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A meeting of the Zoning Board of Appeals was held on **April 27, 2015 at 5:30 p.m.** in the City Hall Planning Conference Room, 1911 Boundary Street. In attendance were Chairman Brad Hill and board members Don Starkey and Joe Noll, and Libby Anderson, Planning Director. Eric Powell and Tim Wood were 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

Chairman Hill 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.

REVIEW OF PROJECTS

100 N. Hermitage Road, Identified as District R120, Map 3, Parcel 686S

Variance

Applicant: Karen and Marty Glisson (ZB15-10)

The applicants are requesting a variance to allow their fence to remain with the support structures facing the adjoining property.

Ms. Anderson said the zoning in the area is R-1. A single-family dwelling is on the lot, and it's undergone extensive renovation recently. In regard to fences, the ordinance states that their support structures must be on the inside (or interior side) of the fence, so a smooth side faces out. The applicants were issued a permit to install a 6' privacy fence along the side and rear property lines; the permit said that the smooth side needed to face the house, but it was built with the smooth side on the outside of the fence.

The applicants have requested a variance to allow the fence to remain the way it is. A public hearing notice ran in the newspaper, the property was posted, and letters were sent out to adjacent property owners. One public comment was received, and the Board had been given copies of that.

Ms. Anderson enumerated what the Board has to find for the variance:

1. **Extraordinary and exceptional conditions:** Ms. Anderson said this finding could be made. The property is on a curve on North Hermitage Road and has very big back and side yards, which are "very exposed to the public and to the street," so the fence is as well.
2. **Conditions as applied to other properties in the vicinity:** This level of exposure / yard size is different than the surrounding properties'.
3. **Conditions are not the result of the applicant's own actions:** The applicant didn't plat the property but did buy it and built the fence.

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4. **Granting the variance would not conflict with Comprehensive Plan:** Ms. Anderson said, "I don't believe so, if we can prove that the fence in its current condition doesn't have a negative impact on surrounding property."
5. **Application of the ordinance to the property is an unreasonable restriction on utilization of the property:** For the fence to comply, it would have to be removed altogether or be redesigned as a "shadowbox" fence. It would "take some substantial reworking." Just putting the supports on the inside "isn't going to be as attractive as this," Ms. Anderson said.
6. **Not a detriment to adjacent property and the public good:** This finding could be made. A traditional board-on-board privacy fence with the support structures on the inside "probably wouldn't look as good" because of the unusual situation presented by the fence's location and the ability to see it from North Hermitage Road.

Ms. Anderson said she had asked the applicant about staining the fence, and they said they are planning to. If the Board approves the variance, staff would like staining the fence an appropriate color within 6 months to be a condition of the approval. Staff believes all of the findings to approve a variance can be met, if no adjoining property owners oppose the variance request, and none have been heard so far.

Karen Glisson, the applicant, said before they built the fence, they had interpreted "the spirit of the code" to be "whatever side the public can see needs to be uniform with other fences." They had a neighborhood gathering in the yard before the fence was built and decided, "This is how you could see the fence the most from the road, so that's the way it was done." The fence was put up sooner than they had expected it would be, while they were out of town, Ms. Glisson added; they had planned to come apply for a variance before it was put up.

The one letter that was received about the fence was "from the one neighbor I haven't met yet," so she was pleased that he supported it. Ms. Glisson added that the neighbors have privacy fences as well.

Chairman Hill said if no one in the neighborhood has a problem with it, he doesn't either. Mr. Starkey agreed. Mr. Noll said he thought it was "a neat idea" to have a consultation with the neighbors, which he'd never heard of before. Ms. Glisson described the stain that they planned to use on the fence.

Mr. Noll made a motion to recommend granting the variance for the fence supports to remain on the outside, with the condition that the fence be stained. Mr. Starkey seconded the motion. The motion passed unanimously.

1201 Battery Creek Road, Identified as District R120, Map 6, Parcel 372A

Lot width and side yard setback variances

Applicant: Phoebe and Howard Mills (ZB15-11)

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The applicants are requesting a lot width variance in order to subdivide the property into two lots.

Ms. Anderson said this property is in Mossy Oaks at Mossy Oaks Road and Broad Street. The property is zoned R-2, which requires a minimum lot area of 9000 square feet and a minimum lot width of 80' from the 20' front setback line. The side yard setback is 12', and the rear is 15'. There's a single-family dwelling on the property.

The property has been developed parallel to Battery Creek Road, a curve in which makes the house "not quite square on its property." It's not quite perpendicular to its side lot lines. The lot is a little over 24,000 square feet in area. Surrounding properties are single-family residences and a PUD with small lots at Broad Street to the rear.

