



COUNTY COUNCIL OF BEAUFORT COUNTY

Beaufort County Planning & Zoning

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The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, June 23, 2022, at the Beaufort County Administration Bldg., Council Chambers, Beaufort, South Carolina.

MEMBERS PRESENT

Mr. Kevin Mack, Chairman

Mr. John Chemsak

Mr. Evan Bromley

Dr. Dennis Nielsen

Mr. Cecil Mitchell

MEMBERS ABSENT

Mrs. Jane Fredrick

Ms. Lynn Hoos

VACANCY

None

STAFF PRESENT

Mr. Robert Merchant, Planning/Zoning Director

Ms. Hillary Austin, Zoning Administrator

ATTORNEY PRESENT

None

CALL TO ORDER: Mr. Mack called the meeting to order at 5:00 p.m.

PLEDGE OF ALLEGIANCE: Mr. Mack led those assembled with the Pledge of Allegiance.

FOIA – PUBLICATION NOTICE: Mr. Mack asked if all public notices were sent out, Ms. Austin verified that they were.

ADOPTION OF AGENDA:

MOTION: Mr. Chemsak made a motion to amend the agenda to remove #12 until the next scheduled meeting. Mr. Bromley seconded the motion. The motion passed unanimously.

ADOPTION OF MINUTES: May 26, 2022

MOTION: The board deferred the minutes due to lack of a quorum.

GRATTON'S SIDE YARD SETBACK VARIANCE (Continued from Last Meeting)

Mr. Gratton presented a signed document from the Walling Grove Homeowner Association in regard to the variance that was granted.

Mr. Williams stated that the information submitted was what the board asked for at the last meeting.

Mr. Mack call for **PUBLIC COMMENT**. No Public Comment.

MOTION: Mr. Mitchell made a motion to approve the variance in order to preserve the 55-inches Live Oak Tree. Mr. Bromley seconded the motion. The motion passed unanimously.

DAVID ROWE REAR YARD SETBACK VARIANCE (Continued from Last Meeting)

Mr. Rowe was not present at the meeting and did not submit any updated supporting documents.

The Board members agreed to move forward with the request for the setback variance.

Mr. Mack called for **PUBLIC COMMENT**. No public comments.

MOTION: Mr. Bromley made a motion to deny the variance request, the applicant has not met the standards for a variance, nor has he shown evidence of a hardship pertaining to the land. Mr. Chemsak seconded the motion. The motion passed unanimously.

WAYNE WILLENBERG'S SPECIAL USE – SHORT-TERM RENTAL

Mr. Willenberg was not present at the meeting and did not submit any updated supporting documents.

The Board members agreed to move forward with the request for the Special Use Permit.

Staff stated the wrong covenants and restrictions was submitted to the Board.

MOTION: Mr. Chemsak made a motion to continue the special use request until the next meeting so that the staff and the board will have an opportunity to review the covenants and restrictions. Dr. Nielsen seconded the motion. The motion passed unanimously.

JERRY WOODCOCK'S SPECIAL USE – SHORT-TERM RENTAL

Mr. Woodcock stated he is requesting a special use permit to conduct short-term rental in his accessory dwelling unit. He stated that he lives in the house adjacent to the rental unit.

Mr. Mack asked if there were any covenants and restrictions that would prevent the use.

Mr. Woodcock stated there were no covenants and restrictions.

Staff stated they recommend approval.

Mr. Mack called for **PUBLIC COMMENTS**. No public comments.

MOTION: Mr. Chemsak made a motion to approve the special use permit. Mr. Bromley seconded the motion. The motion passed unanimously.

JOHN FINGAR'S SPECIAL USE – SHORT-TERM RENTAL

Mr. Fingar stated he is requesting a special use permit to conduct short-term rental at his property.

Mr. Chemsak asked the applicant a list of questions submitted by a resident of the area.

Question - Where is your permanent residence?

