

MINUTES OF THE REGULAR MEETING OF THE CONSTRUCTION BOARD
OF ADJUSTMENTS AND APPEALS HELD ON JUNE 24, 2008/JULY 1, 2008 IN
THE BUILDING INSPECTION CONFERENCE ROOM

MEMBERS PRESENT: Andrew Corriveau, Chairman; Don Dean, John Catoe, Herbert Brown, Dan'l Moulton and Bruce Kline were present. John Tuckwiller was absent.

STAFF PRESENT: Arthur Cummings, Edward Nelson and Marjorie Arnold were present.

2. **MINUTES:** The minutes of the September 19, 2006 were approved as presented.

3. **HAVEN HOMES – VARIANCE FROM SECTION 302.1 FIRE SEPARATIONS:**

Arthur Cummings stated that this is a request by Haven Homes at Hampton Lakes requesting a variance from the International Residential Code. Anytime there is a single family structure located less than three (3) from the property line the code requires a one hour fire rated wall. In this particular case they will actually have (10) feet between buildings because the units will be staggered; one building will be built on the property line and the other will be at least ten feet away. Since there is this ten feet separation between buildings they do want to fire rate the wall of the units that are closer than three (3) feet to the property line.

Arthur Cummings introduced Frank Hodge, the building official for the Town of Bluffton. He said since Bluffton will be issuing building permits in the not to distant future for this subdivision, Mr. Cumming thought it would be good for him to attend and so he will have first hand knowledge of any variance regarding this project.. He said the county is currently providing inspection service for the Town of Bluffton and when the Town takes over Frank Hodge will have to deal with this issue.

Mr. Cummings stated that if both of these buildings were located on the same lot, a common property line could be assumed from one building to the next; but since this is on two individual lots there is an issue of one building being able to come closer. Mr. Cummings stated that the code allows building three feet from the property line.

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Mr. Cummings questioned Lamar Mercer about the covenants regarding not being able to do anything within the ten feet.

Lamar Mercer had a draft copy of the covenants and will restrict any future improvements to the building to maintain no less than ten foot separation between buildings.

Frank Hodge stated that he had concerns as to how the property owner on the lot line would maintain his wall.

Lamar Mercer stated that there are prescribed easements in the restrictive covenants to allow maintenance.

Frank Hodge questioned as to whether a barbeque grill could be put there. Mr. Mercer stated that by ARB guidelines and restrictive covenants that would not be allowed.

Lamar Mercer stated that the easement would be specific to include maintenance of eaves, windows and necessary items for the building.

Mr. Hodge was concerned that someone would start up a grill in this area, leave the grill unattended and it could catch the house on fire. He said the idea of the code is to stay at least five feet from the building.

Lamar Mercer stated that there is an easement required to exclude roofs, gutters, and downspouts that overhang the property line. He said there is going to be an exclusive perpetual easement that allows for maintenance of the specific items for the house which prohibits encroachments no further than 24 inches off of the adjacent lot.

Greg Gardner, with Haven Homes stated that the houses are set up so that the back of the house is the amenity; patio, terrace and pool. The side yard is a garden space with one house having a blank wall and the other one having windows and the outdoor kitchen is on the back side with the pool.

Frank Hodge was concerned that someone could stockpile materials in the side area and he was told that was against the restrictions of the community. Lamar Mercer stated that there is a requirement to have landscaping along the zero line.

Frank Hodge questioned as to whether they would have protrusions of the structure going across the property line.

Edward Nelson stated that the present code allows two feet roof overhang to project over the property line.

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Frank Hodge stated if it could project twelve inches into the three foot setback but can't go over the property line.

Dan'l Moulton read from the 2006 code as follows: "projections beyond the exterior walls shall not extend more than twelve inches into the areas where openings are prohibited."

Bruce Kline stated that from a fire standpoint, which house the fire will be stopped at. He said that really doesn't matter because if they meet the ten foot separation they meet it. He stated that he would be cautious in approving this for multiple lots; the ten foot separation will be maintained but in his opinion the ten foot separation still needs to be fire rated.

Frank Hodge asked if the projections on both homes are going to be two feet into the ten foot. He said this still complies with the code.

Andrew Corriveau stated that he has two issues; one that there may be public issue because of the fire hazard and also he doesn't believe it is legal to project part of your building over onto someone else's property. He stated that there are encroachments into the setbacks from the property line but not across the property line. He said on that basis if they built the buildings close to the property line it would need to be built six inches off of the property line so the overhang would not cross the property line.

Lamar Mercer stated that they are trying to get a clarification so when Haven Homes applies for a building permit on these twenty-seven lots and they will know the way it has to be.

Arthur Cummings stated that a variance would have to be on multiple lots because if you build a house against the property line the wall must be fire rated.

Andrew Corriveau stated that there is still an issue of the overhang onto the adjacent property which needs to be resolved.

Lamar Mercer stated that they had consulted an attorney when they first recognized the issue of crossing property lines and was told this was allowed.

Frank Hodge stated that a blanket variance can not be given for a subdivision but needs to be done on each lot. He said the codes might change and create more problems.

