

**MINUTES**  
CITY OF BEAUFORT  
**ZONING BOARD OF APPEALS**  
February 25, 2013, 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.”

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**Members Present**

Brad Hill, Chairman  
Rod Mattingly  
Don Starkey  
Tim Wood

**Members Absent**

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 led the Pledge of Allegiance and called the meeting to order at 5:30 p.m. He read the Freedom of Information Act.

**MINUTES**

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

**REVIEW OF PROJECTS**

**1411 Duke Street identified as District 120, Tax Map 4, Parcel 343**

Appeal of outdoor storage of carriages

Applicant: Walter Gay d/b/a Sea Island Carriage Co. (ZB12-09)

*The applicant is requesting an appeal of the decision of the Zoning Administrator to prohibit outdoor unscreened storage of carriages.*

Ms. Anderson said a site visit was made earlier this month. **BJ Adams** was at the meeting, she said, and suggested that an open shed on 1409 Duke could be removed and the carriages

parked in this location. This would screen the carriages from Duke Street. Ms. Anderson said the Board had discussed adding another fence between 1409 and 1411 Duke Street for screening; there is also vegetative screening.

**Walter Gay**, of Sea Island Carriage Company, showed a plat of the property to show the proposed changes. They would remove the shed in the back. There's a proposed screening fence near the property line, and he described how that fence would run on the property. They have looked at (2) 14' wooden gates which would allow the carriages ingress and egress. There will be treated posts in the ground, and this would block the view from Monson Street. He discussed other forms of screening they could use additionally to screen the view of the owners of the old Masonic Lodge.

Mr. Starkey asked what kind of gate it would be, and Mr. Gay said they would be wooden, and when closed, "it would look like one continuous fence." Mr. Mattingly asked where the plantings would go, and Mr. Gay clarified. He said it would be 36' past the building.

Ms. Anderson said they got an additional public comment today which was given to the Board and to Mr. Gay.

**Geraldine Cantrell** asked if Mr. Gay would build a shed, and Chairman Hill told her a shed would be torn down and the fence built. He told her the horses would not be housed on that property. Only the carriages and equipment would be there. The fence would be to block the views of the carriages from the fence. She said that when she's on her porch, she can't see the carriages.

**Yoconda Detrinidad** said the horses are being brought to the back of the house, and there are patches of horse manure there and yard of the house that is next to it. They have concerns about the neighbors and sanitary issues. Chairman Hill said this was the first they had been made aware of this, and the city could address that through other avenues. This hearing is about the view, he said, and how the carriages are screened. He said she should speak to zoning authorities to address her concern. Mr. Wood said there was discussion of manure, and it was said to be removed daily.

**Dave Easton** said he's seen the horses loaded on Monson and Washington. He thinks this is not good for the neighborhood. He thought this was to be "an appeal for the whole matter, not just the screening." Chairman Hill said it is about the equipment storage. Chairman Hill recommended that he also come to City Hall and talk to Code Enforcement. It is not, he said, a discussion about what is good for the neighborhood.

**Henrietta Goode** told Mr. Gay that this is not a personal matter, but if the property is used for carriage storage, the horses have to go somewhere until they are picked up, and she feels this is "part of the same situation." She feels that all aspects of it should be looked at. Mr. Gay replied that "99.9% of the time, the horses come to the staging area together," and it takes 8-10 minutes to take off the harness and take them away. He's not aware of any manure problem,

and he sweeps up hay and dirt in the street and disinfects it every morning. The neighbor across the street has invited him to let the horses graze there, Mr. Gay said. If that's a problem, he said they will not come off the commercial property out of harness again.

Mr. Starkey asked where they presently load the horses. Mr. Gay explained how the manure is cleaned up and apologized "if there's been any lapse." The trailer will be backed in, the horses unharnessed, the horses taken off with diaper bags, and then the opposite will be done in the afternoon. He said it shouldn't be a concern.

**Jennifer Walker**, 1502 Duke Street, said her concern is about the horses urinating and the smell. When they take out the carriages in the morning, she finds it loud and it wakes her up sometimes. Monson Street, on one side, is blocked because they are "out there for quite a while."

Mr. Mattingly said the concerns expressed by the neighbors are valid, but the new configuration of the property and its clean-up should assuage those concerns: turning and storing the vehicles, and mounting the horses inside the property, not on the street. He believes the fence accomplishes a lot in terms of hiding the carriages from view.

