

BEFORE THE TOWN OF DENTON BOARD OF APPEALS

**IN RE: ADALEA RUE
APPLICATION FOR
SPECIAL EXCEPTION**

*

Case No. BOA-19-001

*

* * * * *

MINUTES, FINDINGS OF FACT, CONCLUSIONS AND DECISION

The Board of Appeals held a Public Hearing on Monday, May 13, 2019, at 6:30 p.m., at the Denton Town Office to consider an application for a Special Exception for Adalea Rue, (hereinafter, the “Applicant”), from the strict application of the Town of Denton Zoning Code (Chapter 128-01, et seq.).

Board Members present were Chairperson Troy Livingstone, Board Member Florence Doherty, and Board Member Harry Wyre. Also present were Counsel for the Board, Chris Drummond and Town Administrator, Donald H. Mulrine, Jr. The Applicant, Adalea Rue, was present.

Board of Appeals Member, Jennifer Shull, was absent.

Other interested persons present include Chuck Pummer and Chris Pummer.

PROCEDURAL HISTORY

On May 13, 2019, the Applicant filed an application with the Board of Appeals seeking Special Exception approval for a permanent cosmetics studio to be located at 8 North Second Street, Suite 1, Denton, Maryland, Caroline County Tax Map 103, Parcel 837.

The application was advertised in the Times Record for two consecutive weeks on April 24th and May 1st, a sign was posted on the property on April 8, 2019, and all property owners within 200 feet of the property received written notification of the Public Hearing. All public notice requirements have been satisfied.

SUMMARY OF PROCEEDINGS

On May 13, 2019, Chairperson Livingstone opened the Public Hearing at 6:30 p.m., followed by the Pledge of Allegiance.

Mayor McNinch recognized the Board Members for their service to the Town that were absent at the Volunteer Appreciation Dinner.

Board Member Doherty made a motion to nominate Troy Livingstone as the Chairperson, seconded by Board Member Wyre, passed unanimously (3:0).

Board Member Doherty made a motion to nominate Jennifer Shull as the Vice Chairperson, seconded by Board Member Wyre, passed unanimously (3:0).

Board Member Doherty read the Public Notice advertised in the Times Record for BOA-19-001 into the record.

Chairperson Livingstone swore in Adalea Rue and Chris Pummer.

Adalea Rue, Applicant, provided a brief summary of the proposed Special Exception use for a permanent and semi-permanent cosmetics studio. The services include lash extensions, microblading, waxing, and spray tans. Microblading is considered a form of tattooing. These services are not regulated by the State of Maryland. Microblading is not permitted in a full service hair salon.

The Applicant provided an overview of the microblading techniques and disposal methods. All microblading tools are disposable and disposed in biohazard containers. The inks are vegan based pigments not heavy metal inks.

The Applicant was required to take an OSHA class for tattoo artists as part of her training certification.

The Applicant may add a second technician to offer services at her business that would also receive the training certification.

There would be minimal impact on the parking.

Mr. Mulrine verified no comments were received from the public or other agencies.

Board Member Doherty noted there are two existing tattoo parlors in the downtown.

Mr. Drummond noted there are existing cases on whether competition should be a consideration in enforcing the Zoning Code. Generally, increased competition among legal uses in a zoning district is not a valid reason to disapprove a proposed use.

Mr. Pummer addressed the Board and noted that currently there is one other commercial tenant that occupies the building two days a week and should not cause any major impact with parking.

TESTIMONY AND EVIDENCE

The Applicant's request is for the proposed Special Exception use of a permanent cosmetics studio. This use for a tattoo parlor is permitted by Special Exception in the Central Business Commercial (CBC) District.

The Planning Commission recommended approval of the Special Exception use.

The Applicant's testimony included a brief description of the microblading procedure and disposal methods.

The proposed use is in accordance with the Town's Comprehensive Plan, suitable for the property, will not impact street traffic or parking, and will not adversely affect the property values or health, safety, and general welfare of residents of the area.

DELIBERATIONS

During and following the receipt of all testimony and evidence, the Board deliberated in Open Session.

Board Member Doherty requested clarification on the microblading procedure, State licensing regulations, parking, hours of operation, and other employees.

Chairperson Livingstone confirmed the minimal impact on street traffic and parking.

FINDINGS AND DECISIONS

Special Exception Request – Board Member Doherty made a motion that the Special Exception application filed by Adalea Rue, BOA-19-001 for a permanent cosmetics studio be

approved with the conditions that the Applicant comply with all future State regulations for microblading. The motion incorporated the proposed Findings of Fact on the four conditions of the Special Exception Criteria as follows:

- (a) In accord with the Town's Comprehensive Plan and consistent with the spirit, purposes, and intent of this chapter.

In accordance with the Town's Comprehensive Plan due to the fact it is zoned Central Business Commercial (CBC) which permits a retail/office use.

- (b) Suitable for the property in question and designed to be in harmony with and appropriate in appearance with the existing or intended character of the general vicinity.

The building is an existing structure, and there will be no exterior changes to the building.

- (c) Suitable in terms of effects on street traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard.

There will be a minimal impact on parking.

- (d) Not detrimental to the property values of adjacent development, do not adversely affect the health, safety, and general welfare of residents of the area, and will not adversely affect the area and surrounding property with adverse environmental effects such as undue smoke, odor, noise, improper drainage, or inadequate access.

This use will not impact the property values and will not adversely affect the health, safety, and general welfare of residents of the area or the surrounding area.

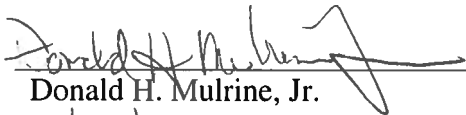
Board Member Wyre seconded the motion. The motion passed 3:0.

Staff Item – Mr. Drummond informed the Board of a recent Court of Special Appeals decision from Baltimore City and the importance of making factual findings on required criteria. The Court of Special Appeals declined to make a decision and remanded the case back to the Board of Appeals for Baltimore City. Baltimore City issued a building permit for a resident for a

30' front yard setback with a required 40' front yard setback. After the house was built, Baltimore City suggested that the resident apply for a variance for the front yard setback. Baltimore City's Board of Appeals denied the request, and the resident appealed the decision. The Court of Special Appeals ruled that the Board of Appeals had failed to justify the denial of specific findings of fact on the relevant criteria for consideration of variances. In the absence of these required findings of fact, the Court was unable to determine whether the Board's decision was justified.

The meeting on May 13, 2019, adjourned at 7:01 p.m.


ATTEST:

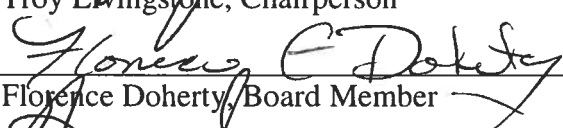


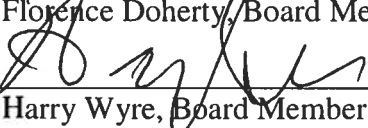
Donald H. Mulrine, Jr.
5/30/19

Date

DENTON BOARD OF APPEALS:



Troy Livingstone, Chairperson


Florence Doherty, Board Member


Harry Wyre, Board Member