

BOARD OF ZONING APPEALS
October 2, 2018

AGENDA

The Isle of Palms Board of Zoning Appeals will hold its regularly scheduled meeting on October 2, 2018 in the City Hall conference room, 2nd floor, 1207 Palm Boulevard, at 5:30pm.

- A. Call to order
- B. Acknowledgement that the meeting has been advertised in compliance with State law
- C. Approval of minutes of previous meeting: September 4, 2018
- D. Swearing of any person giving testimony
- E. Home Occupations: 103 Shady Lane
- F. Variance: 11 JC Long Boulevard
- G. Appeals: 3601 Palm Boulevard (front setback)
3601 Palm Boulevard (height)
- H. Miscellaneous business
- G. Adjournment

Board of Zoning Appeals
Minutes
October 2, 2018

I. Call to order

The regular meeting of the Board of Zoning Appeals was called to order on October 2, 2018 at 5:30 p.m. in the City Hall Conference Room, 1207 Palm Boulevard. Members present were Elizabeth Campsen, Glenn Thornburg, Arnold Karig, Pete Doherty and Carolyn Holscher; also secretary Douglas Kerr was present.

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. Thornburg made a motion to approve the minutes of the September 4, 2018 Meeting, and Mr. Doherty seconded the motion. The motion passed unanimously.

III. Special Exceptions

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

103 Shady Lane

Mr. Kerr stated that the request was to establish an auto wholesale business in the applicant's home. He reported that the applicant indicated on his application that only office work would be done in the house. The house would have no exterior evidence of a business operation and no business-related traffic would be coming to the house.

Ms. Holscher asked if there would be any signs or other advertisements visible at the house. The applicant William Evans replied there would be no exterior evidence of a business.

Ms. Campsen asked if he would be selling cars to dealers only, and Mr. Evans stated that he would only sell to dealers and that there would never be a need to have a car at his property.

With no further questions, Ms. Holscher made a motion to approve the request and Mr. Thornburg seconded the motion. The motion passed unanimously.

IV. Variances

11 JC Long Boulevard

Since the applicant was not present, Mr. Doherty moved to continue the case until the next meeting; the motion was seconded and unanimously approved.

V. Appeals

3601 Palm Boulevard - height appeal

Mr. Kerr explained that the applicant was appealing his determination, as the Zoning Administrator, concerning the overall height of a proposed structure. He stated that, based on the definition of *height of a structure*, he had interpreted the ordinance to state that the height of the proposed structure had to be measured from the high point of the road. The property he bought had been altered from its original condition by the construction of a house with a concrete slab underneath it.

Mr. Kerr noted that the applicant believes that he made an error in interpreting the code and the overall height of the building can be measured from the elevation of the slab under the house.

He read Section 5-4-2(19) into the minutes of the meeting:

Height of a structure means the vertical distance from either the highest elevation of the road centerline immediately adjacent to the lot on which the structure is located, or the lowest area within the building footprint, proposed or existing, of an unaltered/unfilled lot, whichever is higher, to the highest point on the structure. Except for height limitations of communication towers and antennae contained in this chapter, the zoning district height limitations contained in this chapter shall not apply to church spires, chimneys, antennas, communication towers or aerials.

The applicants, Anita King and Jason Fowler of Sea Island Builders, contended that they were entitled to measure from the lowest point in the footprint of the proposed addition, which was 11.3 feet above Mean Sea Level (MSL).

Mr. Kerr stated that the Board should be aware that this position is slightly different from what was stated on the application; it stated that they should be allowed to measure above the existing concrete slab, which has an elevation of 12.1 feet.

Mr. Fowler stated that the 11.3 foot elevation was within 6 inches of the road elevation of 10.8 feet, but this 6 inches would make a big difference in their ability to fit reasonable ceiling heights into the home. He added that the topographical survey shows that the adjacent properties have a similar elevation; therefore he thought it was safe to assume that this was the natural grade of the land and that the elevations of the lot had not been altered.

When Mr. Karig asked if anyone in the audience wanted to speak, Avery Burns of 3603 Palm Boulevard stated that he has been on his property before the development of 3601 Palm Boulevard and he could confirm that the lot at 3601 Palm had been altered with the addition of fill by the prior owner, Mr. Milner. He explained that Mr. Milner had dump trucks bring in dirt to raise the lot significantly; he added that the neighboring property behind 3601 Palm Boulevard was also significantly altered with the addition of fill dirt.

Ms. Cindy Feltman of #3 - 36th Avenue stated that, during the construction of her home, she was required to lower her roof by 4 inches to fit within the height limits; she opined that it would be unfair if adjacent homes could be built above the height limits.

Mr. Doherty commented that, because a house was built on the lot already, he did not see how the Board could find that the lot had never been "altered" as required by the code as a prerequisite to measuring above the lot and not the road. He asked what the result would be if the Board determined that the measurement should be taken above the road. Mr. Fowler answered they would have 7 feet 8 inches on the ground floor, 9 feet on the first living floor, 9 feet on the second living floor, and 7 feet 8 inches on the third floor.

Ms. Campsen stated that, as she read the definition of height, once a house has been constructed on a lot, there is no option for measuring above the lot, because the lot has been altered.

Mr. Doherty moved to affirm the Zoning Administrator's determination that the overall height of the proposed structure should be measured above the road and not the lot. Mr. Thornburg seconded the motion, and the motion passed unanimously.

3601 Palm Boulevard - setback appeal

Mr. Kerr explained that the applicant was appealing his determination, as the Zoning Administrator, concerning the front setback and the 5 foot exception provided for front stairs. He stated that, in his judgement, what was being proposed would project into the setback as a portion of the deck and not permissible, but the applicants feel that he has made an error and that the projection is part of the stairs and thereby entitled to project five feet into the front setback.

He read Section 5-5-12(f): *Sills, belt course, window air conditioning units, chimneys and cornices may project into a required yard by not more than two feet (2'). Steps may project into a required front yard or rear yard by not more than five feet (5').*

Mr. Doherty asked if the stairs could extend out further than what was being proposed, and Mr. Kerr answered yes because their proposal was to extend 2 feet into the setback, which is less than the 5 feet that stairs can project.

Mr. Kerr showed the configuration that was approved, which showed a 5 foot by 5 foot stair landing projecting into the setback, with the stairs extending down.

Ms. King stated that their preference was to minimize the encroachment and stay setback 23 feet; if they are not allowed to do this, they will have to encroach further into the setback with the stairs.

Mr. Karig explained that, regardless of which configuration is preferable, the Board is being asked to rule on what the proper interpretation of the code is in regard to whether or not the encroachment is truly a stair.

Mr. Fowler added that landings are also allowed under the interpretation.

Ms. Campsen asked if landings being allowed are in the language of the code or if these are being allowed by interpretation. Mr. Kerr answered the code uses only the word "stair" and it is his interpretation that a stair landing fits within the code.

Mr. Doherty explained that he struggled with this request because he too had to alter his stairs to fit within this interpretation and turn the stairs back, which he did not really want to do.

Ms. Holscher asked why the applicants did not like what had been approved, and Ms. King explained that, when you pull back the railing, you have less than three feet in front of double doors, which is inadequate.

Ms. Campsen said that, in her opinion, the Board could not find that the proposal meets the letter of the code and the projection as proposed could not be deemed a stair. She, therefore, moved to affirm the Zoning Administrator's interpretation regarding the proposed encroachment into the setback; Mr. Doherty seconded the motion and the motion passed unanimously.

VI. Adjournment

With no other business, the meeting was adjourned at 6:20 PM.