

Board of Zoning Appeals
Minutes
May 1, 2018

I. Call to order

The regular meeting of the Board of Zoning Appeals was called to order on May 1, 2018 at 5:30 p.m. in the City Hall Conference Room, 1207 Palm Boulevard. Members present were Elizabeth Campsen, Pete Doherty, Glenn Thornburg and Arnold Karig; also secretary Douglas Kerr was present. Carolyn Holscher was absent.

Mr. Kerr acknowledged that the meeting had been advertised in compliance with State law and the properties had been posted.

II. Approval of minutes

Mr. Doherty made a motion to approve the minutes of April 3, 2018 as submitted and Mr. Thornburg seconded the motion. The motion passed unanimously.

IV. Special Exceptions

Mr. Karig explained that the Board acted as a quasi-judicial body and all comments made were treated in the same manner as court testimony; therefore, any person who would like to speak to the Board must be sworn in. He then swore in members of the audience that would be speaking.

6 Intracoastal Court

Mr. Kerr stated that the request for a Special Exception for an in-home business was submitted; the business would be a home staging business at 6 Intracoastal Court. He explained that the applicant has indicated on her application that there would be some work other than office work at the house, but that there would be no exterior evidence of a business and no business-related traffic would be coming to the house.

Mr. Karig asked the applicant if she had anything to add to what has been presented already. Ms. Little answered no.

Ms. Campsen asked what work other than office work would take place at the house. Ms. Little answered that the business included a box truck that would typically be away from the house, but occasionally she would have the need to bring it home.

Mr. Kerr explained that having a commercial vehicle and having visible signs would violate the home occupation provisions of the City's zoning code.

Ms. Little explained that if this was a problem, she could keep the van at a location in North Charleston, but sometimes she needs to pick up her child from school in the van and bring her home.

Mr. Kerr explained that the code does not allow commercial vehicles or signage at the house and she would either need to alter her request or the Board would deny the request.

Mr. Doherty asked if any commercial vehicle with signage on the island that stayed in a residential district would violate the code.

Mr. Kerr answered no, the prohibition on exterior signs and only passenger vehicles is in the home occupation provisions of the code, so an employee of another business that has a work truck with a sign on it, does not violate the code. He said there are other provisions in the code that restrict commercial vehicles at homes, but they does not cover typical passenger vehicles with signs on the side.

Ms. Campsen asked if the applicant was able to get the vehicle into the garage, if that would solve the issue. Mr. Kerr answered that it would not mbecause the code limited vehicles for home occupations to typical passenger vehicles only and would not allow a box truck, even it was in the garage.

Ms. Little said that she did a lot of work on the island and she wanted to follow the rules and asked if it would be a problem if she just brought it home for ten minutes to drop off the kids or pick something up. Mr. Kerr said that it would violate the code to do this and she would need to avoid the box truck being at the house.

Ms. Campsen asked what changes to the application would be necessary for the Board to be able to approve the request. Mr. Kerr answered that the application would need to be amended to indicate that office work only would be occurring at the house and that there would be no commercial vehicles used in connection with the business.

Ms. Campsen asked the applicant if she was agreeable to amending the application as described. Ms. Little indicated that she was agreeable to the changes.

Ms. Campsen made a motion to approve the request as amended and Mr. Doherty seconded the motion. The vote was unanimous in favor of the motion.

V. Miscellaneous business

Mr. Kerr indicated that at a recent Council meeting a Council member said that, at a training session, the subject of Special Exceptions came up and the advice given was that cities should

limit the number of Special Exceptions being granted and, if something becomes too routine, then probably the ordinance should be amended to address the situation.

The Councilmember expressed concern that the City's code required that every in-home business be approved as a Special Exception resulting in BOZA approving three or four special exceptions every month.

Mr. Kerr indicated that he reached out to the individual that gave this advice, Chip Bentley with the Appalachian Council of Governments, and explained to him that the City's code was set up the way it is because Roy Bates, the MASC Attorney for years and the primary author of the SC Planning Legislation, recommended having it set up that way "because you might need it one day." He recalled that Mr. Bates used to do legal briefings for the City's Board of Zoning Appeals and was asked if requests for in-home businesses could be approved at the staff level as a conditional use, and Mr. Bates responded that they could, but that it might be beneficial to have businesses operating in residential zoning districts openly vetted by the Board of Zoning Appeals. Mr. Bates also knew that the Isle of Palms was small enough that this could be done, in contrast to larger jurisdictions that might have hundreds of these requests annually.

Mr. Kerr indicated that he asked Mr. Bentley if something had changed since the time of Mr. Bates' advice or was there some other issue he perceived. Mr. Bentley replied that the primary reason he gave this advice was that he has witnessed problems with Boards consistently and evenly applying the standards in their Special Exception decisions. He said that he realized it was not wrong or illegal to have a code set up this way, but he thought that it could lead to problems and, therefore, might not be the best practice.

Mr. Doherty indicated that he thought the City's Board has always been very consistent in applying the standards in the home occupancy regulations.

Mr. Thornburg stated that he felt that having applicants come into a meeting and have it reinforced under oath that they are agreeing to do office work only and not have people coming and going or signs visible helps to prevent problems with enforcement after-the-fact. He also stated that, through the vetting of individual requests, issues might come up that the applicant's did not disclose in their application that are problematic and it keeps those problems from being established.

Mr. Doherty asked Mr. Kerr for his thought on whether these requests should be handled at the staff level. Mr. Kerr answered that, obviously, the current method causes a lot more administrative work on the front end and, if home occupations were handled by the staff, it would cut down on the number of meetings, minutes, and time spent approving requests. However, he was not convinced that the same amount of time, or maybe more, might not be spent on enforcement after-the-fact trying to get home occupations into compliance. Additionally, he stated that it served the Board well to meet regularly and to cut down to only a

couple of meetings a year might cause consistency problems. Therefore, he felt that, as long as the Board felt like its work was worthwhile to the City and serving the City well, he supported continuing to handle home occupancies the way they are currently handled.

Mr. Karig stated that he felt like it would be good idea for the Board to go on the record as supporting the method historically used, and he made a motion to recommend that the Board to continue to review home occupations as Special Exceptions. Mr. Doherty seconded the motion and the vote was unanimous in favor of the motion.

VI. Adjournment

With no other business, the meeting was adjourned at 6:00 PM.