

**Board of Zoning Appeals
Minutes
November 1, 2016**

I. Call to order

The regular meeting of the Board of Zoning Appeals was called to order on November 1, 2016 at 5:30 p.m. in the City Hall Conference Room, 1207 Palm Boulevard. Members present were Arnold Karig, Elizabeth Campsen, Pete Doherty and Carolyn Holscher; also Secretary Douglas Kerr was present. Glen Thornburg was absent.

Mr. Kerr acknowledged that the meeting had been advertised in compliance with State law, and the properties had been posted.

II. Approval of minutes

Ms. Holscher made a motion to approve the minutes of the September 6, 2016 meeting as submitted and Mr. Doherty seconded the motion. The motion passed unanimously.

III. Home Occupations

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

27 Morgan's Cove Drive

Mr. Kerr stated that the applicant was requesting a Special Exception to allow the establishment of a construction business in his home at 27 Morgan's Cove Drive. The applicant has indicated on his application that the house would be used for office work only, there will be no business related traffic coming to the house and no outside employees working from the home.

The applicant Mr. Patrick Kelly stated that he had operated a home occupation on Carolina Boulevard for 12 years, but he has moved and wants to change the location of his home occupation.

Mr. Tom Gerrity, 55 Morgan's Cove Drive, who lives across the street, commented that the lots are small, the roads are narrow, and the houses are large; in his opinion, it is not an appropriate place for a business to be operated. He added that the applicant does not park in his garage, but in the driveway or on the road, leaving no place for other visitors to park.

Ms. Holscher asked the applicant if he would ever have business-related traffic come to the house or would he ever do any work other than office work at the house. Mr. Kelly answered no; he stated there would be no one coming to his home and no work other than office work

would be performed out of the house. Finishing the construction of his house created congestion on the road, for which he was sorry, but that the work has been completed and there would be no more parking-related issues created by this home-based business. He noted he has not had time to make room under his home for his car, but that he would do so in the near future.

Mr. Holscher asked if there would be any work trucks stored at the property. Mr. Kelly answered that only his personal truck would be kept at the house.

Mr. Karig asked if payroll would be handled at the house and if workers would come to the house ever. Mr. Kelly answered no, he would pay employees at the jobsite.

Ms. Arlene Sutherland stated that she was the president of the Morgan's Cove Home Owner's Association; she explained that the area suffered from two issues, i.e. traffic and parking. In her opinion, the business would add to the problems already existing in the neighborhood.

Mr. Kelly stated that numerous residents in the neighborhood were operating businesses in their homes; he said that, because the Isle of Palms' business license rates were twice as expensive for nonresidents as they are for residents, he had a specific need to operate from his home. Mr. Doherty asked if there would be any deliveries associated with the business. Mr. Kelly answered no.

Ms. Maureen Kimberly, 53 Morgan's Cove, asked what recourse the residents would have if Mr. Kelly did not operate his business as he has indicated on his application and during the meeting. Mr. Kerr responded that neighbors could call the Building Department, and they would handle the enforcement, if an issue ever developed.

When Mr. Gerrity reported that the request violates the covenants of Wild Dunes and of Morgan's Cove Drive, Mr. Karig explained that the Board only considers the City's code. This board was not the enforcement mechanism for the covenants or home owners' associations; therefore, those enforcement avenues are still open to the residents.

Mr. Kelly reported that he did have additional tile work to be done at his home. Fearing the neighbors would think the tile installers were workers showing up to be paid for business elsewhere, he wanted them to know that the workers were there to finish up work on the house.

Ms. Holscher stated that she appreciated the input from the neighborhood, but the Board was bound to rule on the request as it relates to the City's code.

Mr. Doherty moved to approve the request. Ms. Holscher seconded the motion and the motion passed unanimously.

#30 - 27th Avenue

Mr. Kerr stated that the next request was to allow the establishment of a floral design studio at #30 - 27th Avenue; he added that applicant has said that clients would not be coming to the house in connection with the business.

When Mr. Doherty asked what a floral design studio was, the applicant's husband, Tony Brunner, explained that this operation was more of a hobby than a business, but that his wife would be paid for the work. He explained that his wife had a few friends for whom she creates center pieces for their homes and that she would provide flowers for maybe two weddings per year.

Mr. Brunner stated that his wife bought the flowers from the Charleston Wholesale Florist in North Charleston.

Ms. Campsen stated that, on the application, question number ten had not been answered; the question was would any equipment or materials that not normal to a household be used or stored at this residence in connection with the occupation. Mr. Brunner replied no.

