MINUTES
CITY OF BEAUFORT
ZONING BOARD OF APPEALS
December 20, 2011, 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

Members Absent
Joan Sedlacek
Eric Powell

Staff Present
Libby Anderson, Planning Director
Gail Westerfield, 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.

Mr. Hill made a motion, second by Mr. Mattingly, to accept the minutes of the November 28, 2011 meeting. The motion passed unanimously.

Chairman Howard reviewed procedure for obtaining a variance and then the procedures of the ZBOA.

REVIEW OF PROJECTS
811 Audusta Place, identified as District 120, Tax Map 2, Parcel 144, Special Exception for Short Term Rental.
Applicants: John & Cindy Leggett (ZB11-24)
The applicant is requesting a special exception in order to operate a short term rental.

Ms. Anderson said this property is in the Pigeon Point neighborhood. It is zoned R-1 and contains a primary dwelling and a guest cottage. The applicants wish to rent the cottage and the house as short-term rentals. The applicant has provided the required information including a rental agreement. 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.

She reviewed the staff evaluation of the application based on the special exception criteria:

1. Proposed use is compatible with existing uses in the surrounding area: Ms. Anderson described where the property lies. It's a short ride from downtown Beaufort. Staff feels it is compatible.
2. Planned changes are harmonious with the area: No changes are planned.
3. Impact on infrastructure such as roads, water, and sewer and on public services: Staff feels it will have no greater impact.
4. In conformity with the Comprehensive Plan: Staff feels it's consistent with the Comprehensive Plan and the Sector One Master Plan.
5. Impact on public health and safety: Staff feels the applicants' management plan indicates there will be little impact.
6. Potential creation of nuisances: Staff feels this potential is negligible if a monitored fire alarm system is installed.

Staff recommends approval of the application with the installation of the monitored fire system, Ms. Anderson said. Mr. Mattingly asked who the person who commented negatively is, noting that she lives in Atlanta. Ms. Anderson said she did not know. Chairman Howard asked if it's currently rented.

John Leggett, the applicant, said they have contracts to clean, landscape, and manage the property. Chairman Howard asked again if it were currently rented. Mr. Leggett said it had been a long-term rental for a year. There was no public comment.

Chairman Howard said the package was excellent. Mr. Hill said the negative comment received seems to "have no reason."

Mr. Mattingly made a motion, second by Mr. Hill, to approve the special exception as requested, with the condition, as stated by staff, of the installation of a monitored fire alarm system. The motion passed unanimously.

<u>1105 Rodgers Street, identified as District 120, Tax Map 4, Parcel 1A</u>, Parking and Front Setback Variances.
Applicant: Alliance Consulting Engineers, Inc. (ZB11-25)
The applicant is requesting a parking and front build-to-line setback variance in order to construct a bank.

Ms. Anderson said the property has a Rodgers Street address but is at the corner of Rodgers and Boundary Street. It's currently the site of Sea Island Marine in the Boundary Street Design District, which means the DRB will evaluate any changes to the site. A 38" live oak is on the front of the lot, Ms. Anderson said. The site is proposed to be redeveloped for a bank. The staff is working with the applicant on a site plan. The design district is trying to create a more urban character and requires a build-to line of 6-12'. The applicants are proposing to set the building back 27' with the tree in front of it in order to save it. This is the first variance request.

The ordinance requires both minimum and maximum parking: fourteen – 20 spaces. The applicants are requesting a variance for 34 parking spaces to include parking for employees. The applicant feels this is the minimum amount to provide an acceptable level of service. This is the other variance request.

Ms. Anderson reviewed staff's findings on the variance request criteria:

1. Extraordinary and exceptional conditions: Staff believes that finding can be made; the healthy live oak and the property location on Boundary Street – which is anticipated to have a road diet – are two of the factors Ms. Anderson cited.
2. Conditions don't apply to other properties in the city: Ms. Anderson again noted the unique location with the tree in the front. Other buildings in the area without such a tree are located close to street.
3. Not the result of the applicants' action: Ms. Anderson said the applicant doesn't own the property.
4. Doesn't conflict with the Comprehensive Plan: Staff feels the Comprehensive Plan encourages the saving of trees and redevelopment in the urbanized area of the city and the Master Plan recommends redevelopment along Boundary Street.
5. Application of ordinance is an unreasonable restriction: Removing the healthy live oak would be unreasonable; the limit on the parking places will limit or discourage development.
6. Not a detriment to adjacent property and the public good: The site will be subject to design review and attractive screening for parking will be developed.