The applicants want to subdivide the property into two lots, and they have provided two options for that. Both options will meet the minimum lot area, but lot width is an issue.

1. The lot width would be 74', 6' less than the minimum lot width for the district. To preserve the 12' side yard setback, there's a "slight offset," which Ms. Anderson showed the Board. Because the house is at an angle, or skewed, so is the new property line. The ordinance says that side lot lines "should be substantially at right angles to the street lines," and this doesn't quite meet that standard. Curved/bent lot lines are a concern over time, Ms. Anderson said, if residents want to install fences or landscaping, for example, which could either be in a neighbor's property or waste space if they're put too far in. Also, if they want to put in an accessory structure, the lot lines could cause a problem by it being "pushed way into the back yard."
2. This has the same orientation, but the lot lines are straight. The lot area is OK, but the lot width is a little bit less than the minimum: 70'. This is 10' less than the minimum, so it also requires a variance of 6' for the side yard setback. It keeps the parcel in a regular shape.

The advertising for this application was the same as the previous one, and one public comment was received in regard to the sewer easement; it was neither pro nor con.

Ms. Anderson enumerated what the Board has to find for the variance:

1. **Extraordinary and exceptional conditions:** Ms. Anderson said this finding could be made. The lot is 15,000' larger than the minimum required.
2. **Conditions as applied to other properties in the vicinity:** The lot is generally larger than many of the lots in the area.
3. **Conditions are not the result of the applicant's own actions:** The applicant neither platted the lot nor built on it.
4. **Granting the variance would not conflict with Comprehensive Plan:** Ms. Anderson feels this finding could be made because the infill is compatible, and the density would not be more because the lot area meets/exceeds the minimum standards; this is a question of lot width, possibly with a setback.

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5. **Unreasonable restriction on utilization of the property:** This finding could possibly be made, as the lot is more than twice the size of the minimum lot area.
6. **Not a detriment to adjacent property and the public good:** Staff feels this finding could be made because it would allow an appropriately sized dwelling to be built on the lot.

Staff recommends the approval of option #2, which allows the more regularly shaped lot line and needs only one variance, not two.

Mr. Starkey asked Ms. Anderson the approximate lot widths on Broad Street. Ms. Anderson said she believes they are 50' wide (50' x 100'), though she didn't measure them. Mr. Starkey asked if they were 80' or smaller. Ms. Anderson said she couldn't verify that. Mr. Starkey said that there were lots that were the same width or less than what's proposed, and Ms. Anderson said "Absolutely," and gave some examples.

Mr. Starkey asked where the Town of Port Royal lines were. Ms. Anderson pointed them out, saying that they go down to Waddell. On the south side of Ribaut Road, part is in Port Royal, but all of Southside Park is in the City of Beaufort.

Mr. Starkey said the easement comment appears not to have to do with the lot under consideration. Ms. Anderson said if this was approved, before the plat is approved for building, the new lot has to have water and sewer laterals installed, and they'll come from Battery Creek Road. Assuming the easement is legal, it must be protected.

Phoebe Mills said in walking the neighborhood and mowing the lawn, she has often "thought it was like two lots," and that idea was reinforced when the Broad Street development was built.

Mr. Starkey said, looking at the size of the lots in the area, subdividing this one seems not to be an issue. He only questions if it's worth keeping the lot line straight to stay away from the 6' variance against the porch, or if it's better to have the lot line go 12' away from the porch. Both options will have the required setback for the new lot that's created. Ms. Anderson said the setback proposed is only from the existing house. There's been no variance requested for the new lot. Mr. Starkey said that 6' + 12' would be an 18' separation between the lots. Ms. Anderson said with the new building code, there are some specific requirements for a side setback of 5' or less. The smallest lot under that code has a 6' side yard setback.

Chairman Hill asked Ms. Anderson if she felt that option #2 was the better of the two, and Ms. Anderson said she does because she prefers the more regular, straight lot line to avoid unexpected angles causing problems with fences, landscaping, accessory units, etc. Mr. Noll said he prefers it, too, for the same reasons.

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Mr. Starkey made a motion to accept the variances for option #2 – the 70' frontage and the 6'6" setback from the existing house to the new lot line. Mr. Noll seconded the motion. The motion passed unanimously.

2500 Fripp Street, Identified as District R120, Map 5, Parcel 29A

Variance

Applicant: Kerry & Lynn Scott (ZB15-12)

The applicants are requesting a variance in order to construct a two-car garage.

