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**CITY OF KANNAPOLIS, NC
BOARD OF ADJUSTMENT**

**Minutes of Special Meeting
Tuesday December 6, 2022**

10 The Board of Adjustment met on Tuesday December 6, 2022 at 6:00 PM at City Hall, 401 Laureate Way,
11 Kannapolis, North Carolina.

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Board Members Present: Ryan French, Chair
Cyrus Rattler
Daisy Malit
Holden Sides
Wilfred Bailey, Sr.

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Board Members Absent: Emily Joshi, Vice-Chair
Danielle Martini, Alternate Member

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Staff Present: Richard Smith, Planning Director
Boyd Staney, Assistant Planning Director
Rayvon Walker, Planner
Kristin Jones, Assistant to the City Manager
Pam Scaggs, Recording Secretary

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Visitors Present: Shelly Stein Drake Stein
Wendy Miranda Faye Anderson

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CALL TO ORDER

Chair Ryan French called the meeting to order at 6:00pm.

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ROLL CALL AND RECOGNITION OF QUORUM

Recording Secretary Pam Scaggs called the roll and presence of a quorum was recognized.

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APPROVAL OF AGENDA

Chair French asked for a motion to approve the Agenda, which was made by Ms. Malit, second by Mr. Bailey and the motion was unanimously approved.

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APPROVAL OF MINUTES

Chair French asked for a motion to approve the November 2, 2022 meeting minutes which was made by Mr. Rattler, second by Ms. Malit and the motion was unanimously approved.

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PUBLIC HEARING

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SWORN IN FOR TESTIMONY

Boyd Stanley, Shelly Stein and Wendy Miranda.

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BOA-2022-16 – Request for a Special Use Permit for property located at 853 W 8th Street to allow a short-term rental use in the Residential 8-Units per Acre (R8) zoning district.

49 Assistant Planning Director, Boyd Stanley, gave a presentation regarding a request for a Special Use Permit
50 (SUP) to allow short-term rental as a principal use on property located in the R8 zoning district. Mr. Stanley
51 provided the application details for BOA-2022-16, attached to and made part of these minutes as Exhibit 1,

1 noting the property owners, size, and address. Mr. Stanley directed the Commission's attention to the
2 Vicinity, Zoning and Future Land Use map. He added that use specific standards for short-term rental uses
3 were not included in the staff report, but that they will be required as part of the approval and read them
4 into the record:
5

- 6 (a) Activities on the site shall be limited to lodging.
- 7 (b) The owner or operator shall ensure that all refuse is stored in appropriate containers, and that
8 the containers are set out for collection on the scheduled collection day and removed from the
9 street or alley on the scheduled collection day.
- 10 (c) No display of goods, products, services, or other advertising related to the short-term rental
11 shall be visible from outside of the dwelling.
- 12 (d) The landowner or operator of the short-term rental shall maintain liability insurance on the
13 property covering the short-term rental use.
14

15 Mr. Stanley directed the Board's attention to the site plan, elevation renderings and proposed layout for the
16 rental as well as site photos. He noted that the applicant demolished a previous building and obtained a
17 permit to reconstruct a building within the same footprint as the previous building. He directed the Board's
18 attention to the staff report for the Findings of Fact and read them into the record:
19

20 **1. The proposed use will be in harmony with the area in which it is to be located and in**
21 **general conformance with the City's Land Use Plan.**

22 This property is in the "Urban Residential" Character Area in the *Move Kannapolis Forward*
23 *2030 Comprehensive Plan*. This Character Area allows for a variety of residential uses.
24

25 Based on the character areas noted above, the proposed development is compatible with the
26 future and existing uses in the surrounding area.
27

28 **2. Adequate measures shall be taken to provide ingress and egress so designed as to**
29 **minimize traffic hazards and to minimize traffic congestion on the public roads.**

30 The proposed use of this building as a short-term rental is not anticipated to cause any traffic
31 hazards or traffic congestion. There is adequate parking available for this use.
32

33 **3. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor,**
34 **dust, smoke or gas.**

35 No vibration, noise, odor, dust, smoke, or gas beyond what would be anticipated for a short-
36 term rental is expected as a result of this proposed use.
37

38 **4. The establishment of the proposed use shall not impede the orderly development and**
39 **improvement of surrounding property for uses permitted within the zoning district.**

40 The proposed use would not impede development of the surrounding properties for uses
41 allowed within their respective zoning districts. The proposed short-term rental is compatible
42 with the adjacent area of single-family dwellings.
43

44 **5. The establishment, maintenance, or operation of the proposed use shall not be**
45 **detrimental to or endanger the public health, safety, or general welfare.**

46 There is no apparent danger or detriment to the overall public safety, health and welfare
47 resulting from the proposed use. The proposed development is subject to all the requirements
48 of the Kannapolis Development Ordinance.
49

50 **6. Compliance with any other applicable Sections of this Ordinance.**

1 The proposed use shall comply with all sections of the Kannapolis Development Ordinance,
2 conditions of approval, and any other applicable local, state and Federal regulations. It is
3 understood by the applicant that unless specifically relieved of a requirement, in writing, all
4 KDO requirements must be met.
5