Mr. Doherty asked how many deliveries the business would generate in a week. Mr. Brunner answered that any deliveries would be coordinated with other errands for the day, so he did not believe it would create any additional trips to or from the house.

Ms. Holscher asked if there would be any signs used in connection with the business, and again Mr. Brunner answered no. Ms. Holscher asked if the reason for coming before the Board was in preparation of expanding the business. Mr. Brunner responded that it was more to be in compliance with the City's ordinances.

Ms. Holscher made a motion to approve the request, and Ms. Campsen seconded the motion. The motion passed unanimously.

#3 - 49th Avenue

Mr. Kerr stated that the next request was to allow the establishment of an art sales business at #3 - 49th Avenue; the applicant would be creating sculpture at his home that would be sold elsewhere, with no business-related traffic coming to the house.

The applicant, Mr. Stuart Tessler, explained that, since his retirement, he has been creating sculpture and now wants to begin selling them, and he needs to include the address of the location where the sculpture was created. He stated that the only business-related traffic would be for the occasional delivery of materials, which he already receives.

Ms. Holscher asked how clients would view the pieces, online or some other location;' Mr. Tessler answered that he currently has pieces in a gallery downtown. Ms. Holscher asked how large the pieces are, and Mr. Tessler responded that some are as small as a few inches and others are a few feet tall.

Mr. Blair Hahn, #1- 49th Avenue, stated that he wanted to be supportive of the application, but he wanted to know if the request would be forever tied to the property for future owners or was it specific to Mr. Tessler's request. Mr. Kerr replied that home occupations were specific to each request and any future businesses would have to be approved separately. Mr. Hahn stated that he supported the approval of the request.

When Mr. Doherty asked how many deliveries would be made, Mr. Tessler answered less than one per week.

Ms. Holscher made a motion to approve the request, and Mr. Doherty seconded the motion. The motion passed unanimously

IV. Special Exception

#50- 41st Avenue - Isle of Palms Marina

Mr. Kerr stated that the applicant was requesting a Special Exception to allow the outdoor rental of kayaks at the Isle of Palms Marina at #50 - 41st Avenue. The proposed arrangement is for the rental staff to operate from within a mobile trailer adjacent to the Intracoastal Waterway with patrons interacting through an opening in the trailer. Kayaks would be stored on the docks.

He commented that this activity previously occurred from a shed adjacent to the boat ramp with kayaks launching from the boat ramp. However, the applicant chose to relocate the kayak operation away from the boat ramp and closer to the docks in an effort to improve efficiency within the site.

Mr. Kerr stated that the property is in the GC1 zoning district and, at the time this application was filed, Section 5-4-36(5)(b) of the City's zoning code specified that:

Outdoor sale or rental of tangible personal property, in whole or in part, in the LC or GC-1 district is permitted only by special exception pursuant to section 5-4-5; provided, however, that outdoor sale or rental of any tangible personal property, including food and beverage, in whole or in part in the LC or GC-1 district within one hundred sixty feet (160') of the OCRM baseline established along the beach of the Atlantic Ocean is strictly prohibited.

Mr. Kerr read Section 5-4-5 (c) of the zoning code that specifies the standards that the Board must apply in deciding special exception applications.

That Section reads:

(c) Special exceptions.

1. Upon written application filed with the Zoning Administrator, the Board may grant as a special exception any use specified as a special exception in the zoning district regulations. In addition to the conditions generally required by the applicable zoning district regulations, the Board shall apply the following standards in deciding special exception applications:

(1) Adequate provision shall be made for setbacks, fences, buffer or planting strips to protect adjacent properties from adverse impact of the proposed use, such as noise, vibration, dust, glare, odor, traffic congestion and similar factors.

(2) Vehicular traffic and pedestrian movement on adjacent roads must not be hindered or endangered.

(3) Off-street parking and loading areas and the entrances and exits for the use must be adequate in terms of location, number, design and construction to serve the use without adverse impact on adjacent properties.

(4) The proposed use must not adversely affect the property values, the general character or the general welfare of the surrounding vicinity.

2. In granting a special exception, the Board may attach to it such conditions regarding the location, size, character, or other features of the proposed use as the Board may consider advisable in order to promote public health, safety, or general welfare. No special exception use may be altered or enlarged without the prior approval of the Board.

Mr. Kerr stated that the applicant states in the application that the standards in the ordinance will be met by satisfying all setback, screening, loading and parking requirements. Also noted in the application is that the proposed use will not produce excess noise, vibration, dust, glare or odor and that vehicular traffic and pedestrian movement will be improved by their proposed change of location.