Chairman Hill said the issue before the Board is the visual impact of the storage of the carriages, not the operation, or "day-to-day issues in terms of odor and clean-up" of waste. He encouraged those who have issues with the operation of the Gay carriage business or any other horse carriage business to contact codes enforcement.

Ms. Anderson said they have a permit to run a horse carriage business, but the staff issue is with "equipment." They have never issued a permit that Mr. Gay's company can store the carriages there. There's a tour permit, but not one to store the equipment on the property. Chairman Hill confirmed that this application is about the storage, and Ms. Anderson said yes.

Mr. Wood said the original concern was storage, and there were no complaints at that time. They "never really resolved the original issue which was that it wasn't a zoned commercial property." Mr. Starkey said they had been concerned if it was clear in the law if a carriage is "equipment" or "a vehicle." They have had different interpretations of what it is; they are deciding what they can do with Mr. Gay to make it a valuable business in the City of Beaufort. Mr. Wood said he doesn't want to make a point about whether a carriage is equipment, and they are trying to resolve the issue without making that distinction.

Mr. Starkey said that he has been in Beaufort 8-10 years, and the carriage issue takes up a big part of council's agenda every year, though he thinks those issues have been resolved well. He feels that as long as carriage operators clean up as required, they have a permit to operate in the City of Beaufort. Ms. Anderson said the permit is to operate a tour business in the City of Beaufort. She said the property is zoned commercial; staff said the two lots needed to be screened to have equipment there. A vehicle can be parked on a lot zoned General Commercial.

Chairman Hill said if it's equipment, it has to be screened, and Mr. Starkey said "and Mr. Gay is providing the screening." Ms. Anderson said if it was equipment, it couldn't be parked outside, even behind a fence, because it would be open yard storage in the General Commercial district.

Mr. Wood said the neighbors seem concerned with the horses in the neighborhood, not the carriages. As long as the staging is restricted to **Jim Moss's** property line, they should be in compliance, and other matters can be reported to codes enforcement.

Mr. Easton said when the ZBOA had its November meeting, the owner of the property said that people in the neighborhood supported this activity, which is "obviously not true," and he's "concerned that the ZBOA is not listening to the neighborhood." Mr. Moss has also said he is going to construct 3 buildings on the property, and Mr. Easton asked if that's being taken into consideration. Mr. Mattingly said Mr. Moss has engaged an architect to build on the property in the future, but that is not the concern of the ZBOA. That construction would likely end this project with Mr. Gay. They would not park carriages on the property that had new buildings, so it's a separate issue. Also, Mr. Moss said at the meeting that he had had no complaints from the neighbors.

Ms. Anderson said the hearing notices are given to the neighbors and the time and purpose of the meeting were posted 15 days before the hearing; no one else has spoken for or against it at all until tonight except Mr. Easton, who was at a previous meeting. The neighborhoods' concerns are real, Ms. Anderson said, and might have been addressed, but today they "don't seem like they're at the basis of this decision." The ZBOA accommodates some of these concerns, but codes enforcement is the answer to other concerns, she said.

Mr. Starkey thanked people for coming and speaking out; however, he looks at this issue as having two pieces: the storage of the horse carriages and permission by the city to operate a carriage company within the City of Beaufort. What Mr. Gay has proposed is to keep the horses within the property line. Other issues need to be addressed by a horse carriage monitor, he said; that's not the ZBOA's purview. Their compromise was for screening the vehicle.

**Mr. Mattingly made a motion to allow the applicant to use the properties at 1409 and 1411 Duke Street for the storage of carriages. The applicant's suggested fence would be placed as proposed at approximately the dividing line between the two properties: a 6' high fence to extend to the end of the property with (2) 12' gates. The ZBOA also strongly recommends that the horses be harnessed within the properties at all times and not be allowed to graze or stand outside the confines of the property. Mr. Starkey seconded the motion. The motion passed unanimously.**

**1499 Salem Road, identified as District 122, Tax Map 29, Parcel 172,** Appeal of outdoor display of merchandise.

Applicant: Bryan and Dawn Randel (ZB13-01)

*The applicant is requesting an appeal of the decision of the Zoning Administrator to prohibit*

*outdoor display of merchandise.*

Ms. Anderson said the Randels are appealing the Zoning Administrator's prohibition of the outdoor display of lawnmowers. The ZBOA tabled the application so that the applicants could create a site plan of where they would display the mowers. ZBOA members were to make a site visit to see the display when the mowers were out. Ms. Anderson photographed the mowers and emailed them as well as photos of a nearby outdoor display to show that they are typically displayed behind the landscape buffer. There's a difference between the planned landscape areas and the display proposed by the Randels. Staff continues to request that the merchandise be restricted to display within 5' of the building as is typical of other merchandise which is brought inside at night and outside during the day.

