



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. Mr. Karig 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.

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