Staff recommends this with the conditions regarding the build-to requirement, Ms. Anderson said, to ensure the tree remains healthy: crown cleaning, root pruning, and fertilization by a certified arborist before site work begins; root pruning should be done when final approval is given; evidence that the work has been done must be given; and the root pruning for four years following construction must be guaranteed.

For the second variance for parking, Ms. Anderson said, findings can be met. Staff recommends approval with conditions: the extra fourteen spaces must be of pervious material of some kind; no parking will be permitted in front of the front line of the building; parking must be screened from the street; the Office of Civic Investment has worked with the applicant on the site plan, and they recommend that the location of the parking be subject to the approval of the Office of Civic Investment and won't impose an impediment to additional development on the site. Also, the applicant should install on-street parking on the Rodgers Street side of the lot. The applicant could be required to build a sidewalk on Rodgers Street, too. The on-street parking will help pedestrian safety, protect the sidewalk, and provide additional parking for bank customers beyond the lot. On-street parking is recommended in the Civic Master Plan and staff will assist the applicant with working with the DOT on this. Ms. Anderson said there's no access off of Boundary Street, in response to a question from Mr. Hill. She said safety is one reason for that. Boundary Street access will take out parking spaces when the road diet happens. The Office of Civic Investment will not allow a driveway on Boundary Street.

Mr. Mattingly asked Ms. Anderson about the changes to the site plans. She said there have been several revisions for various reasons, but the one the Board has is the most current. Mr. Mattingly said he doesn't understand some of the changes. Chairman Howard asked, if it went back to DRB, and if it would come back to ZBOA in regard to parking. Ms. Anderson said they've asked for fourteen additional spaces at this point, and staff was unlikely to support more than that. She said that's an applicant issue and hopefully 34 is what they need. Mr. Mattingly asked, since the root fertilization must be done by January 31, and they don't own the property, if that's possible. Ms. Anderson said it is possible, and the applicant can speak to that. The DRB has looked at the plans once from one aspect, Ms. Anderson said, and the applicant will return in January with the site plan.

Frank Turano, engineer, said the lot is 1600 square feet. It is a one-story building with drive through aisles and "all the components necessary for its running." The site has some problems for them, Mr. Turano said, in regard to the 38" live oak and the build-to line; they want to maintain that tree and the compromise is the 27' set-back. The building could be set back even further if necessary, Mr. Turano said.

A branch this size will require 35-45 parking spaces, according to Mr. Turano. 34 is the minimum; they'll have eleven personnel which allows 23 clients to park. He described the many functions people will come into the bank for. Sometimes there will be more than eleven employees, too.

In regard to the tree requirements, Mr. Turano said that they don't know when the closing will be, so they don't know if they can meet the late January date for fertilization. He described the entrances and said they will put in screening. In regard to the off-site parking, they are planning to function with the 34 spaces. He doesn't know what the costs would be to put Rodgers Street in the condition to have on-street parking.

Chris DeVore, SCB&T described the numbers of customers SCB&T has in regard to the parking requirements needed to serve them. He, too, said Rodgers Street parking would not benefit the bank because there are no entrances on that side of the bank and doing so could produce security risks. Mr. DeVore said the root pruning has been worked out with the owner; he doesn't think that will be a problem as a condition of closing. He said he knows Boundary Street will have future development, but since they don't know when that will be, they need accommodation for customers.

Chairman Howard asked about other branches of SCB&T north of the Broad. Mr. DeVore said their current branch is down the street from this one, and there is one on Lady's Island which has 10,000 customers. Mr. Hill asked Mr. Turano about the sidewalk on Boundary Street which he said goes all the way to the left and asked if it needs to go that far, presuming the front entrance is centered. Mr. Turano said that part of the sidewalk would still fall short of the protection line of the root protection zone. It could be cut a little, but not too much, he said.

Gretchen Lambert, architect, said one of the architectural features is a portico, and the sidewalks are that way because it aligned with the columns. There was also DRB discussion about the paved surfaces in the area, so they don't know what the sidewalk configuration will

be at this time. Mr. Mattingly asked if it's pervious under the root structure. Mr. DeVore said the main concern is protecting the tree's roots. Mr. Turano said when he spoke with the arborist, the front line at 27' was fine with him.

