

MINUTES
CITY OF BEAUFORT
ZONING BOARD OF APPEALS
October 28, 2013, 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
Don Starkey
Tim Wood
Eric Powell

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. Starkey made a motion, second by Mr. Powell, to accept the minutes of the August 26, 2013 meeting as submitted. The motion passed unanimously.

REVIEW OF PROJECTS

3167 and 3599 Trask Parkway, identified as District R120, Tax Map 26, Parcel 153

Variance from Critical Area Buffer Setback

Applicant: Seel’s Outboard, Incorporated (ZB13-14)

The applicant is requesting a setback variance in order to reuse the property for vehicle sales and other activities.

Ms. Anderson said the property is on the marshes of Albergotti Creek on 3 of its 4 sides. Sunshine Car Wash relocated to the western side of the property recently. In July 2008, the Zoning Board of Appeals (ZBOA) issued Celebration Suzuki - which used to occupy the property - a variance to develop 12 display spots in the critical area buffer.

Ms. Anderson detailed the setbacks as required by the UDO. The applicant had supplied a

survey of the property that shows the critical line and the various setbacks: 35', 50', and 75'. The plat shows that the 50' line setback makes up 1/3 of the whole property, Ms. Anderson said.

The applicant is developing plans for the remainder of the lot, apart from its use by Sunshine Car Wash, for uses as yet to be determined. The applicant is requesting a variance of the critical line setback to approximately the 35' line, which appears to be the existing tree line, Ms. Anderson said.

Staff thinks there's no problem with re-occupying the existing building, even though it's in the 50' setback, because it's grandfathered, but no impervious surface can be added beyond the 50' line. Additionally, an auto sales lot, which the applicant is considering, must maintain a 75' setback from the critical line.

Public notice was made and there have been no public comments received.

Variance request findings:

1. **Extraordinary and exceptional conditions:** Staff feels this finding can be made in that it's a redevelopment property and is bounded on 3 sides by the marsh.
2. **Conditions do not generally apply to other properties in the vicinity:** Staff is up in the air about this, Ms. Anderson said.
3. **Conditions are not the result of the applicant's own actions:** Geography is the extraordinary condition, and not the applicant's creation.
4. **Granting the variance would not conflict with the Comprehensive Plan:** This is a judgment call on the part of the Zoning Board of Appeals, Ms. Anderson said, because the Comprehensive Plan is strong on both water quality AND redevelopment.
5. **Unreasonable restriction on utilization of the property:** Staff feels it's unreasonable to restrict use of existing paved areas, and the applicant should be able to use them.
6. **Not a detriment to adjacent property and the public good:** Staff feels that this finding can be made if the variance is kept at a minimum and is limited to using existing paved surfaces.

Staff recommends that the variance could be granted from the critical line setback so that all existing impervious surfaces on the site can be used, but they would not suggest allowing any new paving on the site, Ms. Anderson said.

Chairman Hill clarified that staff recommends granting the variance on the existing paved areas, and Ms. Anderson said that was correct. Chairman Hill clarified that they don't know the exact use of the site, though it could be car sales; Ms. Anderson said staff's position is we're fine with car sales going from the 75' to the 50' but nothing beyond the 50'.

Mr. Starkey asked if there was a variance on the piece of the lot that's 10' into the critical line in the corner. Ms. Anderson said there was, and the same application came twice before the

Board. Ms. Anderson believes it is no longer in effect. Ms. Anderson said because it's a new owner, they are clarifying the situation.

Mr. Wood asked about the 75' setback; Ms. Anderson said the Sunshine Car Wash is only leasing that part of the property, and the applicant would like to do vehicle sales. The variance from 75' – 50' would go away. Mr. Starkey asked what's done in the covered garage in the back. Ms. Anderson said it's not an automatic car wash – it's more of a detailing service – and they wash in the open next to the modular building.

