

Minutes
Regular Meeting of the Florence County Board of Zoning Appeals
Tuesday, September 18, 2018 at 6:30 p.m.
County Complex, Council Chambers, Room 803
180 N. Irby St., Florence, South Carolina 29501

The Florence County Planning Department staff posted the agenda for the meeting on the information boards at the main entrance and the back entrance of the County Complex and on the information board in the lobby of the Planning and Building Inspection Department building.

The agenda was also mailed to the media.

I. Call to Order

Chairman Toney Moore, called the meeting to order at 6:31 p.m.

II. Attendance:

Board Members Present: Toney Moore, Chairman
Bryant Hollowell, Vice-Chairman
Brian Casey
Daniel Jackson
Craig Floyd
Kenneth E. McAllister

Board Members Absent: James Cooper, Jr.
Brenda Deas

Staff Present: Mr. J. Shawn Brashear, Planning Director
Derrick Singletary, Senior Planner
Lisa M. Becoat, Secretary

Public Attendance: See sign-in sheet on file at the Florence County Planning Department.

III. Election of Officers:

Chairman Toney Moore administered the nomination and votes for office of Chairman.

Motion – Vice-Chairman Mr. Bryant Hollowell nominated Mr. Toney Moore and Mr. Brian Casey made a motion that Mr. Toney Moore remain Chairman / Second – Mr. Bryant Hollowell. No other nominations were made. The vote carried 5 to 0 that Mr. Toney Moore remain Chairman for the upcoming year 2019. Mr. Toney Moore did not vote.

Chairman Toney Moore administered the nomination and votes for office of Vice-Chairman.

Motion – Mr. Brian Casey made a motion that Mr. Bryant Hollowell remain Vice-Chairman / Second Mr. Daniel Jackson. No other nominations were made. The vote carried 5 to 0 that Mr. Bryant Hollowell remain Vice-Chairman for the upcoming year 2019. Mr. Bryant Hollowell did not vote.

IV. Review and motion of the minutes:

- **Meeting of June 19, 2018**

Motion to approve - Mr. Brian Casey / Second – Vice-Chairman Mr. Bryant Hollowell / Minutes of June 19, 2018 meeting were unanimously approved 6 to 0.

V. Public Hearings:

BZA#2018-05 **A variance request by Robert Davis from requirements of the Florence County Code of Ordinances, Chapter 30, ZONING ORDINANCE, ARTICLE II. – Zoning District Regulations, Division 1. Generally, Section 30-30. – Table III: Zoning setbacks of the Florence County Code of Ordinances for property located at 404 N. Warren Street, Timmonsville shown on Florence County Tax Map Number 70012, Block 08, Parcel 001.**

Mr. J. Shawn Brashear presented the staff report to the Board. (Copy of the staff report and presentation are available at the Florence County Planning Department and on the Florence County website at: <http://www.florenceco.org/offices/planning/bza/>). Mr. Brashear additionally informed the board that there had been one telephone inquiry regarding the posted signs about the variance request; and staff provided an explanation that it was to inform the public of a request for a setback variance for an addition to the church. The inquirer was satisfied with the response provided by Planning and Building Staff.

There were questions and discussion by the Board.

Mr. Brashear further informed the Board that the addition to the existing building is intended to extend to the full length of the left side of the church. He further explained that the church, the existing structure is legally nonconforming at 17 feet; and that there were several other existing nonconforming properties in the area and the applicant mentioned that in their responses as those properties are even closer to the street than the church. He also mentioned that Staff had spoken with the Engineer of the project and they had indicated that the church intends to combine the lot property across the street from the church with the churches lot so that they meet the parking requirements for overflow parking.

There were questions and discussion by the Board.

Chairman Toney Moore inquired if there was any public who desired to speak in favor of the requested variance request.

Ms. Doris Allen Davis and Pastor Katie Wood, were present and spoke in favor of the requested variance. They indicated that they were asking for consideration of the request to expand their emergency food pantry which is run out of their church. They indicated that the emergency food pantry has grown from approximately 20 families to approximately 300 families per month that are receiving services. They are presently constrained for space and would like to bring the structure out to meet the already existing structure of the church. They want the church to continue to look good and will need the other 3 feet to

ensure that the addition can come completely across and flushed with the existing church structure so that it is uniform. They mentioned that the church has been there for thirty-five years serving the community spiritually, naturally and physically. They want to continue to serve the people, but also make sure that the church looks good.

