

MINUTES
CITY OF BEAUFORT
ZONING BOARD OF APPEALS
January 23, 2012, 5:30 P.M.
City Hall Council Chambers – 1911 Boundary Street
Beaufort, South Carolina

STATEMENT OF MEDIA NOTIFICATION: “In accordance with south Carolina Code of Laws, 1976, Section 30-4-80(d), as amended, all local media were duly notified of the time, date, place, and agenda of this meeting.”

Members Present

Alice Howard, Chairman
Brad Hill, Vice-Chairman
Ron Mattingly
Eric Powell
Joan Sedlacek

Staff Present

Libby Anderson, Planning Director
Julie A. Bachety, Recorder

FREEDOM OF INFORMATION ACT COMPLIANCE Public Notification of the Zoning Board of Appeals meeting has been published in compliance with the *Freedom of Information Act* requirements.

Chairman Howard called the meeting to order at 5:30 p.m. and led the Pledge of Allegiance.

Review of the December 20, 2011 Meeting Minutes have been deferred to the February meeting.

REVIEW OF PROJECTS

1108 North Street, identified as District 120, Tax Map 4, Parcel 985, Special Exception for Short Term Rental.

Applicants: Sally and Perry Harvey (ZB12-01)

The applicant is requesting a special exception in order to operate a short term rental.

Ms. Anderson said this property is in The Bluff neighborhood of the Historic District. It is zoned “GR Residential District” (GR). The applicants live on Brays Island in Northern Beaufort County and they plan to manage the rental of the unit themselves. They’ve stated that they will not rent the unit when they are both out of town. Information on the property maintenance has been provided. The property has adequate on-site parking. The applicant has provided the required information including a rental agreement. A monitored fire alarm system has been installed. Letters were sent to adjoining property owners as required. Public notice was made as required. The public comments were received and the board members had copies. Ms.

Anderson said there would be no significant negative impact on the surrounding properties or general good.

Ms. Anderson said questions for the applicant would be: Will both the primary structure and the accessory structure be available for short term rental at the same time? The applicant said they will not rent the main dwelling and the accessory dwelling at the same time to different people.

Ms. Anderson reviewed the staff evaluation of the application based on the special exception criteria:

1. *Proposed use compatible with existing Land uses in surrounding area:* Property is located across North Street from St. Helena Church and is next to Rhett House Inn annex at the corner of North and Newcastle Streets. The property is two blocks from Charles Street, a neighborhood commercial collector street. The property is within easy walking of downtown Bay Street. Staff believes the use is compatible.
2. *Proposed plans in harmony with the character of the surrounding area:* No changes are proposed to the property as part of its use as a short term rental.
3. *Impact on public infrastructure:* The proposed use is not likely to have a greater impact on public infrastructure than for use as long-term rental.
4. *In conformity with the Comprehensive Plan and the Sector 1 Civic Master Plan:* The proposed use is in general conformity with the City's comprehensive plan and the sector 1 Civic Master Plan.
5. *Public health and safety impact:* Proposed use will likely have little impact on public health and safety given that the property owner lives in the area.
6. *Potential creation of nuisances:* Staff feels the proposed use has little potential to create noise, lights, fumes, dust, smoke, vibration, fire hazard, or other injurious or obnoxious impacts since a monitored fire alarm has been installed. In addition, the property owners live in the area and can provide proper oversight of the property.

Staff recommends approval of the application on the condition that the applicants provide staff with documentation that a monitored contract for the fire alarm system is in place. The applicant has satisfied the condition as of today's meeting.

Mr. Mattingly asked if there is information on file regarding the second structure since it was not included our packets. Ms. Anderson said she received this information via e-mail from the applicant.

Mr. Powell asked are there any other houses that were constructed for this purpose (short-term rental) in this area. Ms. Andersons said she's not sure and this house was constructed before short-term rentals were allowed.

Perry Harvey, the applicant, said we are also talking to some management companies in town to make sure we have everything covered regarding running our short term rental.

There was no public comment at the meeting.