Ernest Seel said the property was purchased for a marine store, but the economy slowed them down. They bought it from the bank in 2011. "The property was in terrible condition," Mr. Seel said, and had been vandalized. They have improved the landscape and are now leasing the one piece of property to the detailing service. Behind the building at the back of the property there used to be a shed area on asphalt; someone stole the shed, but the asphalt is still there. The detailer does no service repair work done at the location at all.

Mr. Seel said he's looking for the 35' setback "to maintain the appearance of the property." He said Ozzie's Used Cars used to be where the detailing service is now; all the way back to the tree line is gravel. If you follow the 35' setback all the way over, it doesn't do much to the property "except for that little area" but it "will keep the area looking nice."

Mr. Seel has had people strip the metal building because people were sleeping in it, and they now have people looking at renting it, or he may develop it himself. It will be easier for both Mr. Robinson and him to maintain the property at a 35' setback.

Chairman Hill asked what the asphalt pad use could be. Mr. Seel said they could detail vehicles there.

There was no public comment. Mr. Starkey said he has a problem going beyond the 50' setback lines, especially when they have cars leaking oil and gas into gravel. That's why the 75' setback was originally put in. He's seen cars parked back there in the past. He thinks the 50' setback is adequate as grandfathered. He would not like 35', though he knows it's convenient because of the trees, but they have done 50' setbacks in similar situations.

Chairman Hill said he tends to agree with Mr. Starkey and doesn't "see the hardship in the extra 15'." He feels they need it for filtration. Mr. Wood agreed with Chairman Hill. **Mr. Powell made a motion to allow the variance to the 50' setback with no additional paving within the variance area. Mr. Starkey seconded. The motion passed unanimously.**

Mr. Seel asked if they can use the asphalt area where the shed was. Mr. Wood said they "kind of split it" as far as he can tell from the drawings. He said if they could have a surveyor lay it out, they might be able to. Ms. Anderson said staff's position was to utilize all paved areas regardless of where they're located, but to not allow new ones. Mr. Wood said it's a big lot and

doesn't need to spread out toward the marsh.

Mr. Seel said he'd asked about the concrete slab because the lessor's line is at that pad. Mr. Wood said they can't bump the setback; 50' is the ordinance, and they "can't bump it out." Mr. Wood said it might be different if the shed was still there, but it's not, which is unfortunate.

Mr. Starkey said there may be an exception that the average setback is 50'. Ms. Anderson said to go to 35' someplace; you have to go to 65' other places to maintain the 35'. She's "not a big advocate of averaging." Mr. Wood said this property would be a little simpler to do, and Mr. Seel could reapply for that sort of variance. Ms. Anderson said they could look at it, but they might have to move some asphalt somewhere else. Mr. Starkey said the answer appears to be "No."

1064 Otter Circle and 1056 Otter Circle, identified as District 120, Tax Map 29C, Parcels 136 and 139

Garage Location Variances

Applicant: DR Horton, Inc. (ZB13-17)

The applicant is requesting variances for the location of garages.

Both of the parcels are in the Battery Shores subdivision. The applicant is proposing single-family dwellings with attached garages. The UDO says the garage can't be located in front of the front line of the dwelling except on water lots or when the garage will be more than 100' from the front property line, so the applicant is asking for a variance so that the garages can project in front of the houses.

Ms. Anderson reviewed the previous Zoning Board of Appeals meeting's decision in regard to garages in Battery Shores. Public notice was made, she said, and they have received one public comment.