Ms. Anderson said this is in the Hermitage Road neighborhood. It's adjacent to the Spanish Moss Trail, near the former pickle factory. The property is zoned R-1, which requires a minimum lot area of 12,500 square feet. This lot is approximately 34,000 square feet in area. The lot lines aren't quite perpendicular; they are slightly radial. The required side yard setback in R-1 is 15'. A single-family dwelling is located on the property. It has an attached 1-car carport on the side. There are no other outbuildings on the property. Per the ordinance, garages or carports are limited to 1. The applicants are requesting a variance to allow a 2-car garage to be built to the rear of the dwelling, adjacent to the Spanish Moss Trail. The garage is proposed to be attached by a covered walkway to a new screened porch that's also proposed. In their presentation, Ms. Anderson said, the applicants should confirm how the garage would be accessed.

The garage is proposed to be 680 square feet total, which is 420 square feet of garage and a workshop of 260 square feet, Ms. Anderson said. For an accessory structure of this size, the ordinance requires it to meet the full setbacks for this district. The applicants are requesting a 5' setback variance to locate the garage 10' (not 15') from the side property line in order to better square up the new garage with the house. The garage is 1-story and has no habitable space, Ms. Anderson said. It's been designed to match the house. The photos show that Dill Drive adjoins it to the east, and the owner of the pickle factory and Dill Drive had a concern about how access to the drive will work, so the applicants should also discuss this.

Public notice was the same as in the previous applications, Ms. Anderson said, and no public comment was received except for the call from the pickle factory owner that day at 4:30 pm.

Ms. Anderson enumerated what the Board has to find for the variance:

1. **Extraordinary and exceptional conditions:** This finding can be made, Ms. Anderson said, because the property is very large, more than twice the size of the minimum required for the district. The most unusual circumstances, she said, are that it adjoins a road to a vacant/abandoned property, and its proximity to the Spanish Moss Trail. There's "no private owner, no side interior property line" on one side of the lot.
2. **Conditions as applied to other properties in the vicinity:** The conditions don't apply to other property in the area.

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3. **Conditions are not the result of the applicant's own actions:** The conditions are not the result of the applicant's own actions. The applicants recently purchased the property.
4. **Granting the variance would not conflict with Comprehensive Plan:** Staff believes this would not conflict with the plan, which encourages investment in existing neighborhoods.
5. **Unreasonable restriction on utilization of the property:** Staff believes it would be unreasonable to prohibit construction of a 2-car garage because of the presence of a 1-car carport that is not visible from the street and is designed to blend in with the house. It's probably not feasible to remove it. A 2-car garage makes sense here, Ms. Anderson said, both practically – because it's adjacent to the Spanish Moss Trail and equipment can be safely stored – and aesthetically.
6. **Not a detriment to adjacent property and the public good:** Staff feels this finding can be met. There are no neighbors on the east side of the lot, where the variance comes into play. Also, enclosed storage of vehicles and yard maintenance equipment is desirable adjacent to the Spanish Moss Trail.

Ms. Anderson said staff feels all the findings can be met and recommends approval.

Chairman Hill asked if Dill Drive was a public street, and Ms. Anderson said it's privately owned. Chairman Hill asked what the owner's concern was. Ms. Anderson said there was an agreement about Dill Drive that she didn't have access to between the owner of the pickle factory and a previous owner of 2500 Fripp Street. She felt that the concern was about ensuring that access wasn't blocked to the pickle factory. The owners can confirm that they will use the existing driveway to get into the garage, Ms. Anderson said. She emailed the pickle factory owner the site and floor plans and the elevation, so he'd understand the orientation of the garage, etc., and his response was to thank her; but he didn't express objection or support.

Mr. Starkey asked what the status was of "the pickle factory approval for condos" – if it had expired. Ms. Anderson said it had. Mr. Starkey said he'd been to some of the meetings about that and "the big issue on Dill Drive was access to the site and if the right-of-way was wide enough for fire trucks," etc. The right-of-way is narrower than a street.

Chairman Hill said Ms. Anderson had called it a 2-car garage, but the plans the Board received appear to be for a 1-car garage. **Kerry Scott**, the applicant, said, "It's intended to be a 1-car garage, but there's as many square feet as if it were a 2-car garage."

