

MINUTES
CITY OF BEAUFORT
ZONING BOARD OF APPEALS
January 27, 2014, 5:30 P.M.
City Hall Planning Room, First Floor – 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

Brad Hill, Chairman
Tim Wood
Eric Powell

Members Absent

Don Starkey

Staff Present

Libby Anderson, Planning Director

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

MINUTES

Mr. Wood made a motion, second by Mr. Powell, to accept the minutes of the October 28, 2013 meeting as submitted. The motion passed unanimously.

REVIEW OF PROJECTS

Southeast corner of Fuller Parkway and Stuart Street, identified as District R120, Tax Map 3, Parcel 620A, Front Yard Setback Variance

Applicant: Robert J. and Vicki R. Brannon (ZB14-01)

The applicant is requesting a setback variance in order to a construct a one-story residence.

This property is in the Hermitage Road Area neighborhood, Ms. Anderson said. The property is zoned R-1. Its 10,500 square feet, so it is smaller than the minimum lot area required, which makes it non-conforming. The setbacks are 30’ in the front, and 15’ on the sides and the rear of the property It’s wooded and undeveloped. The applicant wants to build new single-family structure that will face Stuart Street.

There are large trees on the site, Ms. Anderson said. The applicant presented a tree topographical map. The main tree is a 60" live oak, and there are a few other large trees on the property. The applicant would like to retain the live oak. To save the tree, **Chuck Ferguson**, representing the property owner, would like to move the building closer to the front property line at Stuart Street, which the building faces, and is requesting a 15' front setback variance.

There was discussion as to which street the variance request was for. Mr. Ferguson said they are requesting the Fuller Parkway setback to change from 30 to 15'.

Mr. Wood said the 15' setback would be on both streets. Ms. Anderson said the variance request is for Stuart Street. If Fuller Parkway is the side street, it will automatically go to 15' as "the street of lesser importance."

Ms. Anderson said if a tree is to be protected, they would like a certified arborist to evaluate it, and the ZBOA was given the letter from him. Public notice was made and no public comments were received.

Ms. Anderson said the Fuller Street ROW issue is "interesting but not relevant." It will be a 15' variance if they face the building toward Stuart Street.

Ms. Anderson enumerated the variance findings:

1. **Extraordinary and exceptional conditions:** Ms. Anderson said the finding could be made. This is one of the few properties that have Fuller Parkway as a frontage. Most of the lots off Ribaut Road haven't been split, but this one had. She said it's unusual that this is a non-conforming lot; most are much larger in the area. The large live oak is another unusual condition.
2. **Conditions as applied to other properties in the vicinity:** This is one of the few lots in the neighborhood that are like this.
3. **Conditions are not the result of the applicant's own actions:** The applicant didn't split the lot so it's not a result of his actions.
4. **Granting the variance would not conflict with Comprehensive Plan:** This would not be in conflict with the Comprehensive Plan, Ms. Anderson said, which encourages infill development in existing urban neighborhoods and the retention of existing trees.
5. **Unreasonable restriction on utilization of the property:** Staff believes it would be an unreasonable restriction to require removal of a grand live oak when the front setback adjustment could save the tree. In the Historic District, a front setback could be 12'.
6. **Not a detriment to adjacent property and the public good:** Granting the variance would not be a detriment to adjacent property and the public good, Ms. Anderson said. Staff feels that it wouldn't be a detriment *if the live oak were retained*.

Staff feels that all findings can be made, Ms. Anderson said, so they recommend approval with a condition: preconstruction fertilization and crown cleaning must be done by a certified

arborist as specified in the letter from Bartlett Tree Experts, and a Tree Protection Zone set up. A copy of the invoice from the arborist to show that the arborist's recommendations were followed must be given to staff. They will not know about the root pruning that the arborist mentioned until they have the site plan, and the arborist can work with the applicant if it's required. Ms. Anderson said staff would also like to recommend mitigation for trees removed on Fuller Street to allow for the house configuration by the planting for 4 over-story trees with a minimum diameter of 2.5" at planting.

Mr. Powell said he is the owner of a property at 744 Ribaut Road, and he wanted Ms. Anderson to be aware. Mr. Powell asked for the square footage of the house. Its 1400 square feet and one story, she said. There will be a carport in the future between the live oak and the fence line. It is proposed to be built but is not shown. Chairman Hill asked why it wasn't submitted. Mr. Ferguson said because it didn't affect their setback. They haven't decided on anything except the shape: 12'-30'. It will be a slab, he said.