The chairman asked the timetable for building on these lots. Lamar Mercer stated that they should start in two to three months and continue on for 12 to 18 months or more.

Mr. Cummings stated that we would not deny the permit; the wall would have to be fire rated or request a variance at that time. He said the only other thing would be the overhang projection over the lot line.

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Mr. Mercer stated that is why they are before the Board because they do not want to have fire rate the wall and asking for a written determination that the IRC 302.1 agrees with that determination and will be upheld when going forward with building permits and not have to go back for variances for every building.

Frank Hodge stated that one of the things they quoted in the variance was Table 302.1, fire separation distance. He said the definition says to the closest interior lot line or the center line or imaginary line between two buildings on the lot. He said this is saying that if you have one lot and both buildings on the same lot you could have an imaginary lot line. He said if you have a lot line you measure from the lot line.

Dan'l Moulton read from the code as follows "projections beyond exterior wall will not extend more than 12 inches into the areas where openings are prohibited."

Bruce Kline stated that since he is a new board member he had researched what the Board is, etc. and he stated that on item #3, shall find the following: "Granting a variance request will not confer on the applicant any special privilege that is denied by this code to other building structures or services." He asked if the Board could approve multiple lots.

The chairman stated that he thought what this is talking about and setting a precedent for someone else to be able to come in on a totally different project and ask that because we granted the variance once that they are automatically entitled to the same variance.

Don Dean made a motion to deny the variance because you cannot build on the lot line with an overhang and based on that without addressing that issue there is no issue about the fire rated wall until addressing that issue.

Lamar Mercer asked if they could defer until they can get further information.

The chairman suggested that they allow the Board to table this issue in order for them to do some research.

Mr. Cummings stated that the Board meets once a month and the next meeting would be the third Tuesday in July. They decided to defer and the Board tabled until further research.

Mr. Cummings asked Frank Hodge if since this project is in the Town of Bluffton and this Board goes through this exercise at what point will they have to go through this again. Frank Hodge stated that this would be something for the legal department. He also stated that he was against giving a blanket variance for an entire subdivision.

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The Board has tabled the request and continues the meeting until July 1 for Frank Hodge to talk with the Town Attorney to see if the Construction Board's decision will be upheld and to give Haven Homes' time to refine the easement.

The Board adjourned until July 1.

The Board reconvened on July 1, 2008 to take the issue of the variance for Haven Homes for homes at Hampton Lakes asking not to have to fire rate wall on the structure next to the lot line.

The chairman stated that some changes had been made and asked Lamar Mercer to explain these changes.

Mr. Mercer stated that after the meeting they decided that after Frank Hodge's concerns of having a structure over onto the adjacent lot, they could adjust the lot lines by one foot to accommodate containing the structure entirely on the lot on which it sits. He said the plans reflect that the lots have been shifted over one foot and there will be a one foot minimum offset from the lot lines to the building sites.

Mr. Mercer stated that he had talked with Frank Hodge and told him what they plan to do and asked if this resolved the issue with him and he indicated that it did. Mr. Hodge also told him that he had talked with the Town of Bluffton Attorney, Terry Finger and he acknowledged that they would honor decision of the Board.

Mr. Mercer gave the Board a copy of exhibit which reflects there is an offset of a foot and also gave a copy of the draft restrictive covenants. He said it indicates that there will be a ten foot separation between structures.

The Chairman asked is this was the wording they would use to keep owners from building within the ten foot separation. Mr. Mercer stated that this is correct.

The Chairman asked if the Board needs to consider the original request as to whether the wall needs to be fire rated on the structure that is one foot from the property line.

Arthur Cummings stated that they do need a variance from the International Residential Code that will allow the wall that is one foot from the property line not to be one hour fire rated. Also the code prohibits any openings in the wall. He said because there is a ten feet distance between buildings, and covenants and restrictions that another structure or addition will not be allowed to encroach closer than ten feet, they are asking for relief from having to rate the wall.

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MOTION: Bruce Kline made a motion to grant the variance because it meets the intent of the code. Herbert Brown seconded the motion. FOR: Bruce Kline, Herbert Brown, Andrew Corriveau and Dan'l Moulton voted for the motion. The motion was passed.

The condition to the variance will be to record the restrictive covenants.

4. NEW BUSINESS:

Arthur Cummings stated that there was an issue with the adoption of the 2006 International Code. Frank Hodge, Chairman of the Building Code Council stated that the governor vetoed the original bill put in by the home builders to keep the 2003 code until 2009. He said during that one year period of time they were going to have a study done by Clemson University and Citadel to verify the requirements in the code about seismic and wind requirements for South Carolina. The Senate and House of Representatives did override the veto. He stated the same legislature that put in the original law sent another law to the Governor, which is a senate bill which stated that if you were in NFIP program for CRS points the jurisdiction could enforce the 2006 code. He said since Beaufort has a 7 rating that it can enforce the 2006 code and the rest of the state is in the 2003 code until next year.

There being no further business the meeting adjourned.

Andrew Corriveau, Chairman