



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, November 21, 2024, at the Beaufort County Administration Bldg., Council Chambers, Beaufort, South Carolina.

MEMBERS PRESENT

Mr. Kevin Mack, Chairman

Mrs. Jane Frederick, Vice Chairman

Mr. John Chemsak

Ms. Lynn Hoos

Mr. Dennis Nielsen

Mr. Cecil Mitchell

MEMBERS ABSENT

Mr. Evan Bromley

VACANCY

None

STAFF PRESENT

Mr. Robert Merchant, Planning & Zoning Director

Ms. Hillary Austin, Zoning Administrator

Mrs. Lisa Anderson, Asst. Zoning Administrator

ATTORNEY PRESENT

Mr. Brian Hulbert, Beaufort County Staff Attorney

Mr. Dylan Kidd, Beaufort County Staff Attorney

Mr. Brad Mitchell, Attorney for the Zoning Board of Appeals

Mr. Patrick Moore, Attorney for the Aggrieve Parties

Mr. Kevin Dukes, Attorney for the Property Owner

CALL TO ORDER: Mr. Mack called the meeting to order at 5:02 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: Ms. Frederick made a motion to adopt the agenda. Ms. Hoos seconded the motion. The motion passed unanimously. **FOR:** Frederick, Hoos, Mack, Nielsen, Chemsak, Mitchell.

ADOPTION OF MINUTES: No Minutes available for adoption

Mr. Mack stated that anyone who would like to make Public Comment, that they complete the form. He also stated that Public Comment will be limited to three (3) minutes. He also stated that for the Appeal on the agenda, there will be no Public Comment.

JOE DeBLASE’S SPECIAL USE, LODGING, SHORT-TERM RENTAL

Ms. Ashley James for the applicant stated that they are seeking approval for a short-term rental unit at 1707 Palmetto Drive.

Ms. Austin stated that the applicant has met the requirements for a Special Use Permit and there are no Covenants and Restrictions on file that would prohibit the use, therefore, Staff recommends approval.

PUBLIC COMMENT: Mr. Mack called for Public Comment. No Public Comment.

MOTION: Mr. Chemsak made a motion to approve the Special Use Permit for the Short-Term Rental. Mr. Nielsen seconded the motion. The motion passed unanimously. FOR: Chemsak, Nielsen, Mack, Frederick, Hoos, Mitchell.

CHRISTOPHER RUNG’S SPECIAL USE, LODGING, SHORT-TERM RENTAL

Brian Tierny for the applicant stated that they are seeking approval for a short-term rental unit at 147 Alljoy Road.

Ms. Austin stated that the applicant has met the requirements for a Special Use Permit and that there are no Covenants and Restriction on file that would prohibit the use, therefore, Staff recommends approval.

PUBLIC COMMENT: Mr. Mack called for Public Comment. No Public Comment.

MOTION: Ms. Hoos made a motion to approve the Special Use Permit for the Short-Term Rental. Mr. Chemsak seconded the motion. The motion passed unanimously. FOR: Hoos, Chemsak, Mack, Frederick, Mitchell, Nielsen.

SAMUEL & ELIZABETH CONNER + AGGRIEVED PARTIES – ADMINISTRATIVE APPEAL

Mr. Patrick Moore stated that he is an Attorney from Charleston, and he represents the aggrieved Parties who are 11 folk’s who live immediately adjacent to or nearby the proposed facility whose wallets, property rights and quality of life are directly impacted by the proposal. He also stated that he appreciates that there is no public comment, but he would like to point out that the public has not had an opportunity to weigh in and he believes that there should be some format when you have a proposal that impacts people.

Mr. Samuel Conner stated that the Zoning Administrator approved a rural equestrian compound development at 68 Calhoun Plantation Road without any access to Calhoun Plantation Road.

Without any calculations showing each of the six (6) horses will have its own half acre. Without Stormwater meeting the requirements of the County Stormwater Design Manual. Without a Stormwater NOI Permit that meets the requirements of SC Department of Environmental. Without a wastewater treatment septic system for the domestic wastewater. Without a wastewater treatment septic system for the nondomestic wastewater coming from the floor drains in the Stable. Without meeting property line building setback requirements. Without controls or treatment for stormwater runoff discharging to adjacent private drainage ditches. Without meeting the requirements for Maritime Forest preservation. Without meeting Tree Protection requirements. Without considering design alternatives to save specimen and grand specimen trees. Without requiring the Development to apply for minor development plan approval. He continued to state that the deficiencies are too significant to be ignored but the fact that the Zoning Administrator issued approvals for two zoning permits and a stormwater permit for the rural equestrian development shows that the way the County is administering the Community Development Code is deeply flawed and is not in keeping with the spirit or intent of the Code.

Mr. Mack asked to hear from the property owner.

Ms. Bruel stated that she is trying to construct a house, an equipment shed/garage, a stable, and an arena to train her horses. She stated that this will be her primary residence. She also stated that she has five (5) horses. She stated that this is not a commercial venture, this is her passion, she stated that she competes nationally. She stated that she has an eight (8) year old daughter who rides her pony which is one of the five horses. She stated that she currently boards her horses at the Moss Creek Equestrian Center. She stated that the size of the riding arena is 20 meters by 60 meters and that is the size that is used by other dressage riders.

Mrs. Frederick asked the property owner if she trains other people horses.

Ms. Bruel stated that she does not.