6 **7. Applicant consent.**

7 The applicant has signed the Conditions of Approval acceptance.
8

9 Mr. Stanley reminded the Board of the actions requested, concluded his presentation and made himself
10 available for questions.
11

12 Mr. Bailey asked if the structure proposed to be used for short-term rental is existing. Mr. Stanley responded
13 that it is existing and that the applicant could use the structure as a single-family home but is requesting the
14 short-term rental use. He added that had the previous building not been demolished, the applicant could
15 have requested the same use for it as well. Mr. Bailey noted that the R8 zoning requires an acre of property.
16 Mr. Stanley replied that R8 zoning allows for up to eight structures per acre but that the applicant is
17 requesting the SUP for the one existing structure. Planning Director, Richard Smith, added that the *8-units*
18 *per acre* is a guide for density allowance and that the lot does not need to be an acre to allow for a structure.
19

20 Mr. Rattler asked if approval of the SUP applies to the existing structure or would apply to future structures
21 as well. Mr. Stanley responded that if the Board approves the SUP request, that it would apply to the
22 existing structure and that the applicant would need to subdivide the property if she wanted to build
23 additional structures and then reapply for an additional SUPs.
24

25 Mr. Bailey expressed confusion as to why the applicant is requesting the SUP if the structure has already
26 been built. Mr. Stanley responded that the applicant could use the structure as a single-family home without
27 approval from the Board but that the short-term rental use requires approval of a SUP.
28

29 Attorney Safrit asked if a paved driveway is required. Mr. Stanley responded that since the structure was
30 reconstructed within the same footprint as the previous structure, a paved driveway was not required. Mr.
31 Rattler asked for further clarification. Mr. Smith responded that if the structure had not been demolished
32 and the applicant applied for the same use, they would not be required to pave the driveway and since the
33 structure was rebuilt within the same footprint of the previous structure, they were not required to pave the
34 driveway. Mr. Bailey asked if a driveway would be required if they subdivided and built additional
35 structures. Mr. Stanley responded that it would.
36

37 Attorney Safrit asked the definition of a short-term rental. Mr. Stanley stated that it is operated like an Air
38 BnB but with less than a 3-month rental timeframe.
39

40 The applicant, Shelly Stein, 911 W B Street, stated that the original plan was to renovate the existing
41 structure but after removing drywall, discovered that the studs, headers and floor were destroyed by termites
42 and did not have a choice but to demolish the structure and rebuild. Ms. Stein added that she applied for the
43 necessary permits and was advised that the new structure would have to conform to the existing footprint.
44 She added that she has previously operated Air BnB's in other locations and that they are intended to have
45 continuous turn-over which allows her, as the owner/operator, to visit the property often to maintain
46 integrity of the structure as well as the clientele. Ms. Stein stated that she lives in the same neighborhood,
47 wants to be a good neighbor and is not interested in offering a long-term rental option.
48

49 Attorney Safrit asked if landscaping will be added. Ms. Stein responded they have installed a stone walkway
50 and would like to add a courtyard between the structure and the existing bard as well as to replace the fence.

1 There being no additional questions or comments for staff or the applicant, Chair French opened the Public
2 Hearing.

3
4 Resident Wendy Miranda, 910 King Ave., stated that she is happy to hear about the improvements to the
5 property and supports the short-term rental use. Ms. Miranda expressed concern regarding other rentals in
6 the neighborhood and was surprised to learn that further review is not required for long-term rentals.
7

8 There being no additional questions or comments, Chair French closed the Public Hearing.
9

10 Chair French asked for a motion to accept the City's exhibits, including the staff report into the record
11 which was made by Ms. Malit, second by Mr. Sides and the motion was unanimously approved.
12

13 Chair French asked for a motion to approve or revise the Findings of Fact. Ms. Malit made the motion to
14 approve the Findings of Fact, second by Mr. Bailey and the motion was unanimously approved.
15

16 Chair French asked for a motion to approve, approve with conditions, or deny the issuance of the Special
17 Use Permit. Mr. Sides made the motion to approve, second by Mr. Sides and the motion was unanimously
18 approved.
19

20 Chair French asked for a motion to issue the Order of Approval, which was made by Ms. Malit, second by
21 Mr. Sides and the motion was unanimously approved.
22

23 **PLANNING DIRECTOR UPDATE**

24 Planning Director, Richard Smith, addressed Ms. Miranda's concerns and stated that she should contact the
25 Planning Department regarding her concerns.
26

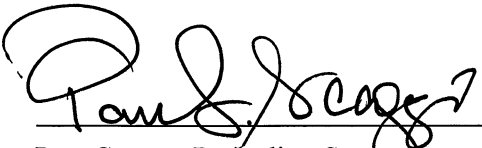
27 **OTHER BUSINESS**

28 None
29


30 **ADJOURN**

31 There being no further business, Ms. Malit made the motion to adjourn, second by Mr. Rattler and the
32 motion was unanimously approved.
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34 The meeting was adjourned at 6:23 PM on Tuesday December 6, 2022.
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40 Pam Scaggs, Recording Secretary
41 Board of Adjustment


Ryan French, Chair
Board of Adjustment
Emily Johns
Vice-Chair
02/10/23



Board of Adjustment December 6, 2022 Meeting

Staff Report

TO: Board of Adjustment

FROM: Ben Barcroft, Senior Planner

SUBJECT: Case# BOA-2022-16: Special Use Permit 853 W 8th Street
Applicant: Shelly Stein

Request for a Special Use Permit to allow a short-term rental use in the Residential 8-units per acre (R8) zoning district.