Mr. Scott said the garage would be a combination of a woodcarving shop and a place to keep materials for his hobby when the weather is bad. The back would be a heated/air conditioned "man cave." Mr. **Daniel** (the pickle factory owner) had come by their house, Mr. Scott said, and expressed concern about the access not coming off of Dill Drive. Mr. Scott said he had realized that they might not always have Dill Drive access, so they have

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worked it so the new garage door and the carport are at 90 degree angles, so both can be accessed from their own property.

Chairman Hill asked Mr. Scott if he would be willing to provide landscaping on the trail side, and Mr. Scott said, "Absolutely. I plan to." They are keeping the façade facing the trail simple, and this also gives visual separation between the trail and their patio. He said the setback change is so that they can turn the garage to be "parallel – perpendicular to the house" to make the driveway access a little better. With their driveway *and* Dill Drive, they have a "very convenient" horseshoe-shaped driveway, but Mr. Daniel had told Mr. Scott that there was this agreement dating back two owners to the original owner of the residence, ensuring "she would always have access to Dill Drive." Mr. Scott said he is planning in case that was to "go away" at some point.

Mr. Starkey asked Ms. Anderson what the requirement is for maximum floor space in garages. Ms. Anderson said the existing carport counts toward the house square footage, and then they're building the screened porch, too, "so the 50% is fine." Mr. Scott said it still works, if they weren't going to add the porch.

Mr. Noll said he feels the design is better with the 10' setback, rather than the 15', so everything isn't "squeezed back." **Mr. Noll made a motion to grant the variance to the setback at 10', and to allow a second garage structure on the site. Mr. Starkey seconded. The motion passed unanimously.**

DISCUSSION: REVISION OF RULES OF PROCEDURE

Ms. Anderson said these couldn't be voted on. One thing that the Board had wanted to clarify was that an applicant had to be present at his/her meeting, and Mr. Starkey had mentioned in an email that it doesn't say what happens if an applicant isn't there. Ms. Anderson said the Board couldn't vote on the application, so she suggested it be moved to the next meeting. Chairman Hill echoed that it should be tabled. Mr. Starkey said that should only be if they contact Ms. Anderson. Chairman Hill said something like a flat tire might happen and an applicant wouldn't be able to notify the Board. Mr. Starkey suggested that they should at least have a reason for not coming; if they just don't show up to a scheduled meeting, it's irresponsible. Chairman Hill said, "If they didn't show up, there's got to be a reason," and it should be tabled. "If they don't show up to the *next* meeting," though, it's a problem. Ms. Anderson said it can only be tabled for 30 days, at any rate; they can't "keep tabling" it. She read from Art. 3, Sec. 5 "Continuances," which said that the hearing of an appeal may be continued one time by the Board "for good cause."

Ms. Anderson suggested adding to the rules, "If there's a no-show, it will be tabled until the next regularly scheduled meeting." If the applicant doesn't show up to *that* meeting, they "can refile in 6 months," Chairman Hill suggested.

The next meeting will be Wednesday, May 20 because the regular meeting falls on

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Memorial Day, Ms. Anderson said.

Mr. Starkey asked if anything was going on in regard to the new code. Ms. Anderson said **Lauren Kelly** is taking the lead because she has expertise as an architect. She's working at home while on maternity leave, and "she's making good progress." When Ms. Kelly is finished, Ms. Anderson will look at it "and get a draft zoning map together," and then restart the committee in the fall. Staff is recommending that the committee this time be smaller, and deal with issues as a technical committee. They suggest having 7 members who are chosen from existing Boards and commissions: one city council representative, both Beaufort representatives on the Planning Commission, one from the Zoning Board of Appeals, one from the Design Review Board, one from the Historic District Review Board, and one from the Redevelopment Commission. Staff suggests that the chairs of these boards should be the members of the code committee, Ms. Anderson said, but they aren't required to serve. Board members are familiar with the process, the ordinances, and the neighborhoods, and many are design professionals. The committee will review the code, not the map; using the whole map bogged the previous committee down, Ms. Anderson said. They will use parts of the map to show where the various districts would apply. They will then take the code and the map to the neighborhoods and ask what's been missed.

Mr. Starkey said it would be worthwhile for Ms. Kelly to look at Port Royal's and the county's codes. Ms. Anderson agreed and said she would like council to "endorse goals for that process." This is the implementation of the Civic Master Plan, so they might allow different housing types in certain neighborhoods, for example. Ms. Anderson said, with clear direction from council, the code committee would know "how far they can go" and also know what they don't need to concern themselves with (e.g., non-conforming lots). Uses will be more creative, but standards will be a little tighter in this code than in a traditional code, Ms. Anderson said.

There being no further business to come before the Board, the meeting adjourned at 6:35 p.m.