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A meeting of the Zoning Board of Appeals was held **on July 27, 2015 at 5:30 p.m.** in the City Hall Council Chambers Room, 1911 Boundary Street. In attendance were Vice Chairman Don Starkey and board members Tim Wood and Joe Noll, and Libby Anderson, planning director. Chairman Brad Hill was 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

Vice Chairman Starkey 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

812 Port Republic Street, Identified as District R121, Map 4, Parcel 984

Floodplain variance

Applicant: Beaufort Inn, LLC (FP15-01)

The applicant is requesting this variance in order to upgrade the building.

The City of Beaufort participates in the national flood insurance program, Ms. Anderson said, so that city property owners can obtain federally backed flood insurance. Local ordinances can be *more* stringent, but not less, than federal requirements; Beaufort's requirements are among those, in order to receive a discount for federal flood policyholders, which is now 15% off. Variances can be given in those areas where local regulations are more stringent than federal regulations.

The applicant's building at 812 Port Republic Street is in the flood hazard zone. It is a one-story that was built in 1955 and has most recently had retail uses. At one point, it was a restaurant, Ms. Anderson said. The property is in the Historic District but is not listed on the historic sites survey. It is worth about $64,000. The applicant wants to renovate it and use it for serving breakfast to guests of the Beaufort Inn. By city and federal flood requirements, the improvement is considered "a substantial improvement," if repairs and improvements to a building cost over 50% of the market value of the building, Ms. Anderson said. City and federal flood requirements both say that if substantial improvements are done, the building must be brought into compliance with federal flood requirements, which in this case means either elevating the first floor of the building above the base flood elevation or dry flood-proofing the building. Historic buildings in the flood zone are exempt from these requirements, but this building is not historic, so it's not exempt.

"The city's ordinance goes above federal requirements," Ms. Anderson said. In regard to substantial improvement, they look at projects in the flood zone over 5 years to determine if the total value of permits is over 50% of the value of the building, it triggers

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the "substantial improvement" requirements. The applicant is requesting a variance of this ordinance, so the city would only look at a particular project, not the projects over 5 years.

Ms. Anderson said the board should consider – and the applicant should be asked – if there were "an actual elevation certificate for the building . . . It would be good to know how far below grade it is." Also, what is the scope and cost of the renovation? Are future phases planned? What will be done to the building over the next 5 years? The appraised value of the building seems low, Ms. Anderson said, and it has "changed substantially." In 2007, it was valued at over $214,000, and then in 2010, it was worth $121,000. A professional appraisal might give a different value, because this low value is very limiting in regard to the 50% renovation.

Ms. Anderson said a variance

- cannot be issued that makes the structure in violation of any local, state or federal law.
- is only issued if it is determined it's "the minimum necessary to afford relief."
- is only issued in cases of exceptional hardship.

No building additions are proposed that staff knows of, Ms. Anderson said. The issue of "exceptional hardship" is one that she encouraged the board to consider. Staff's recommendation is to obtain more information: What are the scope and costs of the work in relation to the building's appraised value? What are the plans for phasing the project? What can we expect to see over the next 5 years? The answers to these questions should be important to the board's decision.

Vice Chairman Starkey asked about the cost of these improvements: Are they just to the building? Ms. Anderson said that's correct: It's for "anything permanently fixed to the building," e.g., a hood in a professional kitchen, but not moveable furniture. Mr. Noll asked Ms. Anderson about the 50% in regard to the federal ordinances as well the city ordinances. Ms. Anderson explained that in both it's 50%, but the city ordinance looks at a 5-year span, as opposed to a project-by-project basis. So 20% improvement for each of 3 years would be 60%, triggering the "substantial improvement" status at that point, so "we would have to say, 'No, you can't do that.'" The city also needs to know if the current improvement is 50% or more, she said. If for some reason – such as a tree falling on the roof – the applicant had to come back for a variance because the 50% had been triggered, Ms. Anderson said she feels the board "would be very understanding."

Mr. Wood said 303 Associates had poured a new floor at the old Piggly Wiggly downtown to get it above flood elevation, and this is just a few blocks from that address, and he asked if the applicant would be willing to pour 12" of concrete in order to do the same at this address; then there would be no need for a variance. Ms. Anderson said she knew the applicant had "talked about a lot" of options, and that one

"didn't seem feasible or reasonable for this particular building, which is why they're here." She suggested the board could ask the applicant about this.