Mr. Mattingly said it's a good area for this considering the surrounding uses. All board members agreed with him.

Mr. Mattingly made a motion, seconded by Mr. Powell, to approve the special exception as the proposed use will have no significant impact on the surrounding properties or the public good. The motion passed unanimously.

2518 Azalea Drive, identified as District 120, Tax Map 8, Parcel 238, Change-after-initial approval and extension.

Applicant: Theresa Pulliam (ZB12-02)

The applicant is requesting a one-year extension of the variance approval granted in January of last year to permit two additional garages.

Ms. Anderson said the applicant received the Board's approval last January for a variance to permit two additional garages to be located on the property at 2518 Azalea Drive. However, the applicant has not yet submitted a permit application for the garages and as a result; the variance approval will expire at the end of this month. The applicant is now requesting a one-year extension of the approval. In addition, the applicant is requesting a modification of the approval. Originally, approval was given for two additional one-car garages (12' x 24' each). The applicant would like to modify the approval to permit one two-garage (20' x 25').

Staff believes the visual impact of a two-car garage will be no greater and perhaps less, than two one-car garages. Staff recommends extending the variance approval for an additional 12 months and also modifying the approval to permit one two-car garage.

Ms. Howard asked if the conditions in our original approval letter would still stand. Mr. Mattingly thought it wouldn't matter anymore. Ms. Anderson said actually all of the original conditions would still stand.

Theresa Pulliam, owner, said the reason she is asking for this extension is because the price on the two original buildings she was going to get, had gone up significantly and she only has so much money for this project. She said now she's working with another company out of North Carolina. She now has to go with a double garage door which is an added expense. The double door will match the existing garage door.

There was no public comment.

Mr. Hill made a motion, seconded by Mr. Powell, to grant the extension along with the conditions from the original approval which is as follows:

- **that no additional driveways or parking pads be added;**
- **that subdivision of the property not be permitted until the garages is removed; and**
- **that staff approve the design of the building as described by the applicant at the meeting.**

In addition, the Board approved a revision of the original approval to permit one 2-car garage rather than two 1-car garages as originally proposed. The motion passed unanimously.

111 Bartram Drive, identified as District 120, Tax Map 29A, Parcel 356, Wetland Buffer Variance.

Applicant: William Hunt (ZB12-03)

The applicant is requesting a variance in order to retain the foundation for a garage.

Ms. Anderson said this property is in the Battery Point subdivision. The Battery Point PUD ordinance requires a 30'-35' wetland buffer. A single-family dwelling is located on the lot. A permit was issued to JoCo Construction to build a one-car detached garage on the lot. The site plan submitted with the application showed the garage outside the 30' buffer. When a foundation survey was submitted for the garage, it showed the foundation for the garage encroaching 6.3' into the wetland buffer. Now the applicant is requesting a variance to permit the garage to remain partially in the wetland buffer.

Letters were sent to adjoining property owners as required. Also, public notice was made as required. The one public comment was received and the board members had a copy. The Battery Point Association does not object to the granting of the variance.

Ms. Anderson reviewed staff findings on the criteria for a setback variance:

1. *Exceptional or extraordinary conditions:* Staff believes there may be extraordinary and exceptional conditions attached to this property, in that the lot is located in a PUD; that a wetland area is located at the rear of the lot; and that the lot is subject to a 30' wetland buffer requirement as set out in the PUD.
2. *Conditions as applied to other property in the vicinity:* Board must make a finding that these conditions do not generally apply to other property in the vicinity. It appears there are a number of lots in the Battery Point subdivision that are located on these "wetland" areas.
3. *Conditions not a result of the applicant's own actions:* In regard to this resulting from the applicant's own actions, Ms. Anderson said the applicant did not plat the subject lot.
4. *Not in conflict with the comprehensive plan:* Ms. Anderson said this is not in conflict with the Comprehensive Plan, and that the UDO does not have a specific freshwater wetland buffer requirement. The typical rear yard setback in the UDO for a primary structure is 15'. An accessory structure less than 500 square feet can be located 5' from the rear property line.
5. *Unreasonable restriction on the utilization of the property:* Staff assumes that this phase of the subdivision was laid out with a full understanding of the buffer and setback requirements. There is adequate room within the buildable area of the lot to accommodate a garage. It appears the issue is that a mistake was made in laying out the foundation for the garage, as proposed to the PUD being a restriction on use of the property.
6. *Detriment to adjacent property and the public good:* Granting variance would not be a detriment to adjacent property and the public good, in that the Battery Point

Association does not object to the variance and that no residents have objected to the application after property public notice was given.