Chairman Howard asked about the parking and how many employees the current location has. Mr. DeVore said eleven; the current location only has one drive-through and is too small to be functional. Chairman Howard said it seems like a lot of parking to need. Mr. DeVore said typically, a bank requires 50-60 parking spaces to meet their minimum requirements. Bank customers at certain peak times need to be accommodated. Mr. DeVore said in their business, they can control where the employees park. Mr. Turano said in regard to the on-street parking, they aren't aware of the costs to develop that. He said it could be "an extraordinary dollar amount that my client isn't anticipating."

Mr. Hill asked Mr. Turano about on an area on the drawing, and Mr. DeVore said it's curbing to separate parking from the drive-through bays. Mr. Hill asked if they feel they need four lanes all the way out or if they could have two lanes fanning into four. Mr. DeVore said it "won't be a trip hazard." Mr. Hill asked his question again, adding that he meant so that it could be opened up to a landscape buffer. Mr. DeVore said for stacking cars, and to have the proper turning radius, they need those lanes and a landscape island would narrow it too much to make proper turns. Some SUVs and large cars would make it hard to narrow it any more.

Ms. Lambert said the non-high-tension pole needs to be moved, but not the high-tension one. Chairman Howard said whether on-street parking happens or not will be determined by the DRB. Ms. Anderson said putting it as a condition of the variance will ensure that it's looked at. Mr. Mattingly said the memo from the Office of Civic Investment and Planning said that if it can't be done, it reverses back to the original variance. Ms. Lambert said in regard to Rodgers Street, there's no way for the client to react in regard to utilities, stormwater drainage, etc. because it's just been added in the last 24 hours. Mr. Turano asked if it's a DOT street and was told it was.

Mr. Mattingly said again that the e-mail sounds like "an opportunity for everybody." Mr. DeVore said he doesn't believe another institution would be required to put on-street parking on a DOT road. They could get a variance at a later date; they feel strongly that it's an addition that shouldn't be added on. The greater expense is above normal ones for the development process if they're made to develop in the DOT's right-of-way. Mr. Turano said they're spending money to screen parking and on-street parking wouldn't be screened. Mr. DeVore said the additional parking on the Rodgers Street side will hamper clear visibility as people exit the drive-through. Mr. Mattingly said DOT wouldn't allow parking close enough for that to be a problem. Mr. Hill agreed there were some conflicts. Mr. Turano said in addition to the potential costs, the amount of parking they would get may not be a cost-benefit, and the bank doesn't require the additional spaces.

Mr. Mattingly said they have to decide how to write the conditions; they could make it for the DRB to decide in their reviews of the plans. Mr. Mattingly said he understands the need for the 34 spaces to serve customers. Mr. Mattingly said he's fine with the project, and the different site plan seems understandable. He liked the site plan that gave the tree more visibility,

however. Mr. Hill said he agrees with staff findings and the variance for the tree, but the parking gives him "heartburn," and he hopes the DRB will look at that.

Chairman Howard said they had to go through the conditions, and proceeded to review them with the Board. Ms. Anderson said the conditions were outlined in the staff report. In regard to January 31 for root fertilization, the date is flexible; it just needs to be before construction, or as soon as possible, according to the arborist. Ms. Anderson said in regard to the conditions for the parking variance, they have pervious surface for additional parking and screening, and the e-mail was in regard to the on-street parking. They can encourage the DRB to work through it. No engineering has been done; it's just a concept. Chairman Howard said once they had required on-street parking, but it was only a few spaces, and the owner had the opportunity to cost it out. Chairman Howard said she's hesitant to make on-street parking a condition. Ms. Anderson said there's an issue of how many spaces they could possibly get. She thinks it's an option worth exploring, though.

Mr. Mattingly made a motion, seconded by Mr. Hill, to accept staff's recommendation with appropriate conditions, with the matter of on-street parking on Rodgers Street to be considered by the DRB and the applicant. The motion passed unanimously.

<u>412 Island Avenue identified as District 120, Tax Map 32, Parcel 395</u>, Side Yard Setback Variance.
Applicant: Vickie Blake (ZB11-26)
The applicant is requesting a side yard setback variance in order to install a wheelchair lift.

