



Zoning Board of Appeals

Meeting Minutes – August 28, 2023

CALL TO ORDER

[1:25]

A meeting of the Zoning Board of Appeals was held in-person on August 28, 2023 at 5:31 p.m.

ATTENDEES

Members in attendance: Kenneth Hoffman (Chairman), Marc Sviland (Vice-Chairman) Kevin Blank, Patrick McMichael and Parker Moore.

Staff in attendance: Curt Freese, Community Development Director

REVIEW OF MINUTES OF MAY 22, 2023

[2:16]

All Zoning Board of Appeals meeting minutes are recorded and can be found on the City's website at <http://www.cityofbeaufort.org/AgendaCenter>. Audio recordings are available upon request by contacting the City Clerk, Traci Guldner at 843-525-7024 or by email at tqundler@cityofbeaufort.org.

Motion: Mr. Parker made a motion to approve the May 22, 2023 minutes as submitted; seconded by Mr. McMichael. The motion passed unanimously.

Chairman Hoffman stated he is changing the order of business to allow the applicant for agenda item 1707 Lafayette to allow for the applicant to get to the meeting as he may be running late.

APPLICATIONS

[3:17]

A. 211 Charles Street (a/k/the Cannon Building), 1-Year Extension Request.

Applicant: 303 Associates, LLC

The applicant is requesting a one-year extension be granted for their ZBOA Special Exception for property located at 211 Charles Street.

Chairman clarified that the only issue for discussion is whether or not the approval can be extended.

Mr. Freese gave a background on the applicant's request. On August 9, 2021, Zoning Board of Appeals voted to grant the Special Exception application at 211 Charles Steet submitted. The special exception allowed a building with frontage in excess of 100 feet on a property zoned T5-Downtown Core District (T5-DC) in the Beaufort Historic District (HD) Overlay. Per the Beaufort

Code, Section 9.1.4 and 9.13.2, a special exception will expire within 24 months of the decision unless a complete building permit application was submitted. A building permit package has not been submitted. The Applicant submitted for their extension on August 1, 2023. The extension application and original application and decision letter are included with the packet. Staff discussed the matter with the City Attorney, and as Section 9.14 and 9.13.2 do not allow a Staff level extension, it was determined the Board, which approved the project, would be the necessary approval body for the extension. The code allows up to five one-year extensions from the date of approval. Staff supports the extension request.

The applicant, Watler Nester, an Attorney with Burr and Foreman Law Firm, was present who is representing 303 Associates. Also attending was Courtney Worrell and Jonathan Sullivan from 303 Associates. Mr. Nester said this is just a question of whether or not there has been enough activity for the special exception that was granted 24 months ago can be extended. We believe there has been plenty of evidence that has occurred. Mr. Nester referred to COVID-19 and how it has had a delay in the construction trades and those involved such as engineers, architects, supply changes, etc. COVID-19 also affected processes and procedures and it's only been 13 months since the Certificate of Appropriateness was approved by the Historic District Review Board (HRB). After receiving the Certificate of Appropriateness, we noticed it stated that before the demolition could take place, building plans needed to be submitted for the new construction. Several things have taken place but we haven't been able to finalize our engineering or architectural design so we could submit for a building permit. Ms. Nester shared some timelines that he read for the record and provided staff and board members with a copy.

Mr. McMichael asked the applicant when he anticipates applying for a building permit. Mr. Nester said before the end of this year.

Public Comment

Lise Sundrla, Historic Beaufort Foundation (HBF) referred to HBF's packet that should have been received by the members today. Ms. Sundrla said following the 2021 approval for granting of the special exception by this Board HBF did appeal and that decision of the Historic Review Board (HRB). That appeal was finally, almost two years later, heard on August 1st by Judge R. Scott Sprouts. He has yet to rule on that even though he had told us he'd let us know within a week. It is now almost at the end of the month, and we do not have a ruling. Ms. Sundrla thought it was important that the members were aware of that. As Mr. Nester said, there is no toll, but the applicant can move forward at his own risk. Also important for the members tonight is that the design that you are reviewing tonight as a part of this extension is not the design that the Zoning Board of Appeals (ZBOA) on August 9, 2021 relied upon to make the decision at that time. At the time in August 2021 the design you were reviewing had yet to be seen by the HRB and the design changed once again, so the design that you have in front of you tonight changed prior to going for the HRB for the final approval and Certificate of Appropriateness. The question is, "Can this Board act on a building design that as far as an extension that you have not ever seen before and acted upon before". HBF stands by their comments from August 9 2021 and ask that you deny this extension.

Graham Trask, 1211 Bay Street reminded the Board that he appealed to the ZBOA as well as the HRB. He commented tonight that the applicant has had two years to get a building permit and now they keep coming up with excuses such as blaming COVID-19, and now Geotech. This case is being litigated and highly controversial. He implores the ZBOA to decline an extension until all

litigation is settled and then the applicant can come back before ZBOA. An approval of an extension does raise another appealable event which will likely happen and I'm not saying that as a threat, but simply saying that as procedure I again believe the applicant has had more than enough time to apply for a building permit. Two years is a long time and given that this is a highly contentious issue. Mr. Graham commented that the ZBOA is doing the city in itself an injustice by approving an extension at this point in time.

Lise Sundrla, Historic Beaufort Foundation (HBF) said this comment is in response to the question that the Chairman asked Mr. Freese about whether design was included in any of the criteria. Chairman stated he didn't ask that. Ms. Sundrla said it was similar to that. She said the design is included in your criteria # 4, General Conformity of the Proposed Use and Design with the city's Civic Master Plan, Comprehensive Plan, and any other plans. And it does in #1 talk about compatibility with existing land uses in the surrounding area. It's not just zoning.

Chairman closed the public comment.

Chairman asked staff if there are any conditions to granting the extension or is it basically under the code, they have the right to asks and the ZBIOA because there is no clear authority of the staff as a Board, have to approve it. Mr. Freese said the applicant has to justify their extension. There isn't anything in the code as to what the specifics are as to what you do. The Board needs to find the evidence that they presented to you shows that they were making a good faith effort to work on this project.

Motion: Mr. McMichael made a motion to grant the extension seconded by Mr. Sviland. The motion passed with a vote of 4;1 (Parker Moore opposed)

B. 1707 Lafayette Street, identified as R120 001 000 0198 0000, Variance

[3:35]

Applicant: Everette Ballenger, owner

The applicant is requesting variances from Building Placement Section 2.4.1, to place a carport forward of the primary structure, and Section: 3.11.2 regarding accessory structures visible from the public right of way for property located at 1707 Lafayette Street, identified as R120 001 000 0198 0000. The property is zoned T3-Surban District (T3-S).

The applicant did not show up for the meeting.

Motion: Mr. Sviland made a motion to table the variance request for 1707 Lafayette Street at the next meeting because no participant was here, seconded by Mr. Moore. The motion passed unanimously.

ADJOURNMENT

[32:30]

Mr. Moore made a motion to adjourn the meeting; Mr. McMichael seconded the motion. The meeting ended at 6:00 pm.