Courtney Worrell, representing the applicant, 303 Associates, said there is an elevation certificate, and she gave the measure of the finished floor. They added 16" of concrete to the finished floor at the building Mr. Wood had referred to ("Tabby Place"), she said, so as they thought about what to do to get 812 Port Republic up to flood, they would have had to pour 28", but unlike at Tabby Place, "we don't have the head height, so we'd have to lift the ceiling, raise the roof, or...add a wall around the perimeter, which we can't do on two sides because it's right on the property line." They had asked engineers about cutting out the existing slab and building new walls within, Ms. Worrell said, "but it's a significant cost."

Ms. Worrell said the prices on the county assessor's website might be "a little wonky" because when 303 Associates gets reassessed values from the county, they have "appealed some of our values with the Beaufort Inn" on an income/expense valuation, rather than a real property value. The appraisal for Tabby Place at 9000 square feet "came in at $198,000," so basing a value for 812 Port Republic, which is around half that size, would be $99,000. They feel they can do what they want to do for 50% of that value, Ms. Worrell said. They want to renovate this building and "get it into service." They're making no additions, she added.

The plan is for the company to clean up the façade and the interior, decorate it, and put it to use for the Beaufort Inn. They think they can stay below the 50% threshold. Ms. Worrell said the company's main concern is about the 5-year window. If a tree falls, the storefront glass is vandalized, or the air conditioning fails, "we're talking tens of thousands of dollars." Those kinds of repairs are things they have to do routinely to take care of their business properties, and they can't plan for and control those unexpected events. If they invest in this property now, and "down the road, then (the city would) enact the flood-proofing, then we've just undone all the money that we've invested . . . then we might as well not invest . . . because we'd have to undo everything that we're planning to do."

So, Ms. Worrell said, the business is asking to "remove this uncontrollable risk," so "we can justify our investment at this point." If they were to do as Ms. Anderson had suggested and invest up to 49% now, then ask a future ZBOA for a variance, should they need one, "that's still . . . an uncontrollable risk we can't reasonably budget or plan for, because we're still taking something out of our own control and putting it (in the control of) someone else who may or may not understand that we couldn't reasonably foresee see that air conditioning unit (might) go out, or why didn't we replace it on the front end? Sometimes these things happen."

Vice Chairman Starkey asked for an idea of what the improvements are going to be. Ms. Worrell said they have to count painting in their costs. She said it was a restaurant, and

they will put the bones of the old one back in. It will be a breakfast room with “more of a warming kitchen,” not a full kitchen. They don’t know if they need a full hood, but “the hood shaft is already there.” They will put “the existing kitchen space back into service,” level out the floor and cover it, replace or paint the ceiling, service the HVAC unit, paint, make sure the bathrooms are up to code, and then add furniture (the cost of which does not apply toward the total) and fixtures. They will probably take the awning off, Ms. Worrell said, and change the front door “if funds allow.”

Vice Chairman Starkey said he had read through the federal code, and it didn’t apply to something like insurance against flood damage to other buildings. He said he understood “if the Beaufort Inn wants to take the risk,” but, if there were a flood, and something on the inn’s property, like a wooden fence, floated up and went “through windows or doors of other buildings,” that would be “a danger for other property around it.” He asked if there were anything else, if the doors were shut and sandbagged, that could cause a problem for other properties in the event of a flood. Ms. Worrell said no. The HVAC units are on the roof. There is a door that water comes through when it rains that they would like to replace.

Mr. Wood asked if there would be a full-service kitchen. Ms. Worrell said it would be more of a warming kitchen, without “a full fryer and all that stuff.” There will be some cooking on site, but not much. Mr. Wood asked if they have an idea how much this “annex” would cost. Ms. Worrell said that they “haven’t gone through specific costing yet because we haven’t invested in plans yet.” They think $99,000 is a reasonable appraisal for the building, and if they get that, they feel comfortable, she said, that they could do it for $50,000 or less. Ms. Worrell reiterated that it is the 5-year provision for which they want a variance, because they don’t want to spend their $50,000 this year, then, if the HVAC goes, spend another $10,000, and then be over the 50% threshold and “required to come in and flood-proof the building, undoing the $50,000 we’d just spent.”