Answer – Bluffton.

Question – How do you intend to advertise this rental property?

Answer – VRBO.

Question – Have you established maximum occupancy?

Answer – Limiting occupancy to 6 people.

Question – What is the minimum stay allowed?

Answer – 2-3 days.

Mr. Chemsak asked staff a list of questions submitted by a resident of the area.

Question – Does #6019 Morning Mist Drive have an STR permit?

Answer – No.

Question – Is there a reason why the property is not yet listed as owned by Mr. Fingar?

Answer – There is normally a delay with the Tax Assessor's office, but the owner of the property has been changed to Mr. Fingar.

Question – How many property owners were notified of this application by mail?

Answer - Every property owner within 500-feet of the property.

Mr. Chemsak asked if a specific person who lives at 6011 Morning Mist was notified?

Ms. Austin stated the owner information was for someone else, it appears that the notification was sent to that person since they were still on the tax roll.

Mr. Mack call for **PUBLIC COMMENTS**.

Mrs. Patricia Cooke stated there are covenants and restrictions that have been around from when the subdivision started in 1958 and are still applicable. The covenants state that there shall be no commercial business in the subdivision. She continued to state that if a business license and accommodation taxes are required, then that is indeed a business.

Mr. Cody Stafford stated that he is against the short-term rental.

Mr. Mack closed the **PUBLIC COMMENTS**.

Mr. Mack stated that the board did not receive a copy of the covenants in a timely manner so that they could be reviewed. He asked for a motion to continue the request so that the board can have time to review the covenants.

MOTION: Mr. Bromley made a motion to continue the special use request until the next meeting so that the staff and the board will have an opportunity to review the covenants and restrictions. Dr. Nielsen seconded the motion. The motion passed unanimously.

HANAAN OREAR'S SPECIAL USE – SHORT-TERM RENTAL

Mr. O'Rear stated that he purchased this house to be used as a vacation home or to rent it out. He stated that he went to the City of Beaufort for the short-term rental approval and found out that the property was located in the County. He stated that they have a local person who will be managing the property. He also stated that he will be advertising on VRBO.

He continued to state that there have been a few incidents that have inconvenienced the neighbors. He has decided to change the maximum occupancy from 15 – 18 guests to 12 guests.

Mr. Chemsak asked if he has been renting the house for a while.

Mr. O'Rear stated yes, he has.

Mr. Mack asked when did he start the rental?

Mr. O'Rear stated between July and August of 2021.

Dr. Nielsen asked if there were any age restriction for the renters?

Mr. O'Rear stated yes there were. The age is 25 presently, but he is contemplating raising that to 30 years of age. He is also changing the rules to no parties and no events.

Mr. Bromley wanted to know if there were any other incidents where law enforcement has been called.

Mr. O'Rear stated that he called law enforcement himself because there were 18 people and cars parked out on the street in the neighborhood.

Mr. Mitchell asked if there were any other short-term rentals in the neighborhood.

Mr. O'Rear stated he did not know of any.

Mr. Chemsak asked if there were any covenants for the neighborhood.

Mr. O'Rear stated he did not know of any.

Mr. Bromley stated he just looked up the deed and there is an indication that there are covenants and restrictions located in Book 106, Page 222.

Ms. Austin stated that she did not research if there were covenants so therefore, with this notification, the item should be deferred until the next meeting.

Mr. Mack called for **PUBLIC COMMENT**.

Mrs. Jeanie Pickle stated that this is a family-oriented neighborhood. There has been profanity, we've had to call the police, there has been wild house parties. She also stated that for almost a year Mr. O'Rear has been operating this business without a permit and without any regards to the neighbors. She continued to state that she felt that it is the wrong neighborhood for an Air B&B.

Mr. Ed Boyd stated that his house is approximately 30-feet from this house, and at 1:30 in the morning he is awakened with the neighbors talking. He also stated that there is a pool with no safety measures, and he has young grandchildren who visit. He also stated that the property uses a septic tank, and 12 people on a septic tank is a problem.