Variance findings:

- 1. Extraordinary and exceptional conditions:** There may be some extraordinary and exceptional conditions, staff feels. Battery Shores is 75% built out, and the majority of the houses have attached garages at the front of the house. This applicant just started building in Battery Shores.
- 2. Conditions do not generally apply to other properties in the vicinity:** There needs to be a finding that it doesn't conflict with the Comprehensive Plan or the UDO, and staff feels there's no conflict because this type of garage is predominant, so this is compatible.
- 3. Conditions are not the result of the applicant's own actions:** Staff feels this is the case because the applicant has only begun building in Battery Shores.
- 4. Granting the variance would not conflict with the Comprehensive Plan:** Staff believes that the Comprehensive Plan and the UDO recommend that new development in existing neighborhoods should be compatible with the existing development.
- 5. Unreasonable restriction on utilization of the property:** It seems to be unreasonable to

restrict this in a mostly built-out neighborhood where this is the predominant design, Ms. Anderson said.

6. Not a detriment to adjacent property and the public good: If the garages are side-loaded, staff recommends a variance, Ms. Anderson said.

Mr. Starkey told Ms. Anderson that the 1056 plat has a side-loaded garage in the plans that were sent out to the ZBOA. Staff had said that, in staff's opinion, that complies, and they don't need a variance on it. Mr. Starkey said on the variance application, they listed 3 properties. Ms. Anderson said the third property listed didn't need a variance, either, but 1064 did because it projects in the front, though it's side-loaded.

The applicant declined to make a presentation. **David Adlesperger**, Battery Shores Property Owners' Association, approves the requested variance by DR Horton. **Kate Gogulski**, secretary of the Property Owners' Association, lives adjacent to the property and agrees that the variance should be approved with the stipulation that the garages be side-loaded.

Chairman Hill said they are just talking about 1064, and its 6' projection. Mr. Starkey said there are many side-loaded garages in the neighborhood, and as long as it's side-loaded, he feels they should approve it.

Mr. Starkey made a motion to approve the variance for 1064 Otter Circle with the stipulation that the garage is side-loaded. Mr. Powell seconded. The motion passed unanimously.

501, 503, 504, 505, 506, 507, 508, 509, 512, 514, 515, 516, 518, 519, and 523. The parcels are identified as District 120, Tax Map 6, Parcels 595, 594, 579, 593, 580, 592, 581, 590, 582, 583, 589, 584, 585, 588, and 58 respectively.

Garage Location Variances

Applicant: Hovnanian Homes of SC (ZB13-15)

The applicant is requesting variances for the location of garages for 15 lots in the Abby subdivision.

Ms. Anderson said this is in the Royal Oaks neighborhood of the city. It's a 19 lot cluster development, and the subdivision was approved in 2005. The homes must be setback 10' from each other, though technically there's no side yard setback. To date, only 2 homes have been constructed in this subdivision. The applicant intends to build homes, and most of the designs have garages that project in front of the homes. Garages are not allowed in front of the home by ordinance with certain exceptions, none of which apply here.

Ms. Anderson showed the distance projection of two designs at 10' and at 5' in three of the other designs. All the proposed garages are front-loaded, so the doors will face the street. The 2 existing garages are detached and located behind the dwellings, so they can't be seen. This applicant is a national homebuilder and they have plans on their website that were built in Beaufort County where the garages are either flush or several feet behind. Ms. Anderson

showed plans for these designs on the overhead projector. This builder does have other options that meet the Beaufort ordinance, she said, some of which are being done in Beaufort County. These structures could be customized to meet the ordinance's requirements. There has been a statement that these designs submitted by the applicant are like this because they are limited by lot width. Ms. Anderson showed 3 of the home designs and a side-loading garage design with the same floor plans. Ms. Anderson said it appears that side-loading garages can work on lots as narrow as 50'.

Ms. Anderson said only 2 lots in the subdivision are narrower than 50': lots 9 and 11, which are on a curve. But they widen out as they move back from the curb. She doesn't see that pushing the structure back to get the 5' to get to 50' width would be a hardship.

Ms. Anderson said lot 19, is wide, and it has a side setback, but the narrow lot constraint isn't applicable on this lot, either. The ordinance does allow driveways to be in the side yard setback and right up to the side property line. They have received one public comment and the board was given a copy.