Mr. Starkey asked if the UDO requires plantings at businesses like auto dealers. Ms. Anderson said for new development in the Robert Smalls Parkway corridor, there's a required 20' buffer. She referred to Stokes Honda which was required to follow this formula. Vaden Chevrolet was a redevelopment site; the building wasn't demolished, and they were required to have a landscape buffer, but it was for 10' because it was not new development. She showed photos of these.

Mr. Mattingly said he couldn't go to the site on Thursday. In the minutes, the Board required that the applicant work with the staff to design a site plan. Ms. Anderson said staff hasn't received a site plan, but they received photos. Mr. Mattingly said an area limitation where the mowers would be placed was to be designated. He asked if that was done, and Ms. Anderson said everything the applicant provided was forwarded to the ZBOA. The minutes also said signage was to be discussed, Mr. Mattingly said, and Ms. Anderson said the photos were received and forwarded.

Mr. Wood asked what the landscape setback would be for this particular development. Ms. Anderson said it depends on the scale of the renovations; when an investment is made on a property, 5% of the improvement is to go into landscape, so for Vaden, it was a significant investment in landscape because it was a significant investment in the property. Mr. Wood said this is an old right-of-way bought from the state, and he asked "if that affects the landscape to be triggered." Ms. Anderson said not enough renovations were done to trigger the landscape investment requirement. If it's less than \$10,000, the business is not required to do any landscaping. Over that, it is a 5% amount of landscaping.

**Dawn Randel** said no drawings were submitted to Ms. Anderson. She submitted the photos and "assumed that this meeting was for negotiation of where the mowers would be set up and how many." She thought that the photos would replace a plan. She showed the photos on the overhead. She said no improvements were done on the property; they bought it as-is and opened for business, so no landscape requirements applied.

The mowers are 30' from Salem Road, Ms. Randel said, and they "hoped for the ZBOA's blessing." Mr. Mattingly asked how far the mowers are from the tree line that comes before the

parking lot which comes before the building. Ms. Randel said about 100'. Mr. Wood said the way the mowers were set up was not the same as the picture. Ms. Randel said they were, and the picture was taken from the sidewalk.

Mr. Starkey said he was disappointed that there was no plan for the mowers. When he "saw 26-27 mowers," he was surprised because he'd been "envisioning 8-10 mowers total." He said he feels strongly that once the ZBOA gives someone the ability to move the mowers to the street, businesses will take advantage of it and put that many there, not 8-10. He feels the applicants have not met the requirements. "It doesn't look like a car lot," he said, and there's no landscaping, which he knows is not required, but they are asking for a requirement deviation, which they would make in some cases, but it's up to the applicant to make it still fit within the city's requirement and "wall-to-wall mowers does not make it look like the city."

**Bryan Randel** said he had discussed this matter with "the new city development Board" and "they wanted grass." He said that **Martin Goodman** had said "nothing permanent should be placed out there," like concrete. When asked what group he was referring to, Ms. Randel said "that's the beautification project for the city." Ms. Anderson said Mr. Goodman is on the Redevelopment Commission and is also with the small business assistance center.

Ms. Anderson said it's essential to have a site plan based on a legal survey about where the property line is; the property lines are not consistent throughout the city. Mr. Mattingly said that is why he went back to the minutes of the discussion and what the Board had asked for. Someone had mentioned that it's not how many there are and what the lineage is. "100' is a lot of mowers for the traffic to see" as they go by. It seems more logical to the Board to make a long-term decision on a designated site.

Chairman Hill said this is a classic battle between a business owner who wants to display merchandise and "those who are looking at this from an aesthetics point of view." Ms. Anderson said this was not an application but an enforcement action; if they are denied, they can appeal to circuit court or can get the ordinance changed.

Mr. Mattingly said it's not the most attractive solution for potential customers. Along the tree line, neatly aligned in a 90-100' standard section, it would be attractive and not a major distraction to passers-by, along with a sign announcing the business. This "would have been a wonderful alternative" for the ZBOA, but not what they are seeing in the pictures. Chairman Hill agreed that they can't see from the pictures what the property lines - and therefore the setback lines - are. He agreed that they "need a site plan addressing these issues in order to have a good discussion."