Ms. Anderson said this property is in the Islands of Beaufort subdivision. The district requires a 10' side yard set-back. The applicant wants to install a wheelchair lift at the back of the dwelling. The structure is right on the set-back line, Ms. Anderson said. The applicant needs the lift to assist her daughter. The applicant provided specs on the lift design. Because the house is on the set-back line, the lift will encroach 5' into the set-back, and the applicant therefore is requesting a set-back variance. The Islands of Beaufort ARB has approved it with the condition that the lift be removed when it's no longer needed. Ms. Anderson showed pictures of where the lift would be located.

Ms. Anderson said questions for the applicant would be: Is there a lift or elevator in the interior for access? Why can't the lift be located on the back to avoid the encroachment? She said that three public comments had been received.

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

1. Exceptional or extraordinary conditions: The property is located on Battery Creek and subject to a 30' set-back. The structure is right on the 10' set-back and within 2.5' of the south set-back. The back of the house or within the set-back are the only places to put the lift. Staff believes this finding can be met.
2. Staff believes this finding can be met.
3. In regard to this resulting from the applicant's own actions, Ms. Anderson said the applicant can respond as to whether it was built.

4. Ms. Anderson said this is not in conflict with the Comprehensive Plan, which promotes improvements in existing neighborhoods.
5. Ms. Anderson said they need the applicant to explain why the side yard is the best or only location for the lift.
6. Granting variance would not be a detriment to adjacent property and the public good; Ms. Anderson said again that the ARB has approved it with the condition of eventual removal.

Staff would like more discussion of criteria number 5, Ms. Anderson said, and if ZBOA approves the application, they should add the same condition that the ARB put on it.

Fred Mueller, the Islands of Beaufort ARB administrator appeared on behalf of the applicant, **Vickie Blake**, who was not able to appear. Ms. Blake has an elderly father and a severely ill daughter. Mr. Mueller said the location for the lift is the most sensible for moving the daughter and her wheelchair in; she has very limited mobility, so this is the best way to move her from inside to outside. The ARB agrees with the Blakes that they will monitor it. There's a path through the garage to access this location where they want the lift, he believes. There's an additional set-back at the adjoining lot. There's no elevator in the house, and the daughter is recumbent, so it wouldn't be useable in any case. The ARB has communicated with the Blakes that this is the most desirable location for this lift.

Mr. Hill made a motion, seconded by Mr. Mattingly, to approve the setback variance with the condition designated by the ARB. The motion passed unanimously.

NEW BUSINESS

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

Mr. Hill said he'd like to discuss short-term rentals. He asked if the city can revoke a license if there are enough complaints from neighbors. Ms. Anderson said yes. Mr. Hill clarified that this meant that if someone rents to less-than-desirable renters, and there are multiple complaints, they can lose their license. Ms. Anderson said yes, and there's a review of complaints before the license is renewed, as well. Mr. Hill said any given house has four neighbors, and he wondered at what point there would enough objections. An outspoken neighbor could rally the others, he said. Mr. Mattingly said he agreed "absolutely." His opinion's been swayed on another matter when the neighborhood expressed "a great uniform concern." Chairman Howard said the short-term rental applicants the ZBOA has had so far have been ones that existed before the investigation into the VRBO which indicated how many were operating without proper licensing. Ms. Anderson said there has to be a reason for the objections: parking could be an issue, or a short-term rental located on a busy street. Some places may be more suitable than others for short-term rentals for various reasons. Mr. Mattingly said in the Pre-Application Conference meeting, there should be enough flags to weed out poor management. Ms. Anderson said so far the applicants have a good track record behind them.

Chairman Howard said the one objection they received on that meeting's application was vague. Ms. Anderson said she does a site visit before the Pre-Application Conference Committee. Mr. Mattingly noted that this is the fourth application in Pigeon Point. The

requirement for them “not to be clustered” didn’t make it into the short-term rental requirements. Chairman Howard said on Paris Avenue near the post office, a duplex rents out every week for Parris Island graduations, and those are 2 bedrooms with 3-4 cars parked there. She can imagine the neighbors would be unhappy. Ms. Anderson said this is still a work in progress, and conditions can be put on the special exception approval. She said the applicants have to go through a lot of hoops before approval.

ADJOURNMENT

There being no further business to come before the board, Chairman Howard adjourned the meeting at 7:04 p.m.