Variance request findings:

1. **Extraordinary and exceptional conditions:** Staff feels this may be met; it's an infill project and is located on a cul-de-sac with no outlet to the adjoining neighborhood.
2. **Conditions do not generally apply to other properties in the vicinity:** This finding probably can be met, Ms. Anderson said. The larger Royal Oaks neighborhood is generally developed on a grid pattern.
3. **Conditions are not the result of the applicant's own actions:** This finding can be met, staff feels; this applicant didn't plat this subdivision
4. **Granting the variance would not conflict with Comprehensive Plan:** This finding is more problematic, Ms. Anderson said. The Comprehensive Plan and the Civic Master Plan promote the development of walkable neighborhoods. Projecting garages work against this goal. The Civic Master Plan also encourages compatible infill development, and this is not compatible with the close-knit type of neighborhood that the Civic Master Plan is trying to create and would be inconsistent with the Comprehensive Plan and the Civic Master Plan.
5. **Unreasonable restriction on utilization of the property:** The applicant is a national homebuilder and would have many professionals who could alter the designs slightly to meet the Beaufort standards and make them more compatible, so staff doesn't feel this is an unreasonable restriction to meet the city's goals.
6. **Not a detriment to adjacent property and the public good:** Staff feels that this can't be made – it would be a detriment. The other homes have detached garages in the rear, and these would be incompatible to them. It's a very suburban house design, but is in an urban streetscape area, close to downtown.

Staff is concerned about setting a precedent with infill development. It needs to be done right, Ms. Anderson said, and to be compatible with existing urbanized areas. Staff doesn't feel all the

conditions to approve the variances can be met, so denial is recommended.

Chairman Hill said Ms. Anderson had said there's no side setback. Ms. Anderson said it's not per lot, it's per building, and buildings must be set back 10' at least from each other. Mr. Starkey said the setback can be used for a driveway, and Ms. Anderson said yes.

Richardson LaBruce appeared on behalf of the applicant; the applicant's usual representative, **David Tedder**, had a conflict. Since the application was filed over the weekend, thanks to the planning department's work and the intern's drawings, they are working now with engineers to see where they can put the side-loading garages. Mr. LaBruce said they were told that the minimum lot width would be 56', which would rule out 10-11 of the 16 properties that they have applied for a variance for. Lots 15 – 19 would be the only ones left with front-loading garages. Mr. LaBruce said the Abby Subdivision was developed in 2005, and only 2 homes have been built. The home on lot 2 was sold in 2009 for \$400,000 and sold two years later for \$209,000. The subdivision is isolated and shielded from Battery Creek Road. It's hard to see from Battery Creek Road. There will be a single developer, so there will not be a lot of variety or variation from these plans.

They agree with staff as to the first 3 variance findings, Mr. LaBruce said. Because this is on a cul de sac and not accessible to the community at large, these don't generally apply to other properties in the vicinity, and they don't reflect this style. They're ranches with open car ports on the side of the house. They did not plat the subdivision, and K Hovnanian "is trying now to redeem a largely abandoned subdivision," according to Mr. LaBruce.

The applicant disagrees with staff on finding #4, Mr. LaBruce said. They don't believe it's in conflict with the Civic Master Plan, which has a goal of promoting walkability but also encourages infill development, bringing in diversity, and offering different levels of homes in the City of Beaufort area to prevent urban sprawl. A lot of working class homes and properties in the \$150-\$200,000 range are moving into Beaufort and the outlying parts of the county. There are very few options like this available at this price point or that wouldn't require a tremendous amount of renovation. They disagree that this is an urban environment, and the Civic Master Plan also seems to disagree, Mr. LaBruce said.

He showed the proposed regulating plan for Sector Three and showed where the property is located, which is designated as a T3N; he cited pages in the Civic Master Plan that describe T3N as suburban for the purposes of the Civic Master Plan, not urban.

