

**MINUTES**

CITY OF BEAUFORT

**ZONING BOARD OF APPEALS**

April 28, 2014, 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.”

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**Members Present**

Brad Hill, Chairman  
Tim Wood  
Don Starkey  
Eric Powell  
Rod Mattingly

**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. Powell made a motion, second by Mr. Starkey, to accept the minutes of the March 24, 2014 meeting as submitted. The motion passed unanimously.**

**REVIEW**

**2413 Hermitage Road, Identified as District R120, Tax Map 5, Parcel 65**, Special Exception.

Applicant: Domi Adsum, LLC (ZB14-06)

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

Ms. Anderson said a single-family dwelling is on the property; the applicants want to use it for a short-term rental (less than 30 days). In the residential districts, short-term rentals are permitted by Special Exception. The applicants live in the Pigeon Point neighborhood. They will manage this themselves and have experience doing so. There is adequate on-site parking. They submitted their rental application, and they will be required to install a monitored fire system. Public notice was made, and no comments were received.

Criteria for a Special Exception:

1. **Proposed use is compatible with existing uses in the surrounding area:** Ms. Anderson said the house is located on Hermitage, which is a residential collector-type street, so it has good access to Ribaut Road, which is a major arterial and is within a block of the Spanish Moss Trail.
2. **Proposed changes are harmonious with character of area:** No significant changes are proposed.
3. **Impact on public infrastructure:** The proposed use as a short-term rental will have no different impact on those services or delivery, Ms. Anderson said.
4. **Proposed use is in conformity with the city's Comprehensive Plan and the Civic Master Plan:** Ms. Anderson said, yes, it is in general conformity.
5. **Impact on public health and safety:** Staff feels there will be little impact, no more than if it were a long-term rental.
6. **Potential nuisances** – There is little potential to create any, Ms. Anderson said; the owners live in the area and will be required to install a monitored fire alarm.

Ms. Anderson said staff recommends approval.

**John and Erica Dickerson**, the applicants, buy historic cottages to rent out short and long term; this is their fourth short-term rental, Mr. Dickerson said. They will be renovating the interior. They advertise, and this property is close to the Spanish Moss Trail, so that's how they will market it. They have been very successful in bringing in families who want to get to know the community.

Mr. Starkey said the parking area looks large; Mr. Dickerson said they could put two cars easily and maybe 3. If it were used as a basketball court, there's a lot of room to park. They don't allow boat or RV parking, Ms. Dickerson said. No more than 4 people will be allowed to stay there. Mr. Dickerson said they have had no complaints and are strict about loud music. **Mr. Powell made a motion, second by Mr. Mattingly, to approve the Special Exception for the short-term rental. The motion passed unanimously.**

**864 Ribaut Road, Identified as District 120, Tax Map 5, Parcel 134**, Variance.

Applicant: Sharon L. Perry (ZB14-07)

*The applicant is requesting a variance in order to construct a fence.*

Ms. Anderson said this is for a variance for a property on the west side of Ribaut Road. The proposal is for a 6' privacy fence. The ordinance stipulates that the support structure faces the interior of the lot, and the smooth side must face the neighbor. The applicant had the utilities located in advance of the fence construction, and a gas line was identified in close proximity to the property line. Also, the neighbor has a chain link fence, so the fence to be installed needs to be installed 2' from the gas line. **Sharon Perry**, the property owner, has said that the fence contractor said there's not enough room to install the fence with the smooth side out. So the property owner has asked for a variance of the ordinance provision for fence design. Staff asked the applicant to describe the situation in more detail and if it is really impossible for

the contractor to get in there to work. Ms. Perry sent an email, which the board members received. Public notice was made, and there were no public comments.

Variance findings:

1. **Extraordinary and exceptional conditions:** Staff feels the presence of the chain link fence in the location of the gas line would be considered extraordinary and exceptional.
2. **Conditions as applied to other properties in the vicinity:** Not to their knowledge, Ms. Anderson said.
3. **Conditions are not the result of the applicant's own actions:** Ms. Anderson said they are not.
4. **Granting the variance would not conflict with Comprehensive Plan:** It is not in conflict, Ms. Anderson said.
5. **Unreasonable restriction on utilization of the property:** It may be unreasonable to prohibit a fence from being put up due to a neighbor's fence and a gas line, Ms. Anderson said.
6. **Granting a variance will not be a detriment to adjacent property and the public good:** It will be screened from the neighbor, and isn't visible from the street.

Staff would like more information to pin down that the fence can't be built with the support structures inside the area. If the Board agrees, staff would be satisfied. Mr. Powell asked if the fence would cross the gas line at some point where it terminates. Ms. Anderson said she didn't know, but Ms. Perry could answer the question.

Ms. Perry said it will not cross the gas line, and the fence will go straight back. The installer said they need a certain amount of room, but then because of the gas line, they need more.

