



BOARD OF ZONING APPEALS
4:30pm, Tuesday, March 7, 2023
1207 Palm Boulevard, Isle of Palms, SC
MINUTES

1. Call to order

Present: Brian Abel, Elizabeth Campsen, Ted McKnight, Arnold Karig, Glenn Thornburg, and, Director Kerr, Zoning Director Simms

2. Election of Chair and Vice Chair

MOTION: Mr. Karig nominated Ms. Campsen as Chair of the Board of Zoning Appeals, and Mr. Thornburg seconded the motion. There being no other nominations, a vote was taken with all in favor.

MOTION: Mr. McKnight nominated Mr. Thornburg as Vice Chair of the Board of Zoning Appeals, and Mr. Abel seconded the motion. There being no other nominations, a vote was taken with all in favor.

3. Approval of Previous Meeting's Minutes

MOTION: Mr. McKnight made a motion to approve the minutes of the February 7, 2023 meeting, and Mr. Thornburg seconded the motion. The minutes passed unanimously.

3. Swearing in of applicants

Ms. Campsen swore in the applicants.

4. Home Occupations

A. 3102 Cameron Boulevard

Zoning Director Simms said that the applicant, Robin Johnson, is requesting a special exception to allow for the establishment of a home office for her work as a stand-up comedian. The house will be used for office work and no business-related traffic will be coming to the house. There will be no employees working there other than those living in the home. Work-related materials will be stored at the home. Ms. Johnson said there will be no outward signs of a business and nothing will be happening that her neighbors will hear from the home.

MOTION: Ms. Campsen made a motion to approve, and Mr. McKnight seconded the motion. The motion passed unanimously.

B. 715 Carolina Boulevard

Zoning Director Simms said that the applicant, Jason Cox, is requesting a special exception to allow for the establishment of a lawncare business at his home. The house will be used for office work and no business-related traffic will be coming to the house. There will be no employees working there other than those living in the home. Mr. Cox said there is no signage indicating a business on his vehicle or trailer. He does store business-related equipment on the trailer. Board members would like the trailer and equipment to be stored in the garage out of sight.

MOTION: Mr. McKnight made a motion to approve the application on the condition that the trailer and all equipment be stored inside the garage and not visible to the public. Additionally, the property owner's approval must be secured before a business license can be issued. Ms. Campsen seconded the motion. The motion passed unanimously.

5. Variance Request – 3802 and 3804 Cameron Boulevard

Director Kerr said the request is for the construction of an accessory structure, specifically a pickleball court on a separate lot from the principle structure. The SR2 zone allows for an accessory use such as a pickleball court. However, Director Kerr said, “In the definition of an accessory use there was a requirement that the two be on the same property. In this case, the two properties are adjacent to one another, but there is a property line dividing the two, so it is two separate properties. The applicant states that the condition specific to this piece of property is not exclusive to this piece of property and not unique, but the applicant claims that the width and size of the lot effectively restrict the ability to construct a house and a pickleball court. The applicant claims that the pickleball court will be maintained in tandem with the house and not alter the character of the zoning district by granting this variance.”

Director Kerr reviewed the definition of “accessory building or use” from Section 5-4-2 of the City Code and reviewed the criteria for approval from Section 5-4-5(b) of the City Code, noting that all need to exist in order for the Board of Zoning Appeals to grant the variance.

He added, “One other provision that I would just point out is that below that the ordinance explains that the fact that property may be used utilized more profitably if a variance were granted shall not be considered as a ground for a variance and a claim of unnecessary hardship cannot be based on conditions created by the applicant, and a claim of unnecessary hardship cannot be based on financial hardship of the applicant.”

He indicated that one lot will be developed in full compliance with the zoning ordinance. The request is for a variance for an accessory use on 3804 Cameron Boulevard. Director Kerr said the ordinance prohibits this request, but a variance request is the vehicle by which it can be allowed. All four criteria in Section 5-4-5(b) must be met. Director Kerr added, “They (the property owners) are making the case that they feel like their property is unique and it is restricting or causing them a hardship restricting the use of that property, and therefore, they feel like they are entitled to this relief in the form of a variance.”

Mr. Cy Goforth, representing the owners as their builder/architect, said the owners would like to construct a house on one lot and use the adjacent lot for a pickleball court without abandoning

the property line between the lots. The court will be maintained with the overall property. There will be a fence around the property. They would prefer to not combine the lots.

He said, "If we combine the two lots the setbacks front and rear increase by 5' which would eliminate the ability to build a house. The house would have to be compressed."

Mr. Goforth said that combining the lots and designing a different house would "completely eliminate the possibility of ever building on 3804 because once that [property] line would be crossed, you would create something you could not reverse without tearing down the home."

Mr. Abel expressed concern about the noise a pickleball court creates, especially in relation to how close the property is to other properties. He believes it would be a detriment to the neighbors. Ms. Campsen agreed with the noise concern.

Director Kerr said about accessory uses being behind a house, "The code specifically says that it cannot be in the side yard. It cannot be in the front yard or the side yard. If you look at the definition of a side yard, it is the space between the side of your building and the side property line. Matt and I analyzed this in responding to Cy that...because there is a property line here, this is technically his side yard, the area between the side of the house and the side of the property line." He added that if the property line were abandoned, they would have to reconfigure the house on the lot. He stated that there are several other pickleball courts built on the island.

