**CITY OF BEAUFORT**
ZONING BOARD OF APPEALS
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# MINUTES

CITY OF BEAUFORT
**ZONING BOARD OF APPEALS**
Monday, June 28, 2010, 5:30 p.m.
**BEAUFORT CITY HALL – 302 Carteret 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 duly notified of the time, date, place, and agenda of this meeting.

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**Members Present**
Alice Howard, Chairman
Brad Hill
Eric Powell

**Members Absent**
Joan Sedlacek

**Staff Present**
Libby Anderson, City of Beaufort Planning Director
Julie Bachety, Recorder

## I. Call to Order

Alice Howard, Chairman, called the meeting to order at 5:30 P.M. Ms. Howard introduced the board members, Brad Hill, and Eric Powell, and City of Beaufort staff, Libby Anderson, Planning Director, and Julie Bachety, Recorder.

## II. 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 and the *City of Beaufort Unified Development Ordinance* (UDO).

## III. Review Minutes:

### A. Minutes of April 26, 2010

**Motion:** Mr. Hill made a motion, seconded by Mr. Powell, to approve the minutes as submitted. The motion carried with a vote of three to zero.

## IV. Review of Full Projects:

### A. 113 & 115 Verdier Road, identified as District 120, Tax Map 3, Parcels 220 & 219, Accessory Structure Variance.

Mr. Hill requested to be recused from the 113 & 115 Verdier Road variance application since he is the Landscape Architect for the project.

Applicant: Mayfair Corporation for James Quarforth and Donna Persing (ZB10-12)

The applicant is requesting an accessory structure variance in order to build a 2nd garage on the property.

Ms. Anderson presented her staff report. There are two lots in this request and the lot contains an existing dwelling and a garage with an upstairs accessory dwelling unit. 113 Verdier Road adjoins 115 Verdier Road to the west and is undeveloped. Both lots are under the same ownership. Section 5.4.B of the Unified Development Ordinance (UDO) stipulates that a lot may have one garage or workshop, and one shed up to 3% of the size the lot up to a maximum of 320 square feet. The applicant would like to build a 500 square foot garage on the vacant lot at 113 Verdier Road. The UDO does not allow this since a primary dwelling is not going to be built on the lot. The owner is willing to combine both the lots to be one. Ms. Anderson said letters were sent out to adjoining property owners on June 16, public hearing notice appeared in the June 13 edition of *The Beaufort Gazette* and the property was posted on June 14. Staff has received no public comments. Staff believes the Board can make the findings necessary to approve the application on the condition that the two lots are combined.

The applicant said the footprint of the primary dwelling is 3,783 square feet.

Ms. Howard opened the floor for public comment. There was no public comment. Ms. Howard closed the public comment.

Ms. Howard asked if the board members could continue with the project since there are only two members present. Ms. Anderson referred to the Unified Development Ordinance and said there must be at least votes in the affirmative to approve a variance. Christian Trask asked if a special meeting could be scheduled and the fee be waived because of the circumstances. Ms. Anderson said the fee can be waived. The owner said he did sign a contract with Mr. Hill prior to requesting the variance but it was on another project. Staff and the board members agreed to let the Mr. Hill return to the Board as voting member. Mr. Hill returned to the Board at this time.

**Motion:** Mr. Powell made a motion, seconded by Mr. Hill, to grant the variance based on staff's finding and the condition of combining the lots. The motion carried with a vote of three to zero.

**B.** **<u>2309 Joyner Street, identified as District 120, Tax Map 5, Parcel 435</u>,** Accessory Structure Variance.

Applicant: Karl & Angie Twenge (ZB10-13)

The applicant is requesting a side setback variance in order to retain a screened-in porch to cover a hot tub.

Ms. Anderson presented her staff report. She said a garage with an upstairs accessory dwelling unit was built on the property in December 2007. After the Certificate of Occupancy for the garage was issued, the applicant built a porch on a slab on the east side of the garage, and installed a hot tub on the porch. The porch was built without a permit. Ms. Anderson said porches and hot tubs are not permitted in the side yard setback. The applicant is requesting this variance to allow the porch to remain in the current design within the setback area. The adjoining lot is undeveloped. Ms. Anderson said Section 6.1.A of the Unified Development Ordinance (UDO) stipulates a side yard setback of 15'. Ms. Anderson said letters were sent out to adjoining property owners on June 16, public hearing notice appeared in the June 13 edition of *The Beaufort Gazette* and the property was posted on June 14. Staff has received several public comments and they were provided to the board members. Staff recommends denial and if the Board denies the variance, the applicant will be required to remove the porch, including the concrete slab.

Mr. Twenge is the owner and said he's an attorney. He said the porch was built over a year ago. His said his second son was being born and when his mother had surgery his dad brought a hot tub and that he had no choice because it was being delivered already. Mr. Twenge said he looked in the ordinance and was under the impression it was an accessory dwelling. He said these circumstances are certainly not excuses for it to stay where it is. He said he's not asking the Board for a variance up to the property line, but a setback of 5 feet. He said Allen Patterson is here with him because Mr. Patterson is charged with ensuring the neighbor's complaints and concerns of visibility and sound are taken care of. Mr. Twenge went over the surveys and locations of the adjoining neighbors. He referred to one of the public comments by Grayson Thompson who is an Architect. He also referred to the Form-Based Code. He believes with the variance he can address the issues that came about. Mr. Twenge asked if it's considered an accessory dwelling or an accessory structure. Mr. Hill said if it's free-standing, what its destination is. Ms. Anderson referred to the Unified Development Ordinance for the list of what is allowable under both an accessory dwelling unit and an accessory structure. Mr. Twenge said these seem like just examples and not an exhaustive list. Ms. Anderson said she would have to think about that because than lots of doors would be opened.

Ms. Howard opened the floor for public comment.

**Kathy Lindsay resides at 2308 Hermitage Road** and she also owns the lot at 2307 Joyner Street. She submitted written comments and went over them. She said her house fronts Hermitage Road and the rear lot faces Joyner Street. She said there is not permanent sewer easement. She said she doesn't see how a 20 x 24.9 foot structure with a hot tub is a habitable building and she does not see how the 15 foot setback can be honored if it's separated. She said if it's reduced there is still not enough room, but agrees there is room elsewhere. She referred to the photographs that she submitted. She does not see the extraordinary circumstances for a variance. She feels the variance as submitted should be denied.

**Terry Murray resides at 100 Grayson Street** and said she is a friend of Ms. Lindsay. She said she was at Ms. Lindsay's house a few weeks ago looking at some architecture and when they went outside, she noticed the sound level coming from the hot tub because it is so close to the property line. She said it's now fully exposed and the loss of privacy is astonishing.

Ms. Howard said there were also several public comments received today. Ms. Howard read the public comments and said they were all in support of the variance.

Ms. Howard closed the public comment.

**Motion:** Mr. Hill made a motion, seconded by Mr. Powell, to deny the motion because it does not meet all the criteria for granting of a variance. The motion carried with a vote of three to zero.

## V. Old Business

No old business.

## VI. New Business

No new business.

## VII. Adjournment

The Meeting adjourned at 6:45 P.M.

Submitted by Julie A. Bachety, Recorder