

*DENTON BOARD OF APPEALS  
MINUTES  
November 10, 2014*

Present: Troy Livingstone, Florence Doherty and Dallas Lister  
Brian Tyler, Alternate

Recording: Thomas G. Wilkes, P.E., Town Engineer

Visitors: Don Mulrine, Steve Konopelski, Robert Griffith, Theodore Cusimano,  
Tom Davis, Richard Clark, Hazel Clark, Pat Daffin, Rebecca Faggio  
Kathy Harkness, Mark Peach, and Greg Thomas

Called to Order: The meeting was called to order at 6:30 p.m. by Chairperson Livingstone

Attendees stood for the Pledge of Allegiance.

Chairperson Livingstone asked for nominations for Chairperson and Vice Chairperson. Mrs. Doherty nominated Mr. Livingstone for Chairperson, whose nomination was seconded by Mr. Lister. Mr. Livingstone's nomination was approved unanimously. Mr. Lister nominated Mrs. Doherty for Vice Chairperson, whose nomination was seconded by Chairperson Livingstone. Mrs. Doherty's nomination was approved unanimously.

Chairperson Livingstone read the notice of public hearing into the record that was properly noticed in the Times Record.

**New Business #1 – BOA-14-001 Allright Rentals, LLC/ Special Exception:**

Chairperson Livingstone swore in the applicants, Theodore Cusimano and Tom Davis.

Mr. Davis clarified there are currently four apartments on the second floor and the first floor commercial unit would be converted into two apartments, one office space, and the remaining unit will be retained for Mr. Cusimano for storage space for Allright Rentals. There will be a total of eight (8) units in the building.

Vice Chairperson Doherty requested details on the first floor office space, windows, and doorways.

*DENTON BOARD OF APPEALS  
MINUTES  
November 10, 2014*

Mr. Cusimano confirmed bathrooms were available for the first floor rental units, all windows were usable, and explained doorway access and exits per the site plan. The building has a fire sprinkler.

Mr. Davis informed the Board that Mr. Cusimano had met with neighbors regarding fencing and no trespassing signs as requested by the Planning Commission. A modified site plan with proposed fencing is available for review at this meeting to address the neighbor's concerns.

Chairperson Livingstone inquired if there was anyone present that had any comments or wanted to speak on behalf of this application.

Mr. Cusimano plans to restripe the parking area and include the apartment numbers on the parking spaces.

Chairperson Livingstone swore in Hazel Clark.

Ms. Clark inquired about the procedure to ensure fencing will be required.

Mr. Lister explained the fence will be a condition of the approval as well as any parking requirements in order to receive the special exception.

Chairperson Livingstone swore in Greg Thomas.

Mr. Thomas, adjoining neighbor property, had a concern about the overflow parking on his property. Mr. Thomas has an apartment above his business and his tenant does not park on the neighbor's property.

Chairperson Livingstone swore in Mark Peach.

Mr. Peach commented his driveway is often blocked on Gay Street and he calls the Denton Police Department to have the vehicle removed.

Mr. Lister confirmed that Mr. Thomas has the responsibility of contacting the Denton Police Department if he has a complaint about parking. It is the Board's responsibility to limit an

*DENTON BOARD OF APPEALS  
MINUTES  
November 10, 2014*

area with population if the property is unable to accommodate the parking and protect all property owners.

Vice Chairperson Doherty noted the fence will address the trespassing issue.

The Board discussed the parking and noted sixteen (16) parking spaces are included on the site plan which are required per the Denton Town Code parking requirements.

Vice Chairperson Doherty motioned to grant the special exception for the property located at 755 Crystal Avenue for two additional apartments, an office, and storage unit on the first floor and includes four existing apartments on the second floor.

Vice Chairperson Doherty read the requirements to grant the special exception:

- a) In accord with the Town's Comprehensive Plan and consistent with the spirit, purposes, and intent of this Chapter 128, Zoning.

*Zoned General Commercial and zoning permits apartments in the General Commercial.*

- 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.

*Exterior of the buildings and site will not change the appearance or character of the vicinity.*

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

*Street traffic will not change but parking needs to be controlled so it does not impede other property owners in the surrounding area. The parking area will be restriped to designate sixteen spaces and marked to designate each unit/tenant. The applicant will have signage that will allow parking in front of the storage unit.*

- 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

*DENTON BOARD OF APPEALS  
MINUTES  
November 10, 2014*

area and surrounding property with adverse environmental effects such as undue smoke, odor, noise, improper drainage, or inadequate access.