Mr. Kevin Dukes stated that he was hired by the Builder to represent the property owner. He stated that after listening to the appellant that most of the issues are not true. He stated that he would not be addressing any of the DES issues. He stated that the appellants pulled out certain parts of the Code and they are mostly for commercial development. He stated that their complaint is that this development should be reviewed as a commercial development. He also stated that they are saying that the County is trying to create code and add accessory uses which are not in the code by adding in the arena or dressage facility. He continued to state that the appellants are trying to exert control over the property. He addressed the access from Calhoun Plantation Road and explained that the County has maintained the road for an extended period of time, therefore, it is labeled a County Road. He stated that the road has a green sign, and his client is not making any changes to the road.

Mr. Dylan Kidd, Attorney for Staff, stated that he is here on behalf of the staff. He also stated that the appeal is about the issuance of two (2) zoning permits based on the information that staff received and their interpretations of the relevant legal provisions that are germane to this appeal. Staff received the initial application for a residence, an attached garage and a horse arena/stable on July 10, 2023. Ms. Austin informed the applicant that no commercial stable would be permitted on the property because commercial stables require at least five (5) acres of land. She informed the applicant that a private stable would be considered, and she would need a second application, one for

the residence and one for the accessory use. Staff determined that the primary use is a single-family detached unit.

Mr. Kidd continued to state that under Division 3.1.A Commercial Stable is one of the land uses, and a private stable is not contemplated, however we believe it falls within the purview of the Agricultural Support. Ms. Austin looked to Table 4.2 which lists the permitted accessory uses for T2-Rural properties which Private Stable is specifically listed. He continued to state that the intent in adopting this section is to allow a broad range of accessory uses and structures as long as they comply with certain conditions. He also stated that Counsel previously identified that the appellant wants the Code interpreted in a restricted manner when we believe that the Code should be interpreted in a manner that allows for the freest development of property within the limits that the

Code placed on it. The Code sets a size area limitation that allows stables on lots over three (3) acres, this lot is 3.49 acres. The other requirement is that lot shall have at least one-half acre per horse. You can see in Ms. Austin's email that she did her calculation that is how she arrived at the number of four (4) horse owned by the landowner and two (2) could be boarded. Mr. Kidd continued to explain that there are size restrictions for accessory structures on parcels, however, notable in the T2Rural district these size restrictions do not apply to structures used for Bonafide agricultural purposes. It is our contention that the land use under 3.1, the agricultural rule, this accessory falls under Bonafide agricultural purposes.

Mrs. Frederick stated that looking at the footprint, the garage is not subservient to the main house, and could the staff address that. She also stated that the Code states that the garage can only be 30% of the main house.

Mr. Kidd stated that the original plan was a detached garage, but because of the 30% rule, they added the breezeway per the Code that would make the garage and the house one (1) building, therefore, the 30% rule did not matter.

Ms. Austin stated that after the appeal was filed, she realized that the entire house should be setback 18-feet from the property line. A letter was sent to the applicant to submit an updated site plan showing the garage at 18-feet from the property line.

Mr. Kidd continued to address the issue of the road, he stated that the County's Right-of-Way Manager has sent a memo stating that the County has a Prescriptive Interest in the road but not a formal interest of ownership. The County has been maintaining the road for well over 20 years since before 1994 and so takes the position that it is a County Maintained Public Road. As to the Stormwater issue, the Zoning Department has done stormwater permits since 2011 when the On-lot Calculation System was instituted. Staff has handled stormwater calculations for single-family residents and that is what they did in this case. He continued to state that the calculations were done by a Professional Engineer not staff. Mr. Kidd gave the Board copies of the Septic System Permits, and the memo from the Right-of-Way Manager.

Mrs. Frederick stated that the Transect Zone requirements require buildings to be setback 50-feet from the front, but the approved plans shows the building at 25-feet. She also stated that the arena is connected to the stable and just like the garage is connected to the house, it is one building so it should be 50-feet from the front.

Mr. Connor stated that the grading plan shows the 64-inches Live Oak to be removed.

Ms. Austin stated that the tree removal that has the approval of the County does not show that tree being removed. That tree will not be removed.

Mr. Conner brought back up the Maritime Forest, and stated that single-family residences are exempt, but agricultural uses are not exempt. He also talked about the road not being a county road, because it is privately owned.

MOTION: Mr. Mitchell made a motion to uphold the County's decision to issue the Zoning Permits. Finding of Facts: 1. Stables are private accessory uses, and the stable meets the requirements of the Code and falls under the single-family homes for permitting. 2. Stormwater Permit was issued correctly by the Staff and falls under the Single-Family homes for permitting. 3. The issuance of the Zoning Permits falls under the requirements of the Community Development Code and should not be denied. Ms. Hoos seconded the motion. The motion passed. FOR: Mitchell, Hoos, Mack, Nielsen. AGAINST: Frederick, Chemsak.

DISCUSSION ON THE MOTION: Mrs. Frederick stated she had concerns that the riding arena is roofed and that it should meet the setback of 50-feet.

Mr. Mack stated that he agrees, and maybe it can be a part of the motion.

Mr. Mitchell stated that the riding arena does not house the horses, so it does not have to be setback like the stable. He believes it should be 25-feet.

Mrs. Frederick stated that there is a 50-foot setback from the street.

OLD BUSINESS: None.

NEW BUSINESS: None.

ADJOURNMENT:

MOTION: Mrs. Frederick made a motion to adjourn the meeting. Ms. Hoos seconded the motion. The motion passed unanimously. FOR: Frederick, Hoos, Mack, Mitchell, Chemsak, Nielsen.

Meeting adjourned at: 6:38 P.M.