Mr. LaBruce said there is not a lot of commercial development around this area, so people will be driving to work, and "by forcing walkability," they will increase the possibility of accidents. At most, he said, this neighborhood should be considered "quasi-suburban." He said it can't be shown that the front-loading garages will have an impact on walkability.

In regard to #5, Mr. LaBruce said, "the Hovnanian folks have decided to implement a side-loading garage whenever they can," but they can't on lots less than 56' wide because they

would have to clear cut i.e., lots 15-19.

Mr. LaBruce said they could not market homes without garages as an alternative for this community. The size of the road is not going to allow on-street parking for these properties.

In regard to #6, Mr. LaBruce said since this subdivision was built, "The area has sat unbuilt." The builders have won awards for building affordable homes, and there's a need for that in Beaufort, where there are few options for working class families. The Civic Master Plan is meant to encourage smart growth, and this is an isolated subdivision. "There are circumstances that make this an ideal situation," Mr. LaBruce said. It was platted in 2005, and "K Hovnanian is trying to bring it back to life and make it as aesthetically pleasing as possible." Despite the expense to create side-loading garages, they are willing to attend to 16 of them, "but it's not feasible or realistic in lots that are 56' or less." Mr. LaBruce said the visual impact of front-loading garages will be outweighed by the benefit to the community of Beaufort.

Mr. Starkey said when K Hovnanian purchased the property, they knew of the ordinance in regard to front-loading garages, but they didn't make a provision for these needs. He said they "must have hundreds of plans that would allow them to accommodate the requirements of the UDO." DR Horton came up with provisions recently that solved all the problems by redesigning the house or making the garage side-loaded. In this case, city staff had to show how that could be done.

Mr. LaBruce said they do have those in their plans. He showed models developed for Beaufort County in the Shell Point Overlay District with front-loading garages. All of the garages need to be behind the front façade in Beaufort, but not in the Shell Point Overlay District. Ms. Anderson said the porch doesn't count, and the garage is still projecting in front of the house in these examples; they "are looking at the footprint of what's in front of the house." Mr. LaBruce showed other designs of the front-facing designs that the developer is working with the City of Beaufort on to see if they'd be acceptable.

There was no public comment. Mr. Wood said he's familiar with the development. When it was established, he thought it would be tough to get in 19 houses, and then when the 2 houses were built, he thought it would be a nice neighborhood, if the other house looked like those. If it were a 17 home development instead of 19 homes, they would have the room they need, Mr. Wood said. "Having houses 5' from each other boggles (his) mind." They have committed to having other developers have side-loading garages, like DR Horton, because in the new neighborhoods, they want to get the garages away from facing the road. If they want to build 19 houses, "that's their problem," he said. "They have to work within the size of the lot." It's a cluster development, and they can make the lots bigger to accomplish what they need. Mr. Wood said Ms. Anderson had said 50' seemed to work. He doesn't feel comfortable about making Battery Shores do side-loading garages, and in this case, the 4 lots were probably too narrow to begin with. He doesn't feel bad that they can't squeeze in 19 houses where they probably shouldn't have tried to do so in the first place.

Mr. Starkey said he agrees, and they could have the driveway go to the rear as in the 2 houses that are there. "When a 2-car garage is in front of a 30' house, all you see is garage," he said. It's what we're trying to get away from, Mr. Wood said. A lot of houses in Mossy Oaks will be redeveloped or torn down and rebuilt. The point of the Civic Master Plan is to guide Beaufort development. He would rather see the types of houses that are there now in Abby, and if he were one of those 2 existing homeowners, and they were to build those houses Mr. LaBruce showed, he would be angry.