Mr. Starkey asked what kind of fence was there and what will be visible to the neighbor. The applicant said its solid wood, not stockade; it has a rounded edge. The neighbor will see the supports, but only for 10' because there is a lot of overgrowth. Mr. Starkey asked if the neighbor's fence was on the property line, and the applicant said it is.

Mr. Mattingly asked how far away from the fence the chain link would be. Ms. Perry said the Lowe's person who sold it said they could put it *against* the chain link fence, but the installer said that couldn't be done. The applicant said the salesperson told her that, and they cut everything back along the fence line and 6' high. Ms. Perry said she told the neighbor she put up the fence "because his daughter screamed and swore at her 15 year old." The neighbor said he had no objections.

Mr. Starkey asked, if there are 2 fences close together, if it might be a danger if an animal or child were trapped between them. Chairman Hill asked the applicant, from the location of the line, how much space is between the fences. She said the flags for the gas line are not exactly straight: the closest is 3'7". Chairman Hill said he'd thought the same thing as Mr. Starkey did about garbage and leaves trapped in there, not to mention kids.

Mr. Powell said he has a similar wood fence on a house in Ribaut Road, and his fence was constructed the same way: where his neighbors have to look at the less attractive side, and they have a chain link fence, and the fences touch each other. Mr. Starkey said he wants to ensure that she knows where the property line is so that she doesn't have problems with the neighbor in the future.

Chairman Hill suggested that the fence has to be a foot off from the chain link fence. Mr. Starkey said to leave 6" underneath the fence to be able to reach or cut under it. Ms. Perry said that might be a problem because she has a small dog, which is another reason she's getting the fence. She said there is no grass there, only mulched leaves.

Mr. Wood said the variance is the Board's problem, and the rest is the two owners' problems. **Mr. Powell made a motion to allow the applicant to reverse the framing for the privacy fence for the reasons outlined in the staff report. Mr. Mattingly seconded. The motion passed unanimously.**

**133 Elliott Street, Identified as District R120, Tax Map 5, Parcel 119**, Lot Width and Side Yard Setback Variance

Applicant: James and Louise Coleman (ZB14-08)

*The applicant is requesting a variance in order to subdivide the lot.*

Ms. Anderson said this is also a variance request, which is also located in the Hermitage Road neighborhood. The property is a double frontage lot with frontage on Elliott and Reynolds Streets; Reynolds functions as an alley. The R-1 district requires a 12,500 square foot lot area with a minimum lot width of 100' measured at the 30' front setback line. A single-family dwelling is located on the lot. It's also a double lot. It was originally two lots, 151 and 152. The building was built across the lot line, and then at some point was subdivided into an unusual L-shaped lot. There is a pool and a workshop building.

When it was subdivided a lot fronted Elliott and one had primary frontage on Elliott Street. Ms. Anderson said she doesn't know if any of this was ever recorded and it now is back into one tax parcel. The applicants desire to subdivide the lot into two lots. Lot 151 would be large for the district: 30,000 square foot in area, and would contain all the existing amenities on the lot: dwelling, pool and outbuildings. The vacant lot would be 16,000 square foot in area but with only 39' of frontage on Elliott at the front property line. Because of the configuration of the lot, it will have 100'+ on Reynolds Street. The HVAC units will be in the setback area, which is not permitted. It meets the minimum lot area requirements, but staff doesn't feel lot 151 meets the intent of that because it's only 45' wide at the setback line. Reynolds Street has a wider frontage but isn't paved, so a new lot can't be developed unless it is improved, so it would have to be an Elliott Street lot.

**Louise Coleman** has requested variance of lot width and setback standards. Ms. Anderson said staff is concerned about the different character of lot this would create. All the lots on Elliott Street are regular in size. There are 2 double lots that were combined into a single tax parcel.

Staff said the important thing is for new lots to accommodate a reasonable structure that fits into the neighborhood. They looked at a reasonable lot area: 30' in the front and back for setback and 15' on the sides. Ms. Anderson showed where it could be built. The 30' minimum buildable area width when shown is about in line with the existing dwelling. Typical Midtown cottages could be done on a lot like this. She showed if they were to build a wider, ranch-style house, they would have to move back on the lot.

Another issue is how the dwellings have been constructed on the lots. The small cottage structure side-by-side would not read as an accessory dwelling. Ms. Anderson showed photos both cottage-style and ones that were a little wider than they were deep. They tend to be one-story. Public notice was made and they received several public comments; one was emailed and given to the Board, and two came in that afternoon, and the applicant was given copies as well as the Board.

