

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

3
4 **Minutes of Meeting**
5 **Tuesday November 2, 2021**
6

7 The Board of Adjustment met on Tuesday November 2, 2021 at 6:00 PM at City Hall, 401 Laureate
8 Way, Kannapolis, North Carolina.
9

10 **Board Members Present:** Ryan French, Chair
11 Emily Joshi, Vice-Chair
12 Cyrus Rattler
13 Wilfred Bailey, Sr.
14 Danielle Martini, Alternate Member
15

16 **Board Members Absent:** Daisy Malit
17 Holden Sides
18

19 **Staff Present:** Richard Smith, Planning Director
20 Ryan Lipp, Senior Planner
21 David Hancock, IT
22 Pam Scaggs, Recording Secretary
23

24 **City Attorney:** Walter M. Safrit III
25

26 **Visitors Present:** David Miller
27

28 **CALL TO ORDER**

29 Chair Ryan French called the meeting to order at 6:00pm.
30

31 **ROLL CALL AND RECOGNITION OF QUORUM**

32 Recording Secretary Pam Scaggs called the roll and presence of a quorum was recognized. Chair
33 French recognized that Alternate Member, Danielle Martini will be acting as a voting member of the
34 Board.
35

36 **APPROVAL OF AGENDA**

37 Chair French asked for a motion to approve the Agenda, which was made by Ms. Joshi, second by Mr.
38 Bailey and the motion was unanimously approved.
39

40 **APPROVAL OF MINUTES**

41 Chair French asked for a motion to approve the August 3, 2021 and October 6, 2021 Minutes. Ms.
42 Joshi made a motion to approve, second by Mr. Rattler and the motion was unanimously approved.
43

44 **PUBLIC HEARING**
45

46 **SWORN IN FOR TESTIMONY**

47 Ryan Lipp and David Miller
48

1 **BOA-2021-15 – Request for a Special Use Permit on property located at 516 Martin Circle to**
2 **allow for single-family residential home.**

3 Senior Planner Ryan Lipp gave a presentation regarding a request for a Special Use Permit (SUP) and
4 provided the application details for BOA-2021-15, attached to and made part of these minutes as
5 Exhibit 1, by noting the applicant, property owners, address and dates of public notice.
6

7 Mr. Lipp directed the Board’s attention to the Vicinity, Zoning and 2030 Future Land Use maps, as
8 well as the site plan, noting the location, zoning, and recommended future land uses. He stated that
9 since the property is located in the Center City (CC) zoning district, which does not allow residential
10 uses without a Special Use Permit, the setback requirements revert to those of the Residential Compact
11 (RC) zoning district. Mr. Lipp noted that if approved, driveway access will be shared with the adjacent
12 property. He reviewed Policy Issues and staff findings as follows:
13

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

16 The subject property is within the “Downtown Center” Character Area and the “Urban
17 Corridor” Character Area as designated on the Future Land Use and Character Map in
18 the *Move Kannapolis Forward 2030 Comprehensive Plan*. The Urban Corridor
19 Character Area establishes opportunities for infill redevelopment to occur.
20

21 Based on the character areas noted above, the proposed single-family detached
22 residential use would be in harmony with the future and existing uses in the
23 surrounding area.
24

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

27 The proposed development of this site for single-family detached residential is not
28 anticipated to cause any traffic hazards or traffic congestion. Per a condition of
29 approval, the development will be required to utilize an existing shared drive for
30 ingress and egress.
31

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

34 No vibration, noise, odor, dust, smoke or gas is expected as a result of the development
35 of this property.
36

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

39 The proposed use would not impede development of the surrounding properties for
40 uses allowed within the CC zoning district.
41

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

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

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

2 The proposed use shall comply with all sections of the City of Kannapolis Unified
3 Development Ordinance, conditions of approval, and any other applicable local, state
4 and Federal regulations. It is understood by the applicant that unless specifically
5 relieved of a requirement, in writing, all UDO requirements, including compliance
6 with the Technical Review Committee site plan review and approval process, must be
7 met. Sewer service is subject to allocation based upon sewer treatment capacity.
8

9 Mr. Lipp stated that staff is recommending approval of the SUP request with conditions as proposed
10 by staff:

- 11
- 12 1. The number of single-family detached dwelling units permitted by this SUP shall be limited
13 to one (1).
- 14 2. Property must access via an existing shared driveway on adjacent parcel, further identified
15 as Cabarrus County Parcel Identification Number 56134790540000.
- 16 3. The site plan included is for illustrative purposes only. Final Design of the project is
17 subject to all applicable requirements of the UDO for single-family detached residential.
18

19 He reminded the Board of the actions requested, concluded his presentation and made himself available
20 for questions.
21

22 Mr. Bailey noted the surrounding residential uses and asked why the Special Permit Use is required.
23 Mr. Lipp responded that existing homes were more than likely built before adoption of the Unified
24 Development Ordinance (UDO) and are therefore “grandfathered”. Mr. Bailey questioned whether a
25 shared driveway would cause conflict between the two property owners? Mr. Lipp responded that an
26 access easement will need to be obtained to establish access to the existing driveway.
27