*Fencing and no trespassing signs will be installed on the north side of the property to address the trespassing issue for the neighboring properties and maintenance and installation is required on the south side of the existing fencing. There will be a 4' edge in line with the side to tie into an existing fence on the Clark property. At the northwest corner, there will be a 10' long, 6' high fence to discourage any cutting through the neighboring property.*

*Stormwater management areas will be inspected by the Town to ensure proper drainage.*

Mr. Lister seconded the motion. The motion passed unanimously.

**New Business #2 – BOA-14-002 Steven Konopelski & Robert Griffith/ Special Exception:**

Chairperson Livingstone swore in the applicants, Steven Konopelski and Robert Griffith.

Mr. Griffith made the presentation and provided a brief description of the proposed combination business at 119 Gay Street. Applicants are proposing a bed and breakfast and a pastry catering service. Other activities would include renting the meeting room for small events, such as, showers or parties, depending on occupancy of the bed and breakfast. No retail shop is available for the catering service. The pastry catering service will be custom orders to be picked up or delivered. Four parking spaces are available on the property. There is a potential of six parking spaces if all rooms are rented because property owners can park in the municipal parking lot. Other parking is available on the street. The small events are more likely to happen during the off business hours, weekends or evenings.

Chairperson Livingstone noted this property was previously a bed and breakfast.

Chairperson Livingstone requested if there were any comments from the public.

Chairperson Livingstone swore in Kathy Harkness.

*DENTON BOARD OF APPEALS  
MINUTES  
November 10, 2014*

Ms. Harkness resides at 205 Gay Street and is in favor of the applicants' business plan.

Mr. Peach is also in favor of the applicants' business plan and is also a neighbor. His wedding was in his backyard on a Saturday and overflowed into the applicants' backyard, and there was plenty of parking to accommodate the wedding utilizing the Municipal Parking lot.

Mr. Lister requested information regarding site plan reviews to include fire code review with the change of use of the property.

Mr. Mulrine stated the Fire Marshall has visited the site and made recommendations for the fire code. The Caroline County Health Department has visited the site and made recommendations for the kitchen use. Several contractors have visited the site for the review for renovations and recommendations/proposals.

Mr. Konopelski stated a fire sprinkler will be installed to meet the fire code for the entire building.

Vice Chairperson Doherty motioned to grant the special exception for the property located at 119 Gay Street for the combination use of a bed and breakfast and catering service.

Vice Chairperson Doherty read the requirements to grant the special exception:

In granting a special exception, the Board shall make findings of fact consistent with the provisions of this chapter. The Board shall grant a special exception only if it finds adequate evidence that any proposed use submitted for a special exception will meet all of the standards listed for the proposed uses. The Board shall, among other things, require that any proposed use and location be:

- a) In accord with the Town's Comprehensive Plan and consistent with the spirit, purposes, and intent of this Chapter 128, Zoning.

*DENTON BOARD OF APPEALS  
MINUTES  
November 10, 2014*

*Zoned Central Business Commercial and applicant was detailed in their presentation for the combination use which are permitted uses in this district.*

- 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.

*Exterior of the buildings and site will not change the appearance or character of the vicinity.*

*The rear exterior staircase will be reviewed by the Historic & Architectural Review Commission.*

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

*Street traffic will not change and the proposed parking plan will meet the parking*

*requirements. Other parking is available on the street and in the Municipal Parking lots.*

*Special events will most likely happen during nonbusiness hours on evenings or weekends.*

- 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.

*The property was previously a bed and breakfast and this is not a major change. The*

*proposed plan will not adversely affect the surrounding neighbors' property values or in any other way.*

The Board may impose whatever conditions regarding layout, circulation, and performance it deems necessary to insure that any proposed development will secure substantially the objectives of this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter. The Board

*DENTON BOARD OF APPEALS  
MINUTES  
November 10, 2014*

shall consider recommendations of the Planning Commission prior to rendering a decision. The Planning Commission shall review and comment on all applications for special exceptions prior to review and decision by the Board. The applicant for a special exception shall have the burden of proof on all points material to the application, which shall include the burden of presenting credible evidence as to each material issue and the burden of persuasion on each material issue. The Board of Appeals may disregard evidence, even if uncontroverted by an opposing party, if the Board finds such evidence not to be credible.

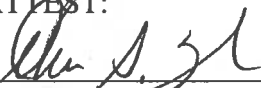
Mr. Lister seconded the motion. The motion passed unanimously.

**Staff Item:**


There will be a December meeting.

The public hearing adjourned at 7:47 p.m.

ATTEST:

  
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Thomas Wilkes

DENTON BOARD OF APPEALS:

  
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Troy Livingstone, Chairperson

  
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Florence Doherty, Vice Chairperson

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Dallas Lister, Member

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Brian Tyler, Alternate