

A meeting of the Zoning Board of Appeals was held on **January 5, 2015 at 5:30 p.m.** in the Council Chambers, 1911 Boundary Street. In attendance were Vice Chairman Don Starkey, board members Eric Powell, Joe Noll, and Tim Wood, and Libby Anderson, planning director. Chairman Brad Hill was absent.

In accordance with the 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.

### **CALL TO ORDER**

Vice Chair Starkey called the meeting to order at 5:30 p.m. and led the Pledge of Allegiance. He read the notice of compliance with the Freedom of Information Act requirements.

**Mr. Powell made a motion, second by Mr. Wood, to approve the minutes of the November 24, 2014 meeting. The motion passed unanimously.**

### **REVIEW OF PROJECTS**

#### **2404 North Street, Identified as District R120, Tax Map 3, Parcel 505**

Special Exception

Applicant: Southern Style Rental Properties (ZB14-24)

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

Ms. Anderson said this is in the West End neighborhood and is on the south side of North Street between Heyward Street and Ribaut Road. The property is zoned R-3, Medium Density Single-Family Residential. It's a single-family dwelling. Ms. Anderson showed images, including parking on the property. Two vehicles could be stacked, one behind the other. **Shea Polk** is the applicant and would manage the dwelling as a short-term rental. Southern Style Rental Properties has a City of Beaufort business license. The applicant provided a copy of the rental agreement: maximum occupancy is six people and it should stipulate a minimum two-night stay, Ms. Anderson said. Staff recommends that the number of overnight vehicles be limited to two. Staff would like the applicant to talk about 24-7 availability and the names of the businesses that may serve this property in terms of lawn care, cleaning, etc., so staff can check on licenses. In regard to public comment, the notice ran December 22, letters were sent to neighbors, and it was posted. Three responses have been received and copies were distributed.

Ms. Anderson presented the staff's opinions on the special exception criteria:

1. **Proposed use is compatible with existing uses in the surrounding area:** Staff feels in general it's compatible. North Street is a residential collector street; it intersects with Ribaut Road, which is a major arterial road. It's at the periphery of the neighborhood, which has advantages. Downtown Beaufort and Waterfront Park – destination points – are within walking or biking distance.

2. **Proposed changes are harmonious with the character of area:** No changes are proposed to the site.
3. **Impact on public infrastructure:** The proposed use is not likely to have a greater impact than a long-term rental would.
4. **Compatible with Comprehensive Plan and the Civic Master Plan:** Ms. Anderson said the Civic Master Plan and Comprehensive Plan promote better use of the urbanized areas of the community.
5. **Impact on public health and safety:** Ms. Anderson said this is expected to have little impact on public health and safety, especially if a property management company is available 24-7.
6. **Potential creation of nuisances:** The potential to create nuisances is small, Ms. Anderson said, if there's a professional management company and a monitored fire alarm is installed as required by the building official.

Staff recommends Board approval with conditions: The agreement should be amended to indicate that there is a minimum two-night stay, and that there may only be two vehicles on the property; guests must park in the driveway; a monitored fire alarm must be installed; the management company's contact information is to be given to adjoining property owners, so if problems arise, neighbors could report it to the management company.

Mr. Powell said the property is listed on VRBO; Ms. Anderson said the owners told her that they have been staying there quite a bit, as have their relatives, and she said Ms. Polk could state why it's currently listed on VRBO.

Ms. Polk said in regard to it being a short-term rental, she had applied for a business license, and that was obtained. She did not know she needs to apply for the special exception; she has been paying accommodations tax for 6 months. The error was caught last month when the city didn't receive its A-TAX. She said the problem arose in the business license office, and the house has not been rented since it happened. Ms. Polk said she is trying to take the steps to make it right. She had filed the proper paperwork and done everything correctly since that time.

Ms. Polk said in regard to some of the comments, there have been a lot of families that have stayed there. There have been "a handful" of older people, as well, and she's not been made aware of any problems. She checks on the property weekly, and "it's been quiet." The owners hired contractors to do some flooring there, but she doesn't know what disturbances the commenters could be talking about.

Mr. Powell said the letters "address the *possibility* of a disturbance"; none were reported to the police. Mr. Wood said he agrees. It's not fair "to pass a judgment on *anticipated* problems." Mr. Noll said short-term rentals would be better than long-term rentals. Mr. Wood said the lease agreement is "pretty strict" and specifically said no large parties. It's designed for residential vacations. Vice Chair Starkey said it also states

no pets. Ms. Polk said she is on-call 24-7. Mr. Wood said it's a courtesy to the neighbors. It's not a requirement but is a good suggestion to send a flyer out to the neighbors with the contact information for the rental company on it. Mr. Powell said it was nice to hear it was a mistake by the business license office. Mr. Wood said he's glad it was cleared up. Ms. Polk said the accommodations tax was paid every month.

Vice Chair Starkey asked if someone goes through the accommodations taxpayers to verify that they're not short-term rentals. Ms. Anderson said she doesn't know how this happened because generally the business license department verifies zoning, but apparently they issued it without checking on the zoning. To own and operate a long-term rental, you don't need a business license if you just have one unit; you do if you have more than one rental.

Vice Chair Starkey asked Ms. Anderson to ensure that "the responsible person" is "the same person who supplies the application...so it's known who to call on these issues."

