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

**Minutes of Special Meeting
Tuesday August 1, 2023**

The Board of Adjustment met on Tuesday August 1, 2023 at 6:00 PM at City Hall, 401 Laureate Way, Kannapolis, North Carolina. This meeting was held in accordance with required Public Notice

Board Members Present: Emily Joshi, Chair
Chris Dwiggin
Mike McClain, ETJ Representative
Wilfred Bailey, Sr.

Board Members Absent: Cyrus Rattler, Vice-Chair
Holden Sides
Ryan French
Danielle Martini, Alternate Member

City Attorney: Walter M. Safrit

Staff Present: Richard Smith, Planning Director
Ben Barcroft, Senior Planner
Kathryn Stapleton, Planner
Gabriela Burwell, Planning Technician
Pam Scaggs, Recording Secretary

Visitors Present: John Suther

CALL TO ORDER

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

OATH OF OFFICE

Appointed member Mike McClain was administered the Oath of Office by Planner, Kathryn Stapleton.

ROLL CALL AND RECOGNITION OF QUORUM

Ms. Stapleton called the roll and presence of a quorum was recognized.

APPROVAL OF AGENDA

Chair Joshi asked for a motion to approve the agenda which was made by Mr. Bailey, second by Mr. Dwiggin and the motion was unanimously approved.

APPROVAL OF MINUTES

Chair Joshi asked for a motion to approve the July 11, 2023 meeting minutes which was made by Mr. Bailey, second by Mr. Dwiggin and the motion was unanimously approved.

SWORN IN FOR TESTIMONY

1 Ben Barcroft.

2
3 **PUBLIC HEARING**

4
5 **BOA-2023-12 – Request for a Special Use Permit for property located at 515 Oak Avenue to**
6 **allow for a single-family detached dwelling in the Center City (CC) zoning district.**

7 Senior Planner, Ben Barcroft, gave a presentation regarding a request for a Special Use Permit
8 (SUP) and provided the application details for BOA-2023-12, attached to and made part of these
9 minutes as Exhibit 1. Mr. Barcroft directed the Board’s attention to the Vicinity map and stated
10 that the applicant, John Suther, is requesting the SUP to build a single-family detached dwelling
11 on property located at 515 Oak Avenue and that per Table 4.2.B(5) of the Kannapolis Development
12 Ordinance (KDO), a SUP is required for single-family detached residential uses in the Center City
13 (CC) zoning district. He further explained that while multi-family residential uses are encouraged
14 in the (CC) zoning district, existing adjacent uses include single-family residential uses and are
15 permitted with a SUP. Mr. Barcroft added that this would be considered “in-fill” development.

16
17 Mr. Barcroft utilized the Zoning and Future Land Use maps as well as site photos to illustrate the
18 existing residential uses that include both attached and detached uses, stating that staff found the
19 SUP request to be compatible with existing and future land uses. He further directed the Board’s
20 attention to the conceptual site plan and identified egress/ingress from Oak Avenue. Mr. Barcroft
21 concluded his presentation and made himself available for questions.

22
23 Mr. Bailey asked the reason that a SUP is required if the proposed project is similar to what is
24 existing. Mr. Barcroft explained that the CC district is in proximity to the downtown area and that
25 it was determined that higher density uses would be more appropriate for the area but did not want
26 to exclude less dense uses in all areas and therefore required the SUP.

27
28 **SWORN IN FOR TESTIMONY**

29 John Suther

30
31 The applicant, John Suther, 1316 S. Main Street, Kannapolis, stated that multi-family uses were
32 considered for this parcel but that a sanitary sewer easement on the property prevented subdividing
33 the property to allow for those multi-family uses, so he opted to apply for the SUP for single-
34 family uses.

35
36 Mr. Bailey expressed concern that the Board did not receive an elevation rendering and asked Mr.
37 Suther what the house would look like. Mr. Suther responded that it will be very similar to the
38 existing homes and will be approximately 1400 square feet.

39
40 There being no additional questions or comments for staff or the applicant, Chair Joshi opened the
41 Public Hearing which was then closed with no public comment made.

42
43 Chair Joshi asked for a motion to accept the City’s exhibits, including the staff report into the
44 record, which was made by Mr. McClain, second by Mr. Bailey and the motion was unanimously
45 approved.

1 Chair Joshi asked for a motion to approve or revise the Findings of Fact. Mr. Bailey made the
2 motion to approve the Findings of Fact, second by Mr. Dwiggins and the motion was unanimously
3 approved.