Ms. Anderson said Ms. Worrell had answered one question: there are no future phases planned. She said she could understand the issue with “the unforeseen,” given that the renovation will take close to 50%, and “a lightning strike could push them over that.” Their concern with the possible occurrence of unforeseen events is a valid one, Ms. Anderson feels. She said that staff would be uneasy, though, about offering “an unlimited variance . . . for an unlimited period of time.” If the board can narrow the scope, though, of what’s being offered by a variance, staff would support that.

Vice Chairman Starkey said it’s “improvements to the property other than routine maintenance, acts of nature or...other issues.” Things that need to be replaced because of a disaster, like appliances after a flood, shouldn't be included in this variance, and he thinks they should reword the requirement “to include those kinds of actions that allow a person to go up to 50% of it based on improvements (like) an addition to a building. ... If the roof fails, I support that kind of variance.” Mr. Wood said there might still be

confusion, though, about which category certain things fall into, such as requiring a sprinkler system, for example: "Is that maintenance or is that an improvement?" The inn wants to get people in there and eating breakfast, Mr. Wood said, but he doesn't know if granting a variance "leaves the door open for them to move in and make improvements."

Ms. Anderson said she thinks 303 Associates is hesitant to make this first "significant" investment of, say $49,000 (50% of assessed value), and then a tree falls on the building, which costs $10,000 and puts them in the substantial improvement category, requiring them to flood-proof the building. Ms. Anderson said again that she understands 303 Associates' position, and "we should come up with something" in regard to acts of nature, accidents, and other unforeseen events: "Should we say you can't repair your building because that happened?" They know what routine maintenance – a worn out carpet or HVAC system – is. A sprinkler system would be an improvement, though, Ms. Anderson said, because it would mean they were changing occupancy numbers, for example, which triggered that requirement; an addition would also be an improvement.

Mr. Noll said he was under the impression that the applicant "wanted to go to the federal (requirements) that is . . . one shot, and then another year, it's another shot."

Ms. Anderson said this is a big renovation: "You're getting close to 50%. We don't want to be an obstacle to this renovation because next year, a tree might fall on the roof," and if the business has a big repair like that, "we might have to say 'No' because they've done this nice renovation this year." Mr. Wood said they could grant the variance that 303 Associates is requesting, "based on the knowledge that it is just going to be an annex . . . for the kitchen of the restaurant of the Beaufort Inn." If they have a different plan next year, they would have to come before the ZBOA again.

Vice Chairman Starkey suggested saying it's up to 50% of the assessed value, "and they will be able to maintain the building in the condition that they put it in (with renovation) . . . for the next 5 years." Mr. Wood said he tends toward supporting that. Mr. Noll said the motion could be to approve the renovation up to 50% of the value of the property, and future maintenance would not be reflected in the 50%. Ms. Anderson said they are granting the variance from the 5-year cumulative provision, so the applicant can maintain the building in the condition that will result from this proposed renovation for 5 years. **Mr. Noll made a motion to grant relief from the 5-year accumulated period and to allow the 50% of the value of the property to be applied to the renovation of the facility.** Vice Chairman Starkey added, **they would be able to spend money to maintain the building, and such maintenance would not be considered part of the 50% that the law requires. Mr. Wood seconded. The motion passed unanimously.**

The building was formerly Coastal Art Supply. Ms. Anderson said they hope that the value goes up.

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Vice Chairman Starkey said he believes that this language used in today's motion should also be part of the city ordinance about this. The flood program is evaluated every 5 years, Ms. Anderson said, so in 2 years, the scoring system would be clearly laid out, "so we'll know how many points we got for having this 5-year provision in there." If the city is "already over what we needed to get a good rating, council could eliminate the 5-year provision, and it wouldn't hurt us." But without knowing that, she said, it's not prudent to eliminate it now and risk losing the discount. Vice Chairman Starkey said he's not suggesting eliminating it, just clarifying what is "maintenance" and what is "improvement."

Ms. Anderson said they had looked at this issue closely, and to get the points that they want, "you have to play by (the federal) rules." Mr. Wood asked if granting the variance could have any negative effect, and Ms. Anderson said no, as long as they don't start granting variances to this "left and right."

There being no further business to come before the board, **Vice Chairman Starkey made a motion, second by Mr. Wood, to adjourn the meeting. The motion passed unanimously**, and the meeting adjourned at 6:21 p.m.

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