Mrs. Lauren Carroway stated the residents of this community are adamantly opposed to this special use permit. She stated that other than the environmental concerns, there are safety concerns with the added traffic in the neighborhood. She stated that there are neighborhood covenants which are old and do not address short-term rental, but there is a clause that addresses noxious behavior, and she believes the permit should be denied using the noxious behavior clause.

Mr. Chuck Rushing stated that the advertisement for this house states that there are 10 beds that sleep 12. (1 king, 3 queens, 3 doubles, 2 single beds, and a sofa. The rental of this house for 12 people weekly will be taxing on the septic system. He went on to explain that the covenants does address noxious behavior and this use has already become a nuisance to the neighborhood.

Mr. Mack closed the **PUBLIC COMMENTS**

Mr. Mack stated that there has been information given which the Board has not had an opportunity to review like the covenants and restrictions and suggested that the board move the request to the next scheduled meeting which will give the board a chance to review the additional information.

MOTION: Mr. Chemsak made a motion to move the application to the next scheduled meeting so the board can get a chance to review the covenants. No one seconded the motion. The motion Failed.

Mr. Mitchell stated that the short-term rental has been operating without a permit since July of last year. The neighbors have gotten a chance to see what it looks like, and it has not been very pleasant. The use has been operating without a permit and they should not be allowed to do so.

MOTION: Mr. Bromley made a motion to deny the Special Use Permit because The use is not designed to minimize adverse effect on the land. There are public health concerns to the community. It does not meet the general purposes of the Comprehensive Plan. Mr. Mitchell seconded the motion. The motion passed unanimously.

CHERYL POWELL'S SPECIAL USE – SHORT-TERM RENTAL

Ms. Powell stated she is requesting approval to conduct short-term rental at her property. She stated that initially the intent was to rent the house and the carriage house. She also stated that their attorney has confirmed that there are no covenants and restrictions governing the property.

Mr. Mack called for **PUBLIC COMMENT**.

Mr. Clint Henderson stated he would like to ask for a continuance of this item, because the sign was not up continuously at the property. It was down then put back up then down again. He stated that the septic system was built for a three-bedroom house and the apartment was built after the fact. He also stated that the property has flooded three times in the last 5 years. He stated that 1 question he had was how do short-term rentals build communities? He also stated that his company provides low- and middle-income housing for teachers, pastors and people that work and stay in the County all of the time. He believes that if a short-term rental is approved next door, he will not be able to keep a tenant, and he won't be able to sell the property.

Mr. Bromley wanted to know the maximum occupancy.

Ms. Powell stated that when she first did the application the carriage house was going to be rented also, but since then they have decided to only rent the house for short-term and rent the carriage house long-term. She stated that the property can accommodate 4 cars, but they will only need 2 spaces.

Mr. Chemsak wanted to know how many people will be allowed, since the application states 12.

Ms. Powell stated that only 8 guests will be allowed in the house.

Mr. Chemsak asked about the apartment.

Ms. Powell stated that the apartment will not be used as a short-term rental unit.

Mr. Clint Henderson stated that the property was not advertised properly, the sign was not up on Tuesday, and it was not up today.

Ms. Austin stated that the sign was posted as required and read from the Code the requirements for posting the sign and if it is removed that does not mean that the applicant has not complied with the requirements.

Mr. Mack closed the **PUBLIC COMMENT**.

MOTION: Mr. Bromley made a motion to approve the special use for the short-term rental with the condition that it is limited to 2 cars, and 8 guests, and that the permit is for the house only. Mr. Mitchell seconded the motion. The motion passed unanimously.

ADJOURNMENT.

MOTION: Mr. Bromley made a motion to adjourn. Mr. Chemsak seconded the motion. The motion passed unanimously.

The meeting adjourned at 6:34 p.m.