4
5 Chair Joshi asked for a motion to approve, approve with conditions, or deny the issuance of the
6 Special Use Permit. Mr. Bailey made the motion to approve, second by Mr. McClain and the
7 motion was unanimously approved.

8
9 Chair Joshi asked for a motion to issue the Order of Approval. Mr. McClain made the motion to
10 approve the Order, second by Mr. Dwiggins and the motion was unanimously approved.

11
12 **PLANNING DIRECTOR UPDATE**

13 Planning Director, Richard Smith, welcomed the new Board members and provided an update on
14 current projects in the City of Kannapolis. He added that a link to the Development Map is located
15 on the City's website.

16
17 **OTHER BUSINESS**

18 Mr. Bailey asked when they could expect Highway 3 to be completed. Mr. Smith responded that
19 it should be completed by the end of the year. Mr. Bailey asked the status of the proposed grocery
20 store at Rogers Lake Road and Kannapolis Parkway. Mr. Smith responded that the request is
21 pending wastewater allocation approval. He added that City Council recently approved
22 amendments to the allocation policy to split residential projects from non-residential projects.

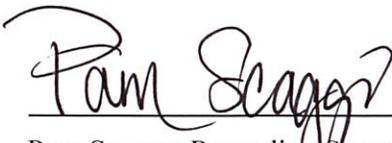
23
24 Chair Joshi questioned why a proposed grocery store has to apply for allocation, but a potential
25 library does not. Mr. Smith responded that the Policy allows for a strategic reserve of allocation
26 for community enhancement facilities such as a library or a school and referred to the proposed
27 new Northwest High School to be located on Kannapolis Parkway at the end of Rogers Lake Road.

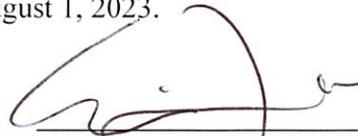
28
29 Mr. Bailey asked if a Traffic Impact Analysis (TIA) has been conducted regarding the proposed
30 new high school on Kannapolis Parkway. Mr. Smith responded that a TIA has been conducted.

31
32 **ADJOURN**

33 There being no further business, Mr. Dwiggins made the motion to adjourn, second by Mr.
34 McClain and the motion was unanimously approved.

35
36 The meeting was adjourned at 6:53 PM on Tuesday, August 1, 2023.

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42 Pam Scaggs, Recording Secretary
43 Board of Adjustment



Emily Joshi, Chair
Board of Adjustment

EXHIBIT 1



Board of Adjustment August 1, 2023 Meeting

Staff Report

TO: Board of Adjustment
FROM: Ben Barcroft, Senior Planner
SUBJECT: Case# BOA-2023-12: Special Use Permit – 515 Oak Avenue
Applicant: John Suther

Request for a Special Use Permit to allow for a single-family detached dwelling on property located at 515 Oak Avenue.

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, John Suther, is requesting a Special Use Permit (SUP) to allow for a single-family detached dwelling in the Center City (CC) zoning district on approximately 0.154 +/- acres of property located at 515 Oak Avenue and further identified as Cabarrus County Parcel Identification Number 56134754630000.

Pursuant to Table 4.2.B(5) of the Kannapolis Development Ordinance (KDO), issuance of a SUP is required for single-family detached dwelling uses in the CC zoning district.

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.

Uses on the surrounding properties consist of single-family residential both attached and detached. The *Move Kannapolis Forward 2030 Comprehensive Plan* designates the subject property and surrounding properties as the "Downtown Center" Character Area.

While the proposed single-family detached dwelling is not listed as primary or secondary uses in the "Downtown Center" Character Area, staff has determined that the use is consistent and in harmony with existing and surrounding uses. Further, the KDO permits single-family detached housing in the CC district with the issuance of a SUP.

 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.

There is an existing drive via Oak Avenue that the proposed dwelling will utilize and is therefore not anticipated to cause any traffic hazards or traffic congestion.

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

It is not anticipated that the addition of one single-family dwelling would create vibration, noise, odor, dust, smoke, or gas that would be noxious or offensive to the surrounding area.

 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 addition of the proposed dwelling will not impede orderly development or improvement of surrounding property. The proposed single-family detached residential use is compatible with the adjacent uses of single-family residential.

 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 use 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 (KDO), 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.

N/A unless the Board of Adjustment determines to add conditions.

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

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.

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

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

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

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

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 site 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. List of Notified Properties
7. Notice to Adjacent Property Owners
8. Posted Public Notice

I. Issue Reviewed By:

Planning Director	X
City Attorney	X
Assistant City Manager	X