Ms. Randel said the applicants can give a better site plan. In regard to the matter of whether it's outdoor equipment or not, if they could have that clarified, it would allow them to stipulate if they can put it outside or not. Chairman Hill said the grey area is because it's outdoor equipment, but they are treating it as indoor equipment because they take it in every night.

Mr. Mattingly said the requests the Board made were not difficult to meet. Ms. Randel said she can give them a drawing with a setback and asked if they could stipulate how many mowers could be put out. The length to the road is 150'. She asked if car lots had a stipulation as to how many cars they can put out. Chairman Hill said they have landscape buffers and there are different formulas for different situations in regard to trees, shrubs per 100', and number of cars per space.

Chairman Hill suggested this application be tabled again so that "it can be studied from a site plan standpoint." The buffer is significant enough that it may work to have the equipment behind it. He said he'd like to see 2-3 different concepts for how they would like to lay it out. Ms. Randel said she could do that if they table it and permit her more time to give more information.

Mr. Wood said the site plan would include a definition of the setback lines identified. Chairman Hill said the plat would be the base information, and he'd like a concept about proposed landscape. They want their product out there, and the Board wants to keep it from looking "in your face." Ms. Randel said they can give fewer mowers and a plan. Chairman Hill suggested that she look at the car dealerships' requirements and "come back armed with that information."

Mr. Mattingly said at the last application they worked with the applicant. He can't imagine such a simple statement as she said she got from the Beautification Committee. He expects that they will say something like "the space will be this big, against the tree line, and it's designated by this concrete," etc.

Mr. Starkey said they have to look at the possibility that if they grant this application, nothing stops Lowes or any other business from doing the same thing with what is in front of their business. He hoped for a plan so that if Lowe's or another business did it, they would have a precedent in the Randels' business, i.e., wooden ties and bark mulch, "not out helter skelter," and with a limited number of mowers. He said what they have done doesn't look good, and he doesn't want them to lose business because they "have to fight with other businesses on the road." They are setting a precedent, and they want it to be a good one. Chairman Hill also encouraged Ms. Randel to look at the sign ordinance and include that as part of her proposal. Chairman Hill said they "should proclaim their business."

**Mr. Wood made a motion to table the matter so that the Randels can work on a site plan based on a legal plat and give the Board three mower display alternatives to vote on at the next session.** Mr. Wood asked if the plat incorporates the right-of-way. She said she'd check. Mr. Wood said he's confused about that. **Mr. Mattingly seconded the motion. The motion passed unanimously.**

**907 Charlesfort Street, identified as District 120, Tax Map 2, Parcel 28,** Special Exception for short term rental.

Applicant: Tamera Kirin (ZB13-03)

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

Ms. Anderson said this property is in Pigeon Point. The owner wants to rent it as a short-term rental and Ms. Anderson explained what those are. Short-term rentals are approved by special exception by the ZBOA. She detailed the ordinance as it applies. Guest vehicles are permitted in the driveway, not the street. Parking is a concern on the site; if there were 3 couples staying there, "it could be stacked," which might not be acceptable in a residential situation. Staff received one public comment, and the Board and applicant have received it.

There are 6 criteria that should be considered:

1. Proposed use is compatible with existing uses in the surrounding area: Ms. Anderson described where the property lies in the Pigeon Point neighborhood. It's within a short walk of Pigeon Point Park and offers easy access to Boundary Street and a short bike ride from downtown Beaufort.
2. Planned changes are harmonious with the area: No changes are proposed to the property for its conversion to a short-term rental.
3. Impact on infrastructure such as roads, water, and sewer and on public services: Staff feels the impact on the public is not likely to be great if the parking is addressed.
4. In conformity with the Comprehensive Plan: Staff feels it's consistent with the Sector One Master Plan.
5. Impact on public health and safety: Staff feels there will be minimal impact on neighborhood health and safety if the fire system is installed as required.
6. Potential creation of nuisances: Staff feels this potential is minimal if a monitored fire alarm system is installed and the property is managed locally.

Staff feels that all of these the findings can be met with exceptions: driveway parking, not street parking, no more than two vehicles on the property at any time, and a monitored fire system installed.

Mr. Wood said it's almost impossible to enforce parking and asked how the two cars rule could be enforced. Ms. Anderson said "the neighbors are deputies." That's how they discovered the short-term rentals before they were legal. If there's a problem, city staff will probably hear about it. Mr. Wood asked if the last short-term rental was in Pigeon Point, and Ms. Anderson said most of them are there.

