

Board of Zoning Appeals
Minutes
October 14, 2008

I. Call to order

Chairman Guy Taylor called the regular meeting of the Board of Zoning Appeals to order on October 14, 2008 at 5:30PM in the Building Department Conference Room, 1301 Palm Boulevard. Other members present were Suzanne Galloway, Arnold Karig, Mike Layman and Tom Miller; also secretary Douglas Kerr was present. Mr. Kerr explained that the meeting was advertised in the paper and the properties were posted in compliance with the Freedom of Information Act.

II. Approval of Minutes

The next item on the agenda was the review of the minutes of the September 9, 2008 meeting. Mr. Miller made a motion to approve the minutes as submitted and Mr. Layman seconded the motion. The vote was unanimous in favor of the motion.

III. Home Occupations

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

104 Palm Boulevard

Mr. Taylor explained that the first request was for a home office for an internet marketing business at 104 Palm Boulevard. The applicant was not present and the Board agreed to grant a continuance until the next meeting.

309 Carolina Boulevard

Mr. Kerr explained that the next request was for a construction materials sales business at 309 Carolina Boulevard. He explained that the applicant would sell vapor barrier materials for construction projects. The business would involve no business related traffic coming to the house, no exterior evidence of a business and no employees working at the house other than family members.

Mr. Taylor asked the applicant if he understood that no signage could be on the vehicles. The applicant, Mr. Adams, answered yes that he understood. Mr. Taylor asked if he was clear that no employees could come to the house and the applicant answered yes, he was aware of this. Mr. Miller asked what materials would be stored at the house. Mr. Adams answered that it was a single one

gallon bottle of a non-toxic, paint-like material. Mr. Layman made a motion to approve the request and Mr. Karig seconded the motion. The vote was unanimous in favor of the motion.

IV. Variance

1022 Carolina Boulevard

Mr. Kerr explained that the next request was for a height variance to allow the construction of an elevator shaft to protrude four feet and ten inches above the forty-foot height limit. He explained that the projection would be the shaft only, which measures seven feet and one inch wide and nine feet and eight inches deep. He explained that the building is currently under construction, but the plans for the building specified an elevator that is smaller than what is required by the South Carolina Department of Labor, Licensing and Regulation.

He explained that the applicant claims that the property is unusual because of its small size, which determined that the applicant would construct a building with three floors. The applicant claims that if the variance is not granted, he will suffer a hardship because he will not be able to gain access to the third floor. He claims that the variance will not be of substantial detriment to the surrounding area because the projection will only be the elevator shaft.

Mr. Taylor asked how this did not get caught in the review of the plans conducted by the City. Mr. Kerr answered that the City relied on the professional engineer to specify the correct dimensions for the elevator. Mr. Layman asked if this was a building code requirement. Mr. Kerr answered that it was a requirement of the Americans with Disabilities Act (ADA) and the South Carolina Department of Labor, Licensing and Regulation (SCLLR).

Mr. Edward Boggs addressed the Board and explained that he was the attorney for the applicant. He explained that his clients missed the requirement and the building design originally had a residential elevator specified. He explained that the ADA requirements specify that if the building has a third story, it must have elevator access to all three floors.

Mr. Taylor explained that the Board had historically viewed this type of request as a mechanical necessity as it does not result in additional useful area of the building and without it buildings could not have a third floor. Mr. Layman asked what was on the third floor. Mr. McCants, the building designer, answered an office of 450 square feet. Ms. Galloway asked how large the entire building is. Mr. Young, the owner, answered about 4,500 square feet.

Mr. Layman made a motion to approve the request for a variance based on the following finding of facts:

The property is extraordinary, because the small square footage of the lot limits the footprint of the building to a size that requires the building to be three stories.

The conditions of this property do not generally apply to other properties in the vicinity because the property is being commercially developed, which requires an elevator with different mechanical structure to comply with the ADA requirements.

The application of the ordinance unreasonably restricts the utilization of the property because the usable area of the building, which is small because of the small lot, would be further reduced by 10% to an unreasonably small size.

The authorization of the variance would not be detrimental to the area based on the fact that the projection would only be the elevator shaft. He added that his motion for approval includes the condition that the roof of the projection be the minimum necessary required to meet legal requirement and provide a watertight roof.

Mr. Miller seconded the motion. Mr. Taylor reminded the Board that Section 5-4-2 subsection (19) of the existing ordinance already allows many utility-type structures to protrude above the height limit, including antennas, chimneys and aerials; and that for some reason this projection is not on the list. The vote was four in favor of the motion and one against (Mr. Karig).

V. Miscellaneous Business

None.

VI. Adjournment

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