments was associated with higher crime rates. Odors, noise, and glare of light effects the quality of life. Conditions for approval are not adequate in protecting surrounding neighborhoods. Requested denial.
  - Board asked if main objection was the late hours or the drive thru use.
    - Responded that both the hours and the use were detrimental to neighborhoods and property value. Traffic is a primary concern.

*Grace Bowser, 323 Sycamore Drive, Greenville, SC*

- Spoke in opposition. Entered a tweet from company into the record. Tweet stated: "It's midnight at the Whataburger drive-thru. What is your order and what song are you blasting for everyone to hear?" Explained the right-in, right-out entrance and how that will send traffic through the neighborhood to access a number of main roads. The use is not compatible abutting single-family homes.

*Tyler Senecal, 319 Sycamore Drive, Greenville, SC*

- Spoke in opposition. Cited the intent of the GVL 2040 plan and its emphasis on thoughtful community growth and protection of neighborhoods. This use contradicts the comprehensive plan. Expressed concern about the use attracting crime to the neighborhood and decreasing surrounding property values. The residents will be subjected to nuisances such as odors, sounds, and crime.

*Nicole Martin, 322 Sycamore Drive, Greenville, SC*



- Stated that personal residence is zoned commercial. Was informed that a 24-hour drive thru would decrease property values. Other quick service restaurants in the area have better access points that do not utilize neighborhood streets.

*Halee Senecal, 319 Sycamore Drive, Greenville, SC*

- Spoke in opposition as an individual invested in the area. Understood that growth is inevitable but requested the Board account for the negative effects on the neighborhood. Discussed quick service sales and increased traffic from cut through areas. Car traffic will affect the quality of life in the neighborhood.

*Griffin Donley, 322 Parkins Mill Road, Greenville, SC*

- Spoke about his podcast and how local businessmen discuss smart growth in our area. Stated the importance of community's opinion. Commented about the benefits of the new development code. Asked Board if the granting of this special exception will be regarded as a smart development move or reckless development decision.

#### Applicant Rebuttal:

Ms. Thomas acknowledged the concerns of the community and plans to mitigate impact in neighborhood by addressing site lighting, landscaping, and speaker volume. Plans to implement left turn only signage at ingress and egress locations off Laurens Road. Monitoring deliveries and trash pick-ups.

- Board asked if conditions by staff were reviewed by Applicant and able to be complied with.
  - Conditions were reviewed but parking will need to be discussed internally. A request may be made to allow ten parking spaces for staff. Limitation of exterior drive thru usage after midnight and left turn only signage will be complied with.

#### Board Discussion

- The Board discussed drive through component and after midnight standards. After-midnight use in a residential neighborhood is incompatible and does not meet the comprehensive plan. Enforcement of conditions would be difficult.
- The Board asked staff about neighboring restaurant hours and circulation patterns.
- The Board reviewed code scenarios of the Land Management Ordinance & Greenville Development Code. Discussed options for Applicant under earlier closing times.

**\*Motion: Ken Betsch moved to deny special exception request S 23-616. The motion was based on the findings that use is consistent with the Comprehensive Plan, that the use will comply use-specific standards for the use, that the use is not compatible with surrounding lands as late-night hours are incompatible with the surrounding residential houses and the use would reduce property values, and the use would have substantial adverse impacts, such as traffic, noise, and odors, to the surrounding neighborhoods.**

**Seconded by Seph Wunder**

**The motion passed by a vote of 6-1.  
(Stephanie Gates voted no)**

**10. Other Business**

**A. None**

**11. Adjournment**

The meeting adjourned at 6:33 p.m.

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Staff Present: Mike Spinelli, Assistant City Attorney; Mary Douglas Hirsch, Planning Administrator; Kristopher Kurjiaka, Principal Development Planner; Ross Zelenske, Senior Development Planner; Sharon Key, Planning Coordinator.

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**Minutes prepared by Sharon Key, Amanda Oler, and Ross Zelenske.**