**Mr. Powell made a motion to approve the special exception of the short-term rental with staff's recommendations. Mr. Wood seconded. The motion to approve passed unanimously.**

**1401 Church Street, Identified as District R120, Tax Map 2, Parcel 303**

Special Exception

Applicant: Southern Style Rental Properties (ZB14-25)

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

Ms. Anderson said this special exception is also for a short-term rental. She showed where the property is in Pigeon Point. It's zoned R-2. The property has a single-family dwelling with a detached garage. The property is on the corner of Church and Hawthorne Streets. The applicant, Ms. Polk, is the same as in the previous project, and she will manage this property, too, if approved. The applicant had provided the rental agreement, Ms. Anderson said. Six is the maximum occupancy. The same questions stand, she said, about availability of someone 24-7. No public comments were received on this application.

Ms. Anderson presented the staff's opinions on the special exception criteria:

1. **Proposed use is compatible with existing uses in the surrounding area:** Staff feels this project would be compatible. It's a single-family dwelling in a single-family neighborhood. It's near an arterial road – Boundary Street – and the Pigeon Point Park can be reached easily. Downtown and Waterfront Park as easily reached by bike or walking.
2. **Proposed changes are harmonious with character of area:** Whether it's used for short-term or long-term rental, there is unlikely to be an impact.

3. **Impact on public infrastructure:** There would be no different impact than use as a long-term rental would be no less impact.
4. **Compatible with Comprehensive Plan and the Civic Master Plan:** The Comprehensive Plan and Civic Master Plan are trying to intensify uses in the urbanized areas.
5. **Impact on public health and safety:** Ms. Anderson said that staff feels it's unlikely to have any impact if a professional management company is available 24-7.
6. **Potential creation of nuisances:** The potential for nuisances would be minimal if a professional firm is managing it, and there's a monitored fire alarm.

Staff recommends Board approval with a revised rental agreement, Ms. Anderson said. Neighbors should be notified with the agency's contact information in case there are problems with the property or the renters.

Ms. Polk said this application is the same as the last. She is accessible 24-7. The property's been renovated recently, the owner is a major in the Marine Corps, and she is focusing on military graduation families. Mr. Noll said this seems like a well-done project. **Mr. Powell made a motion to approve the special exception for 1401 Church Street with staff's recommendation. Mr. Noll seconded. The motion to approve passed unanimously.**

#### **NEW BUSINESS**

**Vice Chair Starkey asked Ms. Anderson to explain what came out of the city council meeting in regard to short-term rentals.** Ms. Anderson said that a professional company to manage the properties was what the Board wanted, so she felt it would help applicants if that were put into the ordinance. Ms. Anderson said council didn't agree, and short-term rental owners in attendance whose rentals are largely in commercial areas, also disagreed. She thinks a discussion in a work session setting would be helpful, so the Board could discuss what they want to see in the management agreements. All of the details might not need to be in the ordinance. The Board needs to say what it needs to see – a professional management company could be in a *general policy*, for example, though that requirement might not necessarily be in the *ordinance*, Ms. Anderson said. She suggested that they could develop a list of conditions: someone must be available to renters and neighbors 24-7, vehicles have to park in the driveway, etc. They don't have to change the ordinance, but they could tell applicants that they have to do these things in order to get approval by the Board.

Mr. Wood said he was surprised about council's disapproval of the idea because a professional management company "seems like a good safety valve with the neighbors." Ms. Anderson said most of the short-term rental owners who had appeared and expressed their opinions were, for the most part, managing themselves, and they felt they were doing a good job and didn't want to pay a management company to do it for

them. Ms. Anderson said she's really more concerned about this matter in residential neighborhoods.

Mr. Powell said in the case that spurred on these changes, the owners were from out of state, and there was no representation when the application came before the ZBOA. He doesn't know that everything has to be in the ordinance, but short-term rental owners should know that "it's certainly strongly recommended," and that the 24-7 contact is a key issue. Vice Chair Starkey said the person managing it has to be able to get to the house if there is a problem.

Mr. Wood said maybe it's an advantage that the Zoning Board of Appeals (ZBOA) can make its own addendums as issues come up. Vice Chair Starkey said he had spoken at the city council meeting. If it's not in the regulations that the Board doesn't want something to occur, "someone could get a lawyer," so he thinks there should be "something that guides the Board – more than just an agreement."

Ms. Anderson said if a work session is agreed on, it might be good to hear the ZBOA'S perspective. Also, there are a lot of short-term rentals in Pigeon Point, so if they go over this matter, maybe they should go over the whole ordinance since it's been in place two years.

Vice Chair Starkey suggested that a representative from each of the neighborhood associations should be brought together to comment. Ms. Anderson said Thursday, February 12<sup>th</sup> was a possible date for a work session, before the rehearing about Oaklawn. There was general agreement that this was a fine date. Ms. Anderson said she's sure some council members would want to attend as well.

Since the notion of the applicant being present was mentioned, there's a conflict in the rules of procedure, according to Ms. Anderson. One section says they *don't* have to be there, than another says *the Board can deny if they're not there*. Ms. Anderson said they should look at that language, too, have a discussion about it, and make it clear that the Board wants it to say that the applicant has to be there. Ms. Anderson said the Oaklawn people would be having their rehearing at the regular meeting time.

**Mr. Noll made a motion, second by Mr. Powell, to adjourn the meeting. The motion passed unanimously.** The meeting adjourned at 6:09 p.m.