Staff recommends denial since all the findings necessary to approve a variance cannot be made. If the Board has a different interpretation of the application and believes all the findings necessary to approve the variance can be made, staff recommends it be clear in any motion that one of the unique aspects of the application is that the lot is in a PUD, and that the PUD requirements for buffers are more stringent than the requirements in the UDO. Ms. Anderson said the real remedy would be to have the garage removed.

Barbara Hunt was present on behalf of William Hunt. She said lot #159 is a tennis court and we didn't figure in the little curve of this lot. You can't see the garage anywhere in the neighborhood and it doesn't affect anyone since it's wooded, she said. Ms. Hunt asked, why the property wasn't surveyed before the foundation was poured. Mr. Hill said the contractor, JoCo Construction, should have known.

Richard Seymour, President of ARB and member of The Battery Point Homeowner's Association, suggested to Mr. Hunt that he first put out stakes. Mr. Seymour asked Libby to show the Board the previous plan. He said JoCo Construction said they went by the stakes that Mr. Hunt placed. Mr. Seymour asked the Board that the variance be granted. The board members agreed that the responsibility should fall on the builder. The wetlands are "seasonal". Mr. Mattingly commented that if people want to walk around the perimeter, now they can't. Mr. Seymour said there is no walkway and that kids have a great time because of the many trees and shrubbery. Mr. Mattingly suggested instead of tearing up the pavement, maybe just move it up 6 feet. William Hunt arrived at the meeting. Mr. Hunt said we can do that but it adds extra expenses and this was supposed to be a minor project. He feels the buffer really won't be used for anything since it's not "freshwater". He said he didn't intend to go into the buffer and that he was just trying to fit it in between the fence. Mr. Powell asked if Mr. Hunt inquired about the conflicting surveys. Mr. Hunt said no. Ms. Howard asked if it was the same surveyor. Mr. Hunt said yes it was.

There was no public comment.

Ms. Howard reminded the board members that we have to all be in agreement in order to grant the variance. Ms. Sedlacek said it seems okay since we have the President of the ARB supporting the variance and that the buffer is just woods. She went to the property and saw a house next door with stakes and mentioned to them the buffer requirements. She said they were unaware of them also. She recommended that the slab be kept as it is now. Mr. Hill said the owner, JoCo, and the surveyor have to be responsible. He said since the POA has no problem, then it's not a huge violation in his opinion. He said he's okay leaving it the way it is, but did suggest plantings be done around the foundation. Mr. Powell agreed with Mr. Hill. Mr. Mattingly agreed with everyone and encouraged the POA to add something to their current documentation so this doesn't happen again. Ms. Howard said the builder should be held accountable because we've had this happen before. She feels she cannot approve the finding

#5 neither can she grant the variance. Ms. Anderson said if the Board can meet the other findings, then they can add a condition in their motion so the variance can be approved.

Board went over findings and noted that there are some discrepancies in both surveys.

Mr. Hill made a motion, seconded by Mr. Mattingly, to grant the variance as requested with the condition that the builder be responsible for additional landscaping, with the design being approved by staff, and the builder be put on a notice that no more post-facto approvals are allowed. The motion passed unanimously.

Ms. Anderson said she will speak with the City Building Official to see what we can do to make the process better.

NEW BUSINESS

Ms. Anderson said there will be a ZBOA meeting in February.

ADJOURNMENT

There being no further business to come before the board, Chairman Howard adjourned the meeting at 6:41 p.m.