Variance findings:

1. **Extraordinary and exceptional conditions:** Staff feels this finding could be met; the property is twice as large as all the properties on Elliott Street. The existing dwelling is over the existing lot line, which precludes a simple un-consolidation, Ms. Anderson said.
2. **These conditions aren't generally applied to other properties in the vicinity;** one other property in the area has been consolidated, but it could be unconsolidated.
3. **Conditions are not the result of applicant's own actions:** Staff feels that this finding can be made.
4. **Conditions as applied to other properties in the vicinity:** Ms. Anderson said the ordinance plans encourage infill, but it must be compatible, which is key to the Civic Master Plan and the form-based code. The Board must determine if the new lot and the structure built on it are compatible with the neighborhood.
5. **Unreasonable restriction on utilization of the property:** Staff doesn't feel the finding can be made since the property is built out with a single family dwelling, shed, pool and workshop; they are enjoying permitted uses already. Ms. Anderson said, though, that staff could allow an accessory dwelling unit to be built.
6. **Granting the variances wouldn't be a detriment to adjacent property and the public good:** Ms. Anderson said staff is concerned that creating this lot would result in a lot substantially different than the lots in the neighborhood in regard to shape. It will either have an adjacent cottage or a house set further back and behind 133 Elliott Street, which would be a concern as its not appropriate urban design.

Staff feels all the findings can't be met and as a result recommends denial.

Mr. Mattingly asked about garage access from Reynolds Street. Ms. Anderson said there's no drawback to that; the fire department can get access from Elliott Street.

Mr. Wood asked about Reynolds Street, which is a dirt alley, but all property owners use it. Whether it's paved or not, it is a street and is always going to be. Ms. Anderson said she imagines so. Mr. Wood said the property owners like having two accesses to their properties. If they think of Reynolds Street as a viable street, the subdivided lot has the frontage on Reynolds

Street. Mr. Mattingly said it currently functions as an alley, and it would be a limitation if it couldn't be used as access to a garage. Mr. Wood said regardless of whether it's paved, it is a city street and probably will remain so.

Ms. Anderson said in regard to Reynolds Street, they have had inquiries regarding subdivision because the double frontage can be a great thing. The issue is that they won't allow a subdivision if the frontage is Reynolds until it is paved. Ms. Anderson said there was talk of paving Reynolds Street, but she asked the Public Works director, and he said there are now no plans. It is a public right-of-way that is currently not paved. Ms. Anderson said the address is Elliott Street, so it can't face Reynolds Street. Mr. Powell asked if they approved a variance if the Board can stipulate where the building can be built. Ms. Anderson said they could put reasonable restrictions on the variance. Ms. Anderson said the decision of the Zoning Board of Appeals will carry over to a subsequent owner, in answer to Mr. Mattingly's question, who said he'd seen a for sale sign.

Ms. Coleman said several people love the house that they are selling, but they don't like such a large lot. That's how the issue arose. They envisioned if they could subdivide it and have a cottage-type dwelling, they would have a drive onto Reynolds Street. The recycling and trash pick up is there; it is a street with services that run on it. Gathering information, they decided to check out the possibility. It's still a large lot; the houses on both sides of Joyner are rather small. She feels like it could be a nice dwelling without stepping out of bounds. They might keep the lot themselves if they can sell the house. They are just exploring their options. Some of the structures on Reynolds Street are actual dwellings; there are lots of different structures that back up to Reynolds Street. She agrees it should face Elliott but have a drive onto Reynolds Street. Ms. Coleman said there are so many different types of dwellings in the neighborhood, with an eclectic personality, so she doesn't think it would be too out of reach to think this could be something pleasing. There is a lot of greenery, so it could not be seen without having to be all the way to the back of the lot.

Mr. Wood asked if it's feasible to move the HVAC to the back of the current house. Ms. Coleman said she has no background, but she could find out and said it's probably possible.

**Matthew Hanks** recently purchased a home at 2600 Joyner. They bought the property and fear Ms. Coleman building a 2-story cottage; there are beautiful ones around them but they bought their property for privacy. If there were a 2-story home, it would look directly over them, and they would have no privacy. They don't mind the sub-divide, but they would request that it be a cottage. To Mr. Wood's question about Reynolds Street, Mr. Hanks said they had to make their own driveway. The Public Works director said it's not a street: it's muddy and potholed and several years ago, they went to the Board to have it paved, and someone who lived there did an audit, and the homeowners at the time didn't want TCL students to have access, so it's not paved. They ended up building a driveway but can't get into it when it rains. The biggest thing for them is that the home be a ranch home, so they can keep the surrounding property as it was when they purchased it.

**Bob Albright**, 114 Elliott Street, said he's new to Beaufort from Hilton Head Island. He knows the parents of the applicant. He feels the Colemans could build many types of handsome homes with a garage in front of the house and "create a nice atmosphere." In regard to what the Mr. Hanks said they would see, a garage closer to the house would help with that. The people who buy a different home will look at the back yards of two or three houses.