28 Ms. Joshi noted the small lot size and questioned where the future property owner will park as well as
29 the number of required parking spaces. Mr. Lipp responded that if approved, development will have to
30 adhere to current UDO standards which require two (2) parking spaces.
31

32 The applicant and property owner, David Miller, made himself available for questions.
33

34 City Attorney, Wally Safrit, asked Mr. Miller if he also owned the adjacent property and Mr. Miller
35 confirmed that he does. Mr. Safrit asked if there will be a shared driveway agreement on record? Mr.
36 Miller responded that an easement will be recorded at the County which will run with the land. Mr.
37 Safrit advised that a condition should be added to require that the easement be recorded. Mr. Miller
38 agreed to the added condition.
39

40 There being no additional questions or comments for staff, Chair French opened the Public Hearing
41 which was then closed with no public comment.
42

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

46 Chair French asked for a motion to approve or revise the Findings of Fact. Ms. Joshi made the motion
47 to approve the Findings of Fact, second by Ms. Martini and the motion was unanimously approved.

1
2 Chair French asked for a motion to approve, approve with conditions, or deny the issuance of the SUP.
3 Ms. Joshi made the motion to approve with the conditions as amended by Mr. Safrit, second by Mr.
4 Rattler and the motion was unanimously approved.
5

6 Chair French asked for a motion to issue the Order of Approval which was made by Mr. Rattler, second
7 by Ms. Joshi and the motion was unanimously approved.
8

9 **DIRECTOR UPDATE**

10 Planning Director, Richard Smith made himself available for questions.
11

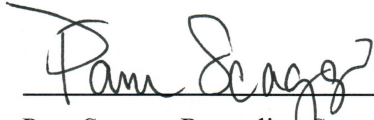
12 **OTHER BUSINESS**

13 Mr. Smith stated that the Board will need to review and adopt next year's schedule of meetings.
14 Chair French indicated that the suggested July 5, 2022 meeting date may cause conflicts with the
15 July 4, 2022 holiday and recommended changing the July meeting date to July 12, 2022. Mr. Rattler
16 made the motion to approve the amended schedule, second by Mr. Bailey and the motion was
17 unanimously approved.
18

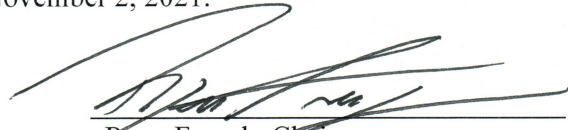
19 **ADJOURN**

20 There being no further business, Ms. Joshi made the motion to adjourn the meeting which was
21 approved by unanimous vote.
22

23 The meeting was adjourned at 6:17 PM on Tuesday November 2, 2021.
24
25

26
27 
28 _____

29 Pam Scaggs, Recording Secretary
30 Board of Adjustment



Ryan French, Chair
Board of Adjustment

EXHIBIT 1

Board of Adjustment Minutes

November 2, 2021



Board of Adjustment November 2, 2021 Meeting

Staff Report

TO: Board of Adjustment
FROM: Ryan Lipp, Senior Planner
SUBJECT: Case# BOA-2021-15: 516 Martin Circle
Applicant: David Miller

Request for a Special Use Permit to allow for construction of a single-family detached dwelling in the Center City (CC) 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, David Miller, is requesting a Special Use Permit (SUP) to allow construction of a single-family residential dwelling unit in the Center City (CC) zoning district, on 561 Martin Circle, further identified as Cabarrus County Parcel Identification Number 56135609370000.

Pursuant to Table 4.6-1 of the Unified Development Ordinance (UDO), a SUP is required for a single-family dwelling in the CC zoning district. The subject property measures approximately 0.103 +/- total acres.

D. Fiscal Considerations

None

E. Policy Issues

Article 3.5 of the UDO 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.

The subject property is within the "Downtown Center" Character Area and the "Urban Corridor" Character Area as designated on the Future Land Use and Character Map in the *Move Kannapolis Forward 2030 Comprehensive Plan*. The Urban Corridor Character Area establishes opportunities for infill redevelopment to occur.

Based on the character areas noted above, the proposed single-family detached residential use would be in harmony 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 development of this site for single-family detached residential is not anticipated to cause any traffic hazards or traffic congestion. Per a condition of approval, the development will be required to utilize an existing shared drive for ingress and egress.

 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 is expected as a result of the development of this property.

 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 the CC 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.

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 Unified Development Ordinance.

 Compliance with any other applicable Sections of this Ordinance.

The proposed use shall comply with all sections of the City of Kannapolis Unified 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 UDO requirements, including compliance with the Technical Review Committee site plan review and approval process, must be met. Sewer service is subject to allocation based upon sewer treatment capacity

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</u>, <u>dust</u>, <u>smoke</u> or <u>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 with conditions** 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.

Conditions of Approval proposed by staff:

1. The number of single-family detached dwelling units permitted by this SUP shall be limited to one (1).
2. Property must access via an existing shared driveway on adjacent parcel, further identified as Cabarrus County Parcel Identification Number 56134790540000.
3. The site plan included is for illustrative purposes only. Final Design of the project is subject to all applicable requirements of the UDO for single-family detached residential.

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. 2030 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
Assistant City Manager	X
City Attorney	X