Discussion ensued as to where a court could be located if the property line were abandoned.

Mr. Goforth said the intent is to construct the home, pool, and pickleball court altogether. The owners are willing to deed restrict the properties so they remain together unless the pickleball court is abandoned. He said a smaller home could be built on 3804. He said the unusual hardship is the small size of the lot.

Mr. McKnight said the house and the court can be built on the same lot and that the desire to build a bigger house creates the unnecessary hardship.

Ms. Campsen said, "There is hardship and then there is unnecessary hardship, and that is a level above. And when it rises to the point where you effectively are prohibited from building anything at all, that is where a variance comes in. If it is so restrictive and limited and so either strangely configured or you have some really unique element to it that makes it so that you cannot build on it were not it for the issuance of a variance, that is what we are here for. We are not here, in my opinion, to grant variances for an accessory use of a pickleball court or anything really." She does not believe the request as currently submitted meets any of the four elements that are needed to grant a variance.

Mr. McKnight agreed. Mr. Karig also agreed, stating, "Just look at number 3 of the conditions, and you have to meet all four (INAUDIBLE). It just says because of these conditions, the application of the ordinance for resolution for a particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property. And it does not unreasonably restrict the utilization of the property. The property can be used."

Mr. Goforth said that the house could be reconfigured such that the house, the pool, and the pickleball court could be constructed on the same lot. To which Mr. McKnight said that if that is case, then no unnecessary hardship exists.

Mr. Powers spoke out against the addition of the pickleball court. His submitted online comments, similar to his spoken comments to the Board are included here: “Our greatest concern is that this property will function as a Resort if Zoning approves the variance request. Already, the 3802 & 3804 lots have been used for very large outdoor social events, with food trucks parked on site and DJ’s. (The outdoor space appears to be rented out in conjunction with the house across the street, 3805 Cameron.) The overall site plan includes a very large house (how many bedrooms?), a large swimming pool, a pickle ball court, a dedicated horseshoe game area and a very large social-gathering fire pit area. Even if the homeowners have lots of friends they like to socialize with, the multiple outdoor amenities are of a scale beyond a quiet residential neighborhood – and are unavailable on any other lot(s) we’re aware of on Isle of Palms including ocean front. It doesn’t matter to us whether it’s owner occupied or rented; it would create a continuous resort atmosphere and unalterably affect our residential block. Zoning rules in SR-2 essentially allow room for one major recreational accessory: either a pool or (in this case) a pickle ball court. And, setback rules only allow them to be in the rear yard behind a structure. We believe those rules are to protect and shield the surrounding neighborhood from too much noisy activity. Why not ask the applicants to choose either a pool or a pickle ball court behind the new house they’re proposing, like the rest of the neighborhood? Specific questions not clear within the Variance Request: Parking: With two lots, how much parking would be allowed in total? Where would it be? It appears there would be plenty of space for 6-8 cars to park in front of the proposed lawn area on 3804. Lighting: Lighting is not shown on the plan for any of the exterior areas. What are those plans? Would the proposed courts be lit to allow play until 10PM? Fences: “54” high aluminum fencing” is indicated upper right on the schematic, but its perimeter is not clear. The proposed court does not appear to be fenced in separately. Wouldn’t it need to be? And is 54” sufficiently high to prevent balls from flying into neighboring properties? Access: What would be in place to prevent people from accessing the outdoor areas of the property at 3804 Cameron, especially the pickle ball court area? We have concerns that when/if the house is unoccupied, word among the pickle ball community would spread of an available court on Cameron Blvd. In sum, we respectfully request that the Board of Zoning Appeals deny the applicant’s request to build a pickle ball court on the lot associated with 3804 Cameron.

MOTION: Ms. Campsen made a motion to that Appeal # 23-06 be denied on the basis that there are no extraordinary or exceptional conditions pertaining to this particular piece of property. The property is able to be reasonably utilized without the issuance of a variance and the nature of the accessory use requested would be a detriment to the adjacent properties and harm the character of the district. Mr. Karig seconded the motion.

Mr. McKnight asked Director Kerr, “The last thing about being a detriment to the other neighborhoods, the fact that the Isle of Palms has said that pickleball courts are okay, is that something that we can consider or not?”

Director Kerr said, “There is no explicit prohibition on pickleball. I think that the point has been brought up that they are noisy. They could very well fall out of compliance with the noise ordinance, so I don’t think there is an issue with saying that in your judgements, it could be a detriment to the neighborhood.”

VOTE: A vote was taken with all in favor.

Board members continued to discuss the allowance of pickleball courts and the noise they create. Director Kerr pointed out that the noise is a public safety concern. Should it become a problem, it may ultimately end up with the Planning Commission as change in zoning. He also noted that the City itself owns pickleball courts.

6. Miscellaneous Business

7. Adjournment

Mr. Abel made a motion to adjourn and Ms. Campsen seconded the motion. The meeting was adjourned at 5:29pm.

Respectfully submitted,

Nicole DeNeane
City Clerk