Beaufort has more chain link fences than anywhere Mr. Albright has seen and vegetation growth. He's been down Reynolds Street and said you need a 4-wheel drive because of the ruts. He thinks it should be graded off once in awhile. The neighborhood has a variety of houses, including some as small as a 2-car garage. This would mean returning the lot to its original state of being 2 lots. Mr. Albright asked if the Board would table the application for a month to allow the applicant to do a little site plan.

Mr. Starkey said it's so much better to look at dividing a lot if you can see the footprint and where it is going, even if it's not final, just to show how a house would sit, where the garage and driveway would be. He would like to see more about not just dividing the lot. He said that he understands where the applicant is coming from, but it might be worthwhile for the Board and as a selling point as well, to show how a house would sit on the lot. Mr. Powell said he thinks that's a good point, and in regard to the HVAC question, they might want to investigate the cost of doing that. It would be nice for the applicant to have that information.

Mr. Wood said he thought Ms. Anderson did a good job showing the footprint area of build-able space. If it's going to be an Elliott Street lot, it doesn't meet the criteria of the 100' frontage on Elliott Street. The little build-able space puts the house way back by Reynolds Street. Staff wants 100' frontage on Elliott Street. He said he can't support a variance that doesn't meet the requirements. They need to address the relationship to Reynolds Street, which will always be a dirt alleyway, so this owner can't utilize it. The Zoning Board of Appeals, Mr. Wood said, is to tell the applicant if it can be subdivided and it is not that type of lot on Elliott Street.

Mr. Mattingly said he goes back to what Ms. Anderson had said: unless the driveway comes off Reynolds Street, they can't have a house there. Chairman Hill said with the ability to see projects online, there's a great property being subdivided with an 18' wide 2-story house on it that is beautiful and will fit in the Historic District. He agrees that this is an eclectic area with houses of different sizes. Without the comments he'd heard, he might have been interested in a site plan, but since there are technical matters, if the applicant is interested enough to prepare a site plan and look at the cost of moving the HVAC to remove one of the obstacles to granting the variance.

Chairman Hill said he goes back to the fact that the applicant has created the problem. They are not restricting her use of the property. He thinks the main issue is criteria number 5, and he doesn't see that a hardship is created. He is willing to go along with tabling it. Ms. Coleman said they aren't doing this for financial reasons; they have had interest in the lot and in the house. Ms. Coleman believes "it will probably be a wash financially."

Mr. Hanks said they might be interested in extending their lot, and Ms. Coleman would lose her yard. Ms. Coleman said she had already talked to another neighborhood about doing that.

Mr. Starkey said there are a lot of lots in subdivisions today that have a narrow front. To him, the applicant's lot, with a cottage back there, could work, so he'd like to see an idea of what it could be, even with a driveway in front. Ms. Anderson said they can put a driveway on Reynolds Street, but the city is not going to guarantee keeping it maintained. Ms. Coleman said some residences have recycling pick-up and mailboxes on Reynolds Street.

Mr. Starkey asked the lot minimums in the city, and Ms. Anderson said the smallest is 40' in the Northwest Quadrant. Chairman Hill said there are options to approve, disapprove, or table. **Mr. Starkey moved that they table it and have the applicant come back with some ideas of what was discussed. Ms. Anderson asked them to clarify how long they would table it for. Mr. Wood said if the applicant comes back with a footprint that they meet all criteria, they will table it for 30 days (the May Zoning Board of Appeals meeting) Mr. Mattingly seconded the motion.** Mr. Wood said if they have a design plan, he would like it to be legal, "not just putting things wherever." He suggested they do the research to let the Board know how it would look so they can truly understand what the footprint would be. Mr. Powell said the more detail they have, the more likely the Zoning Board of Appeals is to approve it. **The motion passed unanimously.**

Ms. Anderson said the May meeting is the 28<sup>th</sup> because Monday is Memorial Day and Tuesday is a council meeting.

Mr. Starkey asked the status of the form-based code committee. Ms. Anderson said they are talking about reconvening in mid-summer; they are still several months out. She and **Lauren Kelly** need to review the complete draft from the consultant, make changes, do the map, and THEN release it to the committee. It may even be Fall. There have been many things going on, Ms. Anderson said.

Mr. Starkey asked if they had voted on reducing the committee size. Ms. Anderson said they haven't made the appointments, but it was discussed. 20 was unmanageable, Ms. Anderson said, and some attendance was sporadic. She thinks it's still too big because they can't sit around a table. They aren't ready to start again yet. Mr. Mattingly asked if there were discussions of changing the make up of the committee; it will be residents, board members, and design professionals, Ms. Anderson said, just fewer of them. Mr. Mattingly asked if one has to live in the Beaufort area to serve on the form-based code committee, and Ms. Anderson said, yes, that would not be a problem anymore.

**There being not further business to come before the Board, the meeting was adjourned at 6:55 p.m.**