Mr. Chris Crolley owner of Coastal Expeditions addressed the Board and explained that his business has been operating from the Isle of Palms Marina since 1992. Since they have been

the demand on the boat ramp has increased, creating an unsafe situation for the kayaks; he also wanted to get away from launching at the boat ramp. He said that he had spent a considerable amount of money on a custom trailer to move the operation to an area adjacent to the docks and that they had unknowingly set up before being approved for a Special Exception. He explained that, as soon as they discovered they had missed a step, they ceased operating out of the trailer and filed the Special Exception request.

Mr. Doherty stated that the City code was different now as it pertains to outdoor rental of equipment from mobile units, but Mr. Kerr explained that this application should be ruled on under the ordinance that was in place at the time the application was submitted, which did not include the prohibition of mobile units.

Ms. Holscher asked if the primary reason for the move was to make the operation safer. Mr. Crolley answered yes, the move was for safety and to improve the efficiency of the boat ramp launches at busy times.

Mr. Doherty asked if Coastal Expeditions had spaces specifically dedicated to their operation. Mr. Crolley answered there was not.

Ms. Holscher asked if the trailer was a temporary arrangement. Mr. Crolley answered that he would prefer not to operate out of a trailer, but he did not know what the future of the marina site would be with the master redevelopment planning efforts being made.

Ms. Campsen stated that she was concerned about the parking on the marina site in general and asked if this operation took away parking spaces that would otherwise be available to marina patrons. Mr. Crolley answered that the trailer was in one space previously the location of an oyster recycling trailer, which has been removed. Ms. Campsen asked if it took up one or two spaces to transact with customers. Mr. Crolley answered one, because that additional business took place down on the docks near the boats.

Mr. Doherty asked how he secured the boats and was told that the boats were locked to the racks when someone was not present to keep an eye on them.

Ms. Campsen noted that the application has not signed by the owner. Mr. Kerr explained that, when the application was originally submitted, it was not signed and was sent back for the marina operator's signature, which is in the file. He said that he unintentionally included the wrong copy of the application in the packet, but he could distribute a signed copy in the morning.

Mr. Doherty asked who was operating from the shed where Coastal Expeditions, and Mr. Crolley answered that this space was used by a stand up paddleboard business.

Ms. Campsen asked how many boats were involved with the operation and was told 20 to 22 boats.

Mr. Doherty asked if Coastal Expeditions was accounted for in the new master plans for the marina. Mr. Crolley said that he believed that they were included, but he was not clear on where they would be located.

When Ms. Holscher asked if the plan was for the trailer to be moved in the winter, Mr. Crolley stated they could move it.

Ms. Campsen asked if it were possible to go back to the arrangement that was in place prior to moving to the trailer and going back into the shed. Mr. Crolley answered that he would have to discuss that with the marina operator, but that it would be impractical for him. He commented that, if the Airstream at Breach Inlet met the criteria of the code, he was hopeful that his request would also.

Mr. Karig stated that Mr. Crolley had indicated that the trailer was a temporary arrangement; therefore, he would like to consider putting a timeframe limit on the approval, designating a point at which the trailer would be permanently removed from the marina. Mr. Doherty suggested that the timeframe be tied to the completion of the marina redevelopment. Mr. Karig stated that the redevelopment may take too long and may not have a clear ending.

Mr. Crolley stated that he did not believe that the Airstream at Breach Inlet was bound to a timeframe, and he was hoping that his request would be viewed under the same criteria.

Mr. Karig stated that the City Attorney was present and several legal issues had been raised to which he would like to receive legal advice. A motion was made seconded and unanimously approved to go into Executive Session to receive legal advice.

The Board came out of Executive Session, and Mr. Karig explained that the Board received legal advice and no actions were taken.

Mr. Doherty stated that he was inclined to approve the request under certain conditions.

Mr. Karig stated that the following points were noted during the discussion:

1. The trailer will be limited to one parking space,
2. Any future replacement trailers can be no larger than the current trailer,
3. The business operation will be limited to kayak rentals,
4. The trailer is to be moved off-site during the winter and
5. The trailer will be moved off the island in the event of a storm's arrival.

Mr. Doherty moved to approve the request with the 5 conditions listed by Mr. Karig, and Ms. Holscher seconded the motion.

Mr. Crolley asked if it was necessary to limit the business operation to kayak rentals only; if the stand-up paddleboard operation left, would he not be able to incorporate that operation into his business. Mr. Kerr stated that, if he were to take over the business as it currently operated in the shed, there would be no need to file another application, but there currently is a code prohibiting additional outdoor sales from a mobile unit.

The motion passed unanimously.

V. Adjournment

With no other business, the meeting was adjourned at 6:45 p.m.