Mr. Wood agreed that they have a problem on lot 19 because of the setback on the property line, but then they shouldn't have put a lot there. Chairman Hill said this was already platted; the developer didn't do it. Chairman Hill said they knew prior to the purchase what the ordinance said, and they could have gone through this process them. Also, if they're the second largest builder in the US, "they have the staff and the wherewithal to redesign these homes to accommodate this property." They can always replat like Mr. Wood said, even if they lose a lot as a result, Chairman Hill said. Mr. Wood said they probably got such a good deal on the property that this wouldn't hurt them too much. Mr. Wood thinks they should take the 2 houses into account that are already there. Those homeowners deserve to be the anchor of the future development since they have been living in an abandoned neighborhood.

Chairman Hill asked if the applicant should come back with a redesign with front-loading garages in the rear of the house. Mr. Wood said the city makes a clarification on a detached garage in the rear of the property. Ms. Anderson said they wouldn't need to come back if it's in the back, attached or detached. In regard to a projecting but side-loading garage, they still need a variance to do that because it projects. If the board finds that acceptable, they could make that a condition of granting the variance.

Mr. LaBruce clarified that on all lots except for #15-19, the developer is going to do side-loading; only for #15-19 are they requesting front-loading, so they will need a variance for those. They agree with the city's drawing. Mr. Wood said maybe they should ask the applicant to come back with houses laid out on the plats. He finds it hard to envision how they are planning to do it. He said he's not sure if they can say that the 4 narrow lots can't have side-loading garages. Mr. Starkey said they must have hundreds of plans where they are setback a few feet from the front of the house.

Chairman Hill said the board all agrees that "a front-loading garage will not fly on these 5 lots." They could table it and give the applicant an opportunity to come back with a differently designed house or plat and encourage them to redesign. Mr. Starkey said they'd only have to come back if they do garages that don't require a variance; staff could approve those. Ms. Anderson said front-loading garages can be allowed without a variance if it's flush or set back from the front of the house. Ms. Anderson said the projecting side-loading garage is acceptable, and that could be the condition of all of the variances, and if that's not possible for all houses, then the applicant can come back with approvable flush or slightly setback house designs.

Mr. LaBruce showed a schematic of how they would do the side-loading garage. Chairman Hill said he “wouldn’t want to have to make that turn.” Chairman Hill said as part of approval they can single out the lots they can’t do it for and say that they don’t have to resubmit if they can meet the criteria for staff approval.

Ms. Anderson showed a product in Shell Hall in Bluffton where a porch projects, which meets the requirement though it’s a front-facing garage and could be used on the lots that can’t be side-loading.

Chairman Hill asked, if they table this, if the developer can build the other houses; Ms. Anderson said they can’t do the projecting side-loading garage. Mr. LaBruce said they would request a variance for lots #3-9, and #11-13 where the garage projects a little out the side. In regard to the denial of the front-loading garage variance, Mr. LaBruce said they could then move forward accordingly, but now they want to split it in two. Ms. Anderson said they could split this in two. They could approve the undeveloped lots in #1-14, and table #15-19. Mr. Starkey said they could approve a variance for all of them, and then Ms. Anderson would approve #15-19 when the applicant provides alternatives. Ms. Anderson said if the board does that – approves side-loading for all –the applicant would have to do a new application, but if they table #15-19, the developer can come back to her and not have to do a new application.

Mr. Wood made a motion to grant the side-loading projecting garage for lots #1-14 at the Abby development and table lots #15-19 pending further design input from the developer. Mr. Starkey seconded the motion. The motion passed unanimously.

501, 503, 504, 505, 506, 507, 508, 509, 512, 514, 515, 516, 518, 519, and 523. The parcels are identified as District 120, Tax Map 6, Parcels 595, 594, 579, 593, 580, 592, 581, 590, 582, 583, 589, 584, 585, 588, and 587 respectively, Appeal of the garage locations.

Applicant: Hovnanian Homes of SC (ZB13-16)

The applicant is appealing the decision of the Zoning Administrator to deny building permits for construction of new single-family dwellings on Abner Lane in the Abby subdivision because the attached garages are located in front of the front line of the dwelling.