Chairman Hill asked if there is something that triggers them to pull the permit for a short-term rental if there are repeated violations, and Ms. Anderson explained what those are. If there are reports of nuisances at the property that is a cause to recall the license, and it can be revoked by council if there are enough complaints. Ms. Anderson said revoking the license involves a hearing which is a public process. Ms. Anderson said "the most important part is local

management of the site.” If something goes wrong when tenants are there, they have to have a way to take care of the situation.

**Pamela Kieran**, the property owner, said she has changed the parking and has revised the agreement so that the tenants will agree to only have 2 vehicles. A neighbor has taken care of lawn service, periodically checks the house, and lives across the street. She will be doing cleaning, etc. and serve as the property manager.

Mr. Mattingly said this would be the seventh short-term rental in Pigeon Point and all have been maintained very well. They wish other rental properties were as well taken care of as the short-term rentals. Ms. Kieran said she would install the fire system as required. **Mr. Starkey made a motion to approve the request with the monitored fire alarm requirement and Mr. Wood seconded it. The motion passed unanimously.**

Ms. Anderson said there are two new applications for next month.

#### **FORM-BASED CODE UPDATE**

Mr. Starkey said the big change since the form-based code group has been working is the use of the “cloud,” or Adobe work space. He feels they “are getting bogged down in detail and haven’t even seen the forest yet.” He recommended that they should all agree on things like the number of allowable stories and not about the various classifications by district.

The last meeting was a review analysis that was done by **Kathy Todd**, the city CFO. They looked at Sector One, Mr. Starkey said. The number of homes that are renter-occupied is huge in the city; there is a lot of infill capability in the city. They are completing the study of the rest of the sectors. They came up with the idea that Sector One will never support itself because there’s not enough income from rentals, taxes, etc. They expect a \$600,000 deficit for that district that the rest of the city has to pay. “It’s a drain, but its part of downtown,” Mr. Starkey said. The Redevelopment Commission is trying to get the infill done to cut the deficit down, but it doesn’t look like it will be a zero deficit for that sector. Learning about that took up 90% of the last meeting, Mr. Starkey said.

Mr. Starkey continued that some property owners had new proposed zoning maps, and “some people near the hospital had their property reclassified to businesses and were upset.” There were a lot of emails back and forth in regard to handling this document, Mr. Starkey said. According to the Lawrence Group, it was a mistake.

The group has only gotten through a part of section 2 of the code in a few months. Mr. Starkey feels they won’t get through the definition of what the districts are soon. Most of the houses in Mossy Oaks, Cottage Farms, and Battery Shores can’t be built anymore. They now have a 50’ from the road requirement for garages. There are a lot of developments like that, and “they are very adamant about making those changes.”

Mr. Starkey said all the issues that the ZBOA is presented with - like those they had worked with tonight - are not in the form-based code yet, "so a lot will come up for the ZBOA." Mr. Mattingly said the garages are a great example. He asked if they put those kind of issues in a "parking lot" to be solved before more is done. Mr. Starkey explained how the cloud works in regard to comments. The Lawrence Group "decides which comments are deserving of discussion," so a lot of times they have to be brought back to discuss what the committee wants to discuss. Mr. Mattingly said that's an example of something that should come up now, and the committee "must develop their thoughts rather than make it an issue that stops the whole process."

Mr. Starkey said people have to have "at least some access to what's going on." He complimented **Erin Moody's** article about the form-based code process in the *Beaufort Gazette*. He said it's hard to get 200-300 people to understand it but important. City Council is frustrated, but people on the committee understand how important it is. Mr. Starkey said he represents the citizens and will bring up what they want to have brought up.

Ms. Anderson said the process is slow-going. Mr. Mattingly said in regard to the cost of downtown, he "felt like he was paying for NYC when he lived in NY." The whole city and county utilizes those things that cause expenses in downtown; he feels "it's not fair to charge the sector without recognizing that everyone uses those services."

Mr. Mattingly said the Von Harten Building isn't going to be developed for a bakery. Ms. Anderson said she had heard it was a matter of financing, not the property owner. If the owner's willing to sell, rent or upgrade, they will hopefully have another business in there.

### **ADJOURNMENT**

There being no further business to come before the Board, Chairman Hill adjourned the meeting at 7:11 p.m.