

BOARD OF ZONING APPEALS
December 7, 2021

AGENDA

The Isle of Palms Board of Zoning Appeals will hold its regularly scheduled meeting in City Hall Council Chambers on December 7, 2021, at **4:30pm.**

- A. Call to order
- B. Acknowledgement that the meeting has been advertised in compliance with State law
- C. Approval of minutes of previous meeting: November 17, 2021
- D. Swearing of any person giving testimony
- E. Home occupation: 7 Lauden Street
- F. Miscellaneous business:
- G. Adjournment



BOARD OF ZONING APPEALS
4:00pm, Tuesday, November 16, 2021
1207 Palm Boulevard, Isle of Palms, SC

MINUTES

1. Call to order

Present: Glenn Thornburg, Arnold Karig, Ted McKnight, Brian Abel, Elizabeth Campsen, and Douglas Kerr, Director of Planning

Also present: Mac McQuillan, Asst. City Attorney

2. Executive Session

MOTION: Ms. Campsen made a motion to enter into Executive Session to receive legal advice relating to a potential zoning appeal. Mr. Thornburg seconded the motion. The motion passed unanimously.

The Board of Zoning Appeals entered into Executive Session at 4:01pm.

The Board of Zoning Appeals returned from Executive Session at approximately 4:30pm. Ms. Campsen said no decisions were made and no action was taken.

3. Approval of Previous Meeting's Minutes

Mr. McKnight made a motion to approve the minutes of the October 5, 2021 meeting as presented, and Mr. Thornburg seconded the motion.

Mr. Abel corrected the spelling of his last name. The amended minutes passed unanimously.

4. Swearing in of applicants

Ms. Campsen swore in the applicants.

5. Variance Request – 600 Ocean Boulevard

Director Kerr reviewed the sections of the zoning codes in effect for this particular variance request made by Mark & Wendy Pastorick, owners of 600 Ocean Boulevard. Those sections included Sections 5-4-32, definition of side yard; 5-4-32 minimum side yard requirements; 5-4-12(f) additional regulations for setbacks, and 5-4-5(b) regarding the conditions that need to be met by the variance request. Those conditions include:

- “1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. Such conditions do not generally apply to other property in the vicinity;

3. Because with these conditions, the application of the ordinance or resolution of the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;

4. The authorization of a variance will not be of substantial detriment to an adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.”

Director Kerr stated the house was under construction, but upon noticing that certain building components would project into the setbacks, construction was halted. The request is to allow for 3.5” of housing materials to extend into the setback.

He said, “The applicant claims that the property is exceptional because the property pin at the front left corner was difficult to find, and that this situation is unique, but because the construction plans had been approved by the Zoning Administrator, the applicant claims that an unnecessary hardship will result. If the standards of the ordinance are met, rectifying that situation would create a risk to the structural integrity of the foundation. The applicant claims that the authorization of a variance will not be of substantial detriment to adjacent properties or to the public good, as there will be 26’ of separation left between their homes.”

He noted the applicant is claiming negligence on the part of the Zoning Administrator and his response is included in the meeting packet.

Mrs. Pasterik gave a lengthy and detailed review of the site plans used to request and receive a subsequent permit. She pointed out the deficiencies in the plans used to grant approval. At the suggestion of Director Kerr, the Pasteriks attempted to do a land swap with their neighbors as the neighbor’s fence encroaches onto the Pasteriks’ property. Due to the complex nature of the land swap request, the neighbors did not wish to participate in a land swap for fear it could complicate any future sale of the property. She said the neighbors are supportive of the Pasterik’s variance request.

She went onto explain the options offered to her by her builder to remedy the problem which are to leave the piers as they are, trim the piers on the offending side of the home, or move them all approximately 2” further from the setback line. She stated that only the option of leaving the piers where they currently are will protect the structural integrity of the home. She said had this setback encroachment been caught prior to granting approval, they could have adjusted the design of the house to accommodate the setbacks.

She addressed concerns about setting precedence should the variance be granted and offered suggestions on how to prevent this from happening to another owner in the future. She noted that her neighbor’s house is violating setbacks. She said the application of the ordinance to her property would unreasonably restrict the utilization of the property. She expressed concern that moving the piers would be detrimental to the structural integrity of her property. She added that plans for her home already make it one foot narrower than required. Mr. Pasterik stated that they have built what was consistent with the permit and built it more conservatively.