Mr. LaBruce said the basis for the appeal was discussed and has to do with how staff has interpreted “front-line” for the purposes of the garage. The developer contends that the front-line includes *any* permissible space, including a porch or a projection above the garage.

Chairman Hill said Ms. Anderson needed to make a presentation before Mr. LaBruce. Ms. Anderson said the applicant was appealing the Zoning Administrator’s denial of site plans in the Abby. The applicants purchased 16 lots; there are applications for 5 new homes, but 4 were denied based on the design of the garage. Ms. Anderson showed the standards for accessory uses. The accessory structure can’t be located in front of the front line of the garage. She showed the section in question. Ms. Anderson said this section applies to all types of garages: attached and detached. You can have a garage or workshop, and this applies to both detached

and attached. The applicant is appealing this.

Also, Ms. Anderson said, the applicant believes that designs that have a “bonus room” above the garage are exempt from this requirement, but staff feels this is not correct. This doesn’t negate that the garage is projecting beyond the habitable space of the main house. The habitable space doesn’t negate the appearance of the large garage door at the street. If they had wanted to say that habitable space on the second floor negates the front garage, they would have.

Ms. Anderson went on to say that the applicant has said that the porch is where the front line of the house is measured from. The ordinance language is specific that the garage shall not be located in front of the front façade/line of the structure. A porch is not habitable space and isn’t heated and cooled, so it is not the front line of the house, and therefore that’s not where the house is measured from. It’s measured from the habitable space.

Public notice was made. Ms. Anderson said staff requests that the Zoning Board of Appeals affirm the Zoning Administrator’s decision in this case as to the definition of the front line of the house.

Mr. Starkey asked Ms. Anderson where the example of the façade she showed came from. Ms. Anderson said it was the in “Best New Urbanism Best Practices Guide,” 4th edition.

Mr. LaBruce said that while this may be a customary best practice for determining code, the ordinance doesn’t currently state that. 53 other places in the UDO mention the façade of the house. “It can be inferred when a different term is used that a different meaning should be ascribed,” Mr. LaBruce said, so front line could mean that it’s the front porch line. The difference between attached and detached garages is not specific enough; South Carolina case law says that when there’s ambiguity, they should go with the less restrictive definition. There was no public comment.

Mr. Starkey said they have been consistent as to their interpretation of the front line. Ms. Anderson said the decision the Zoning Board of Appeals makes tonight will be important for future cases as to what the front line is.

Mr. Wood said they could discuss what the board has been doing most consistently; Mr. Powell said that the front line is the front of the house and not the front porch. It doesn’t include the second floor, even if it projects from the façade of the house. Mr. Starkey said that’s the way he’s seen it for as long as he’s been on the Zoning Board of Appeals, and 3-4 issues of this type have come up in the past year. They have been very consistent each time. Ms. Anderson said she’s working on getting the UDO modified. Mr. Wood said they “can make a motion describing the consistency and lock it in.”

Ms. Anderson said they need to decide what they measure from, and also if that applies to both

attached and detached garages. If it's measured from the habitable space, the board can just say they uphold staff's decision on this mater. The applicant can say they read it differently, which is why they are here. The past decisions weigh in this, but they need to say how they as the Zoning Board of Appeals see it.

Mr. Wood said the applicant didn't have a concern with the detached garage. Ms. Anderson said this mater always comes up with attached garages. Mr. Starkey said this interpretation is how he's always read it. There are some houses that moved the garage out in front of the house because it's set back 200'. This all makes sense based on what builders have done in the past, he said. This is for attached or detached garages in front of the house's living quarters.

Mr. Powell made a motion to deny the appeal, to clarify the ordinance that the front line of the dwelling is to be defined as the front line of the habitable space of the house, and to state that this applies to attached and detached garages. Mr. Starkey seconded the motion. The motion passed unanimously.

There being not further business to come before the board, the meeting was adjourned at 7:40 p.m.