**MINUTES**
CITY OF BEAUFORT
**ZONING BOARD OF APPEALS**
Monday, August 22, 2011 5:30 pm
**City Council Chambers – 1911 Boundary Street**
Beaufort, South Carolina

**STATEMENT OF MEDIA NOTIFICATION:** 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.

**Members Present**
Alice Howard, Chairman
Brad Hill, Vice-Chairman
Joan Sedlacek

**Members Absent**
Rod Mattingly
Eric Powell

**Staff Present**
Libby Anderson, City of Beaufort Planning Director
Gail Westerfield, Recorder

**CALL TO ORDER**
Chairman Howard called the meeting to order at 5:50 pm. The board members present introduced themselves, as did Libby Anderson.

**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 and the *City of Beaufort Unified Development Ordinance* (UDO).

**REVIEW OF MINUTES OF JULY 25, 2011 MEETING**
Ms. Sedlacek made a motion to accept the minutes as written. Mr. Hill seconded the motion. Neither Chairman Howard nor Mr. Hill were present at the July 25 meeting. **The motion passed unanimously.**

Chairman Howard read the criteria for granting a variance and the procedure to take place.

**REVIEW OF PROJECTS**
**2503 Fripp Street, identified as District 120, Tax Map 5, Parcel 51**
Side Yard Setback Variance

Applicant: Mark and Brittany Zip (ZB11-13)
*The applicant is requesting a side yard setback variance in order to build a garage with an accessory dwelling unit.*

Ms. Anderson said the residence is in the Hundred Pines neighborhood. The zoning R-1, low-density, single family residential zoning. A single family dwelling is on the lot, and the property owner wants to add a 24' x 25' (or 600 square foot) garage. The garage's size plus an accessory dwelling unit means it must have 15' of setback.

Ms. Anderson said the staff would like to have the applicant discuss the location of the garage on the property. Public hearing notice was made. There have been no public comments on the application.

**STAFF FINDINGS**
1. Extraordinary and exceptional conditions: The staff feels the standard may be met because of the presence of a large oak tree that restricts the location of the proposed garage.
2. Conditions as applied to other property in the vicinity: Ms. Anderson said staff feels this finding could be made.
3. Conditions not a result of the applicant's own actions: "The tree's been there a long time," Ms. Anderson said.
4. Not in conflict with the comprehensive plan: Staff feels that this finding could be made; the comprehensive plan encourages reinvestment and the development of alternative housing options.
5. Unreasonable restriction on the utilization of the property: A variance wouldn't be needed if the size of the garage were 500' and the accessory dwelling unit removed.
6. Detriment to adjacent property and the public good: The staff does not believe it would be a detriment. The accessory dwelling unit in the garage will reduce impervious surfaces and reduce the number of accessory dwelling structures on the lot.

Staff thinks a condition of approval of the variance should be a certified arborist's report on the 36" live oak on the property, i.e., steps should be taken to ensure its health and the location of the garage in relation to it.

In response to a question from Ms. Sedlacek, Ms. Anderson said the UDO allows one garage and one shed on a property.

Mr. Hill said the survey shows a difference of 17' but it doesn't "scale out." It's 11', he said. Ms. Anderson said that's another good point for the applicant to address.

**Mark Zip** confirmed that the tree and the garage location are not to scale on the drawing. It is in fact 17' from the back of the garage to the center of the oak tree. The small structure is listed as a "utility shed"; it could technically be considered a garage but is listed and used as a utility shed and will continue to be. He described the proposed building and its intended use. They

want to keep their vehicles and equipment toward the front of the house and separate it from their back yard. They will also add a master bedroom and a bathroom to the home and will seek another variance for that; it prohibits a driveway. The utility shed is accessed by a door, which Mr. Zip indicated on the drawing. The concrete pad back there now will be removed.

Chairman Howard asked about the size of the garage; Mr. Zip said it's a two-car, two-story garage, on a single-story house. On the second story garage accessory dwelling unit, they intend to mirror the style of a window on the front of the house. The accessory dwelling unit will be an office for the Zips and, he said, "a multi-function area."

**Robert Banfield**, 138 Fourth Street, spoke on behalf of the Zips, saying they are good citizens and good neighbors. He thinks the zoning change would be good for the neighborhood.

Mr. Hill said he's in favor of it since they only barely missed "a couple of cut-offs" and there have been no neighbors speaking against it.

Ms. Sedlacek asked Ms. Anderson what happens if the garage is too close to the tree; does the garage have to be moved? Ms. Anderson said if the arborist's report says the tree would be compromised, it would have to be looked at again and re-worked. Chairman Howard asked if home insurance would have a problem with the tree being too close. Mr. Zip said there's a larger live oak near the house; he's willing to ask his insurer. Mr. Hill said 17' is plenty of room for deep root feed. Ms. Anderson told the applicant that the fertilization would have to be done before the permit is issued.

Chairman Howard said she is struggling a little bit with the idea of "unreasonable restriction." It's not in the Historic District, so garages are not atypical. It's a more suburban setting, and an accessory dwelling unit is permitted and encouraged, so this is "a good combination."

**MOTION: Mr. Hill made a motion to approve the applicants' request pending an arborist's report and the applicant following through with the arborist's recommendations before a permit is issued. Ms. Sedlacek seconded the motion. The motion passed unanimously.**

Mr. Hill asked if the city follows up to see that an arborist's suggestions are completed. Ms. Anderson said they do follow through; the applicant would have the work done and bring an invoice into the city as proof before the permit is issued.

**NEW BUSINESS**

Ms. Anderson said so far there are no applications for September, but staff will let the ZBOA know.

Ms. Anderson discussed two eminent ordinance changes: First, an ordinance change would state that if the structure's non-conforming for a set-back, for an addition, the owner "can go back, but not extend further into the setback." Also, there is a waiver of variance underway that

would set up an alternative process of applications that don't meet current standards; it would allow a 35% variance exception. The applications would go to the DRB or HDRB and would look at design issues at the design review level. If the design is appropriate, it won't be forced to conform to the more stringent standards. There would still be public hearings, etc., but different criteria so it will be easier to meet the standard. If someone has to go beyond the 35%, they would come back to ZBOA. Lot splits would be the most common cases to which this would apply, Ms. Anderson speculated. Ms. Sedlacek asked how such lot splits would apply to a subdivision, and Ms. Anderson said it would be just the same. The DRB or HDRB could put conditions on the approval like ZBOA does, based on the design.

**ADJOURNMENT**

There being no further business, Chairman Howard adjourned the meeting at 6:34 pm.