Director Kerr said, "I reviewed the site plan. The case has been made that the site plan is only showing the foundation walls. I do not believe that to be accurate. I think that from my perspective, it is showing everything. There is a clear delineation that they understand the 10' setback. The drawings show everything on the correct side of the setback. So from my standpoint, the designer understood the setbacks, what the setbacks were. It would have raised a red flag if they had shown, and it happens all the time, they show 22' setbacks and they show 25'. That gets noticed. That gets corrected. But I do not, from my standpoint, I do not believe that the drawing that was submitted was indicating just the foundation on the site plan. The point has been made that if you look through the packet, you would see that the house is exactly that. The foundation is exactly 20' shy of the width of the lot. And so, I think you could have put that together after the fact. But I, as the Zoning Administrator, I am not analyzing the structural details. That is not in my purview for determining zoning compliance. I am looking for lot coverage. I am looking for setbacks, and I am not analyzing every page for dimensions and correcting dimensions. And I don't think I can be held accountable for correcting dimensional deficiencies in architectural drawings because things do change. I think they have told you here tonight that they felt more comfortable skinning the house up. They took 6", a foot out of the house because of that concern. That is the way it should happen."

He added, "I do think that the site plan showed the full and complete walls, and I think it showed them on the correct side of the setback. And I also think that generally the surveying world is finding the trim or the farthest part of the house projecting towards the lot line." Mrs. Pasterik indicated that two surveyors she spoke with were not aware of that code.

Discussion ensued between Board members and the petitioners about whether or not the house is a condition of the property and if the conditions mentioned in the zoning code apply only to the actual property. Ms. Campsen pointed out that the conditions for the variance request cannot be made or created by the applicant.

MOTION: Mr. McKnight made a motion to deny the variance request. Ms. Campsen seconded the motion. The motion passed unanimously.

6. Miscellaneous Business

Ms. Campsen would like to discuss rules and procedures at a future meeting.

Mr. McQuillan read from a text exchange between himself and attorney Ross Appel who said he did not know who the Pasteriks were.

7. Adjournment

Mr. McKnight made a motion to adjourn, and Mr. Abel seconded the motion. The meeting was adjourned at approximately 5:45pm.

Respectfully submitted,

Nicole DeNeane
City Clerk

Appeal Number: 21-15

Applicant: Darragh Simon

Address: 7 Lauden Street

Request:

The applicant is requesting a special exception to allow the establishment of a yoga, health coaching and massage business in her home. The applicant has indicated that the home will be used for office work as well seeing up to five massage clients each week.

The applicant has indicated that there would be no exterior evidence of a business and the only equipment that is not normal to a household would be portable massage table.

The business is classified in Table B1 as 729- miscellaneous personal services, except spas and massage parlors.

Pertinent section of the zoning code:

Sec. 5-4-44. - Home business occupation.

(A) One or more home business occupations may be permitted in a dwelling unit in any residential zoning district as a special exception granted by the Board of Zoning Appeals after consideration of the criteria contained in [section 5-4-5](#) and upon a finding by the Board that all requirements and conditions set forth in this section are satisfied. In granting approval of a home business occupation, the Board may impose reasonable restrictions on the conduct and use of the home business occupation, including a limit on the number of home business occupation-related visitors per day and the frequency of product or material deliveries. There shall be no fee charged for a home business occupation application. The requirements and conditions are as follows:

- (1) The occupation, profession or trade is a use allowed under [section 5-4-38](#), Table B-1, and is conducted wholly within the principal building of the lot.
 - (2) Not more than twenty-five percent (25%) of the floor area of the principal building, or seven hundred fifty (750) square feet, whichever is less, shall be used for any part of the home business occupation.
 - (3) No accessory building or outside storage shall be used in connection with the home business occupation.
 - (4) No signs, merchandise or other articles shall be displayed for advertising purposes, or be visible from outside of the dwelling.
 - (5) There shall be no alteration of the residential character of the building or premises.
 - (6) The home business occupation shall not generate greater vehicular or pedestrian traffic volume than that which normally occurs in the neighborhood. All parking generated by the home business occupation shall be located solely within the boundaries of the property upon which the home business occupation is conducted and shall not be located in the required front yard.
 - (7) No electrical, mechanical, chemical or other equipment that is not a normal domestic or household equipment shall be allowed in connection with the home business occupation and such occupation shall not generate noise, vibration, electrical interference, heat, glare, dust, smoke, odors, fumes, or unsafe conditions which are detectable to the normal human senses off of the lot or which adversely affect the health, safety or welfare of the neighborhood.
 - (8) No home business occupation shall be conducted using assistants or associates working in whole or in part within the home, except for family members living on the premises.
 - (9) Only passenger vehicles shall be allowed in connection with the home business occupation. For purposes of this section, passenger vehicles are limited to motorcycles, mopeds, automobiles, pickup trucks and vans.
- (B) Inspections. Home business occupation permittees shall allow reasonable, periodic inspections of the premises by any Zoning or Building Official to determine compliance with the home business occupation permit.