Mr. Wood asked if that would go into the root system of the tree. Mr. Ferguson said if they stay off 15' from the live oak, it shouldn't interfere, and the side yard setback is 5', which is 20+' off the root structure. The current plan, Mr. Ferguson said, is a slab on grade. Mr. Powell said the garage would be 5' from the property line, not from the setback. Ms. Anderson said any accessory structure < 50 square feet could be 5' from the property line.

Mr. Wood said he was "prepared to approve all of this," and when the time comes for the garage/carport, he would like to see a letter from the arborist in regard to the tree, which will be protected from the house, but he would also like a document that says that the carport won't affect it, either. Chairman Hill said that since that's not part of the application, he doesn't know if they can do that.

Robert Brannon, the property owner, said he has a copy of the recommendations from the city. Ms. Anderson said the laurel oak may have to go because of trenching, but they would like it and a smaller tree to be mitigated. Also, having trees near the front of the property will be nice for the sightlines, she said.

Mr. Powell asked if they had considered the size of the lot and the grand oaks when the house plan was made, so that it wouldn't destroy the trees. Mr. Wood said the topographic map seems to indicate that they had "few choices to get away from the big oak." Chairman Hill said, in regard to staff recommendations for mitigation work, that it "seems a little light." Mr. Wood said they're not building a 10,000 square feet house, either. It's relatively small.

Mr. Wood made a motion to accept the variance based on the staff description and the arborist's recommendations. Mr. Powell said he's conflicted and debating whether he should recuse himself. There are no variances required for the carport, Mr. Wood said, and it's not in their purview, only a decision about the footprint of the house. Mr. Powell asked if they had concerns about which direction they thought the house was facing. Chairman Hill said they

know in which direction they wanted to move the building, just maybe not which direction it was facing. Ms. Anderson reminded the Board that they need 3 votes to approve a variance. They could table it until next month when there are more board members present, if Mr. Powell decided to recuse himself.

Mr. Ferguson asked if it would help for him to show where the carport would go. Mr. Powell said it's nice that the applicant volunteered that information. If they tabled it, and the applicant could come to staff with a site plan showing the carport, which can be 5' off the property line. Ms. Anderson said the setback from Stuart Street would be 20'. Mr. Ferguson said the centerline of the roof is the setback line as it shows now. It would be 2' off the existing setback line. He said he didn't put the carport on the plans "because it was outside the area of concern," and "it presented itself as a recent addition to what the owner wanted." They are not set on the slab, Mr. Ferguson said, and on the house, he indicated an area that is a wooden floor system of a covered porch. Mr. Ferguson said if they couldn't have the variance, they probably wouldn't have purchased it, because the 1400 square feet consumes the available area of the lot. They visited with Ms. Anderson prior to coming before the Zoning Board of Appeals to see if this was a reasonable request, Mr. Ferguson concluded.

Mr. Powell said it was reasonable, and he didn't want to hold up construction.

Ms. Anderson asked if it would help to slide the building 5' closer to Fuller Street. Mr. Ferguson said that would help.

Mr. Wood amended his motion to accept the variance based on the staff description and the arborist's recommendations, including the new plantings that were recommended and the option of moving 10' more toward Fuller Street to grant a wider canopy footprint for the live oak. Ms. Anderson said the public is aware that a house will be built that needed relief on a setback. She feels that the further away from the tree the better.

Mr. Powell asked if it would be more beneficial to save the other oaks and not the 60" one. Chairman Hill said the 60" tree Mr. Powell is referring to is a laurel oak, not a live oak, and SCE&G has cut a trench near it, so though it's healthy now, it's been compromised.

Chairman Hill said if they move closer to the property line, they should be aware of any fill over root structures of trees that the board hasn't seen, if they're out there. **The motion was approved unanimously.**

Ms. Anderson said the committee for Form-Based Code has been put on hold until the Civic Master Plan is passed. She expects the committee to be back up in February. Ms. Anderson said there would be a Zoning Board of Appeals meeting next month.

There being not further business to come before the Board, the meeting was adjourned at 6:10 p.m.