A. Actions Requested by Board of Adjustment

1. Motion to accept the City's exhibits into the record.
2. Motion to approve/revise Findings of Fact for the Special Use Permit.
3. Motion to approve (approve with conditions) (deny) the issuance of the Special Use Permit
4. Motion to Issue Order of Approval.

B. Required Votes to Pass Requested Action

A majority vote is required to approve, approve with conditions, or deny the requested actions.

C. Background

The applicant, Shelly Stein, is requesting a Special Use Permit (SUP) to allow a short-term rental use in the Residential 8-units per acre (R8) zoning district on approximately 0.75 +/- acres of property located at 853 W 8th Street, further identified as Rowan County Parcel Identification Number 148 100.

Pursuant to Table 4.2.B(5) of the Kannapolis Development Ordinance (KDO), issuance of a SUP is required for short-term rental uses in the R8 zoning district. Ms. Stein proposes to upfit the existing structure.

D. Fiscal Considerations

None

E. Policy Issues

Section 2.5.A(5) of the KDO requires that the Board of Adjustment shall only approve a special use permit if the applicant demonstrates that the criteria below have been met. Staff analysis of each criterion is noted.

Staff Findings of Fact - Based on application review

Yes No

 The proposed conditional use will be in harmony with the area in which it is to be located and in general conformance with the City's Land Use Plan.

This property is in the "Urban Residential" Character Area in the *Move Kannapolis Forward 2030 Comprehensive Plan*. This Character Area allows for a variety of residential uses.

Based on the character areas noted above, the proposed development is compatible with the future and existing uses in the surrounding area.

 Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.

The proposed use of this building as a short-term rental is not anticipated to cause any traffic hazards or traffic congestion. There is adequate parking available for this use.

 The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

No vibration, noise, odor, dust, smoke, or gas beyond what would be anticipated for a short-term rental is expected as a result of this proposed use.

 The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

The proposed use would not impede development of the surrounding properties for uses allowed within their respective zoning districts. The proposed short-term rental is compatible with the adjacent area of single-family dwellings.

 The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.

There is no apparent danger or detriment to the overall public safety, health and welfare resulting from the proposed use. The proposed development is subject to all the requirements of the Kannapolis Development Ordinance.

 The proposed use complies with all applicable provisions of the KDO.

The proposed use shall comply with all sections of the Kannapolis Development Ordinance, conditions of approval, and any other applicable local, state and Federal regulations. It is understood by the applicant that unless specifically relieved of a requirement, in writing, all KDO requirements must be met.

 The applicant consents in writing to all conditions of approval included in the approved special use permit.

The applicant has signed the Conditions of Approval acceptance.

F. Legal Issues

Board's Findings of Fact - Based on application review and public hearing.

In order to determine whether a special use permit is warranted, the Board must decide that each of the six findings as outlined below has been met and that the additional approval criteria has been satisfactorily addressed. If the Board concurs completely with the findings of the staff, no additional findings of fact are necessary, and the staff findings should be approved as part of the decision. However, if the Board wishes to approve different findings (perhaps as a result of additional evidence or testimony presented at the public hearing), alternate findings need to be included as part of the six criteria below. Should a special use permit be approved, the Board may place conditions on the use as part of the approval to assure that adequate mitigation measures are associated with the use.

- | Yes | No | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | The proposed conditional use will be in harmony with the area in which it is to be located and in general conformance with the City's Land Use Plan. _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads. _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | The proposed use shall not be noxious or offensive by reason of vibration, noise, <u>odor, dust, smoke or gas.</u> _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | The establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district. _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare. _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Compliance with any other applicable Sections of this Ordinance. _____ |

G. Recommendation

Based on the above findings, staff recommends **approval** of the Special Use Permit based on the staff Findings of Fact (or as modified by the Board), the conceptual floor plan, and compliance with all local, state and federal requirements.

The Board of Adjustment should consider all facts and testimony after conducting the Public Hearing and render a decision accordingly to approve, approve with conditions, or deny the Special Use Permit.

H. Attachments

1. Special Use Permit Application
2. Vicinity Map
3. Zoning Map
4. Future Land Use Map

5. Conceptual Site Plan
6. Elevation Rendering
7. Proposed layout
8. List of Notified Properties
9. Notice to Adjacent Property Owners
10. Posted Public Notice

I. Issue Reviewed By:

| | |
|------------------------|---|
| Planning Director | X |
| Assistant City Manager | X |
| City Attorney | X |