Board of Zoning Appeals
Information Sheet
City of Isle of Palms

Date Filed: 11.3.21

Appeal Number 21.15

Instructions:

This form must be completed for a hearing on appeal from action of a zoning official, application for a variance, or application for a special exception. Entries must be printed or typewritten. If the applicant is not the owner of the property, all must sign.

Property Address 7 Lauden Street

Lot _____ Block _____ TMS _____

Area of Lot _____ Zoning Classification SR1

Applicant(s) Name Darragh M. Simon

Address 7 Lauden St. Isle of Palms, SC 29451

Telephone 843-276-5252

Interest (i.e. Owner, Owner's attorney, Architect, etc.) Owner

Owner(s) (if different from applicant) _____

Name _____

Address _____

Telephone _____

I (We) certify that this application and all supporting documents attached are correct.

Darragh M. Simon 11/3/21
Applicant signature/date

Owner signature (if different from applicant)/date

Board of Zoning Appeals
Special Exception Application
Home Occupation
City of Isle of Palms

1. Applicant hereby appeals to the Board of Zoning Appeals for a special exception for the use of the property described on the information sheet (page 1) as (give brief description of business): Health + Wellness (Yoga, Health Coaching)

2. Will there be any work other than office work (i.e. use of phone, computer, fax, etc.) occurring at this residence? Yes ☒ No ☐ If yes, please explain:

Yoga classes + coaching sessions conducted via Zoom
Occasional private yoga, occasional massage therapy

3. Will there be any evidence of a business from a visual inspection of the exterior of this residence? Yes ☐ No ☒ If yes, please explain: _____

4. Will any signs, merchandise, equipment or other articles be displayed in a manner that they are visible from the street? Yes ☐ No ☒

5. Will there be any business related traffic coming to this residence? Yes ☒ No ☐ If yes, please explain and give frequency: individual in-person appointments 3-5x/week

6. Will there be any employees working in this residence other than family members? Yes ☐ No ☒

7. Will any business related activity be conducted on your property, but outside of the house (i.e. in a detached shed or in the yard)? Yes ☐ No ☒

8. Will any merchandise or articles be stored at any location other than inside this residence? Yes ☐ No ☒ If yes, explain: _____

9. Will more than 25% of the floor of this residence be devoted to the occupation? Yes ☐ No ☒

10. Will any equipment or materials that are not normal to a household be used or stored at this residence in connection with the occupation? Yes ☒ No ☐
portable massage table

11. Will the occupation generate any noise, vibration, heat, glare, smoke, odor, or dust perceptible to your neighbors? Yes ☐ No ☒

12. Are there currently any other home occupations operating at this residence? Yes ☐ No ☒

Describe in full the nature of your occupation, profession, or trade by listing all activities related to such occupation that will be undertaken in your home: _____

I am a Nationally Registered Yoga Instructor, Certified Health Coach and State Licensed Massage Therapist. Since the Covid Shutdown I have been teaching Yoga & conducting Health Coaching sessions online via Zoom. I would like to add a few massage clients to be seen at my residence in a spare room.

In applying for this special exception home occupation, I have answered the questions truthfully and have not omitted any information about my home occupation which, if disclosed, would result in a denial of this application in accordance to section 5-4-7 (a) (b) of the City of Isle of Palms Code of Ordinances.

I further acknowledge that, if granted, the special exception home occupation and business license issued under authority of that permit may be revoked if any of the information contained in this application is found to be untruthful or if I fail to meet the requirements of section 5-4-44 and 5-4-2(18): If I have failed to provide information fully describing the home occupation to be conducted on my premises, or at any time the conduct of my home occupation may constitute a nuisance as defined in section 5-4-44 or section 6-1-11, et. Esq., of the City of Isle of Palms Code of Ordinances. Any activity which adversely diminishes the residential character of my neighborhood may be cause for revocation of my home occupation. Outdoor advertising is not allowed under this license.


Signature of applicant & date