

MINUTES
CITY OF BEAUFORT
ZONING BOARD OF APPEALS
November 28, 2011, 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.”

Members Present

Alice Howard, Chairman
Brad Hill, Vice-Chairman
Joan Sedlacek
Eric Powell

Members Absent

Ron Mattingly

Staff Present

Libby Anderson, Planning Director
Gail Westerfield, Recorder

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 Howard called the meeting to order at 5:30 p.m. and led the Pledge of Allegiance.

Mr. Powell noted that on page 2 of the minutes, there is a reference to “...the attorney for Live Oaks, Mr. Williams” and he felt it should have been Mr. Grimsley. Upon conferring with Ms. Anderson, though, it was determined that the first attorney for the group was Ray Williams and this is the attorney to whom Mr. Harvey was referring. **Mr. Hill made a motion, second by Mr. Powell, to accept the minutes of the October 24, 2011 meeting. The motion passed unanimously.**

Mr. Hill made a motion, second by Mr. Powell, to table agenda items A-D until the December ZBOA meeting. The motion passed unanimously.

REVIEW OF PROJECTS

1460 Pigeon Point Road, identified as District 121, Tax Map 2, Parcel 333A,

Special Exception for a Short Term Rental.

Applicant: Laura Achurch, Owner (ZB11-22)

The applicant is requesting a special exception for a short term rental. Chairman Howard explained the procedure for a special exception hearing. Ms. Anderson showed a graphic of the

project and the area surrounding it. She said that it is zoned General Residential (GR). It is currently developed for a single-family dwelling. The applicant / owner desires to rent the unit on a short-term basis (less than 30 days). Short-term rental is permitted by special exception, which is approved by the ZBOA. The applicant provided the necessary information. It has a minimum 2-night stay as required by the ordinance. The unit is not rented when the owner / operator is not in town. Letters were sent to adjoining property owners and public notice was made; one response was received.

Ms. Anderson reviewed the six criteria for approval of the special exception. Staff believes it's compatible with the existing land uses in the Pigeon Point area. No changes are planned to the property and staff believes the criteria are met in regard to the site plan and building. The proposed use is not likely to have greater impact than a long-term rental. It conforms to the intentions of the Comprehensive Plan. Staff believes the impact on public health and safety would be very little. There is very little potential for nuisances such as noise, light, etc., staff believes. The property owner lives adjacent to the property and would be able to provide 24-hour management.

The property is adjacent to Pigeon Point Park, Ms. Anderson said. She recommended approval with the condition that a monitored fire alarm system be installed.

Laura Achurch, applicant, said they have operated the location since December 2007. She said because it's in her backyard, she has an interest in maintaining the property. She has done a mix of short and long-term rental in the past and has "met a lot of really nice people."

Ms. Sedlacek asked about the undated tax services letter in her application packet. Ms. Achurch said she's been paying ATAX since she started in 2007. The short-term rental has been in business, Ms. Anderson said, and she doesn't know why it was partially approved, but it has been paying taxes, and they're now "making it all right."

Erica Dickerson said she lives across the street from the applicant and approves of the short-term rental.

Mr. Powell asked if the special exception is just for this owner if it is granted; Ms. Anderson said it was "only for the property owner, not the property."

Ms. Sedlacek made a motion, second by Mr. Hill, to approve the special exception with the condition of a monitored fire alarm's installation. The motion passed unanimously.

2216 Moss Street, identified as District 122, Tax Map 29, Parcel 359.

Front Yard Setback.

Applicant: Gavigan Homes, Inc. (ZB11-23)

The applicant is requesting a front yard setback variance in order to have the front steps encroach into the setback.

Chairman Howard reviewed how a variance is granted. Ms. Anderson said the property is in the Live Oaks at Battery Creek subdivision. It's a 98-unit subdivision located off of Salem Road. It's a

single-family dwelling which currently has a temporary CO. The Neighborhood Commercial district requires a 12' front setback. She showed a copy of the plan submitted with the application. The steps are designed parallel to the structure and are generally located within the setback line. When a foundation survey for the project was submitted, we found the steps were changed and are several feet more into the setback than the 5' "grace area" and are more like 10', which is 5' over what the ordinance permits. The Live Oaks Architectural Review Board (ARB) approved the original side steps and the modification in the design. The applicant is requesting the variance to allow the steps to remain as constructed.

Ms. Anderson said the original plan had two front garage doors. If the side steps were built, one door couldn't have been utilized, so "there's a question about the thinking." She said public notice was made and letters were sent to the adjacent property owners. One public comment was submitted via voice mail with no objection.

In regard to the five criteria for a variance, staff feels that the condition for extraordinary or exceptional conditions could be met. The wedge shape of the lot and the marsh behind it are both unusual conditions. The side steps were designed right at the front property line, so there's no room for movement on the property at this point in time. It is not in conflict with the UDO. If the applicant was required to rebuild the steps, the garage would be unusable for the storage of vehicles so it would be an unreasonable restriction on the use of property. It is not a threat to property and the public good. The ARB has approved the change in design and the public comment was supportive. Staff recommends approval, Ms. Anderson said, but with the condition that no further post facto changes will be made and all design issues will be worked out in advance in the future.

Billy Gavigan, the applicant, said the lot is non-conforming due to the setback and square footage requirements. The stairs are only 3' closer to the road, but the setback lines are at an angle that makes it seem further into the setback. Mr. Hill asked if it was Mr. Gavigan's intent to have the stairs "to empty into the other driveway." Mr. Gavigan said the driveway was meant to come in at a different angle, but it couldn't be functional and meet the setback requirements. They worked with the ARB on it, and "made a valid attempt, but it didn't work out." Mr. Hill confirmed that Mr. Gavigan got ARB approval, built the steps, and then realized he needed to get city approval. Mr. Gavigan said that was right. He added that they have built three more houses in this subdivision.

Aubrey Swofford lives across the street from the home. He said he has no problems with the variance. He's chair of the ARB in Live Oaks at Battery Creek. He explained a similar issue with another property. He said they made approval conditional on changing the driveways and planting grass "so it wasn't a mass of concrete."

Mr. Powell said he questions the criteria which state that this wasn't a result of the applicant's own actions. Ms. Anderson said if the exceptional condition is the shape of the lot and its location on the marsh, which is not a result of the applicant's own actions. Chairman Howard said it raises a good point: the house couldn't go any further back. Ms. Anderson said that's why she suggested the condition that all the planning is well thought-out beforehand to avoid similar problems in the future.

Mr. Hill and Ms. Sedlacek agreed that this should have been caught in the planning stage and this is the best result they can ask for. They have given variances for more than 3', and the neighbors are in accord. Chairman Howard said she was pleased that the ARB had approved it.

Mr. Powell made a motion, second by Mr. Hill, to approve the variance as requested, with the condition that they won't allow any more post-facto variances for the applicant. The motion passed unanimously.

NEW BUSINESS

The next ZBOA meeting will be December 20, 2011. Ms. Anderson discussed the DR Horton matter to be reviewed at the next ZBOA meeting and said there will be another short-term rental applicant at that meeting. There was then general discussion about short-term rentals in the city.

ADJOURNMENT

There being no further business to come before the board, Chairman Howard adjourned the meeting at 6:08 p.m.