Mr. Robert Davis the Engineer was present and spoke in favor of the requested variance request. He indicated that they had been working on the project for quite some time and once they got the project off the ground, they found about the setback issue, and there desire is to keep the new structure uniform with the existing building and thus require a variance be granted.

There were questions and discussions by the Board. The Board was concerned about traffic flow, parking and public safety.

Mr. Davis indicated that the church sits on about one acre of land and that the church has other lots across the street where there is ample room for parking per the County Ordinance regarding parking for churches. He indicated there will also be handicap parking on the right side of the church. There will also be parking at the corner lot which is also owned by the church.

There was further discussion by the Board.

Pastor Katie Wood responded that the corner lot on the same side that the church is on that reaches from Warren Street to Orange Street is owned by the church and property that is directly in front of the church across the street which reaches out to New Street also and both lots are used so the church has plenty of parking.

There was further discussion by the Board.

Chairman Toney Moore inquired if there was any public who desired to speak against the requested variance request.

Mr. Ronald Friday was present and spoke in opposition of the requested variance. He indicated that he was present on behalf of his mother Mrs. Margie Friday. He further indicated that his mother owned the property at 403 North Warren Street, and that he didn't want things to get embellished before the Board regarding other property being used for parking. He stated their family received a letter regarding the variance and he contacted the planning department to inquire about the variance and then once hearing about the parking, he became concerned about the parking and safety. The property of his mother's where their house burned down a few years ago has been used as additional parking by the church, but there is no written lease and/or agreement for them to use the property. He wanted to make sure that if that particular lot is being included in the lots for parking that it be known that the church does not own that lot and there is no written agreement for them to use the lot for parking.

There was further discussion by the Board.

Mr. Friday further indicated that there are about three lots very close to each other and where the church bus sits is not owned by the church but by his mother Mrs. Margie Friday.

There was further discussion by the Board.

Ms. Doris Allen Davis indicated that there was a carve out that belongs to the Friday's. But where the bus was sitting in the photos of the presentation and on the other side of the carve out that the Friday's own all belongs to Mt. Calvary. She indicated that there are three parcels together and the Friday's parcel

is in the middle. She further explained that the property at the corner of Warren and New Street belongs to Mt. Calvary; and closer to the church the property belongs to Mt. Calvary. She stated that there are three parcels owned by Mt. Calvary and with those lots, there is ample parking.

Pastor Katie Woods indicated that the church has property on both sides that would cover parking. She stated there was parking across the street, on the side of the church and also parking across the front of the church.

Ms. Doris Allen Davis indicated that there was not a lot of parking right at the church but their primary parking has been and is across the street and at the corner of New and Warren Street.

There was further questions and discussion by the Board.

Ms. Doris Allen Davis indicated that anytime they know of a service or program with a large influx of people coming to the church that two to three attendants were usually assigned outside to assist patrons with traffic flow and parking. Ms. Davis further indicated that there is carve out of the lots adjacent to Mt. Calvary's property that Mr. Friday's mother or another sibling gave them permission to use and it has continued over the years. This was their first encounter with Mr. Friday. They have had dealings with Mr. Friday's deceased grandmother, mother and a sibling.

There was further discussion by the Board and Mr. Brashear showed the Board Members a map on his tablet that assisted the Board with information as to where Mrs. Friday's property lot is in relation to the other lots owned by the church.

Mr. Brashear explained to the Board the properties and then explained that Mr. Friday wanted the Board to be aware that if the church planned to use his mother's property as overflow parking then there needs to be an agreement drawn up between the parties prior to just using the property lot. Mr. Brashear wanted also to make the Public aware that the photos in the presentation were for the benefit of the Board to know what was across the street from the property requesting a variance and what impacts the addition may have on it and that the properties across the street are also legally nonconforming.

Pastor Katie Wood indicated that they understood the little parcel in the middle belonged to the Friday's. But the rest of the property on both sides belongs to the church. And that they do park there. They have also parked on Mrs. Friday's lot with her permission.

Mr. Ronald Friday stated that he has been gone from the area with his life in the military and is well aware of the hard decisions and difficult job that the Board of Zoning Appeals has to make. He further stated that he wanted to ensure the safety of the pedestrians as they go back and forth across the street from the lot. He wanted to make sure that the parking situation was done correctly. He is not opposed to the variance and the addition onto the church. He is concerned about the parking and something happening and his mother and/or family being responsible for personal damages and/or being liable.

There was further discussion by the Board.

The recommendations and four findings of fact by the Board were as follows:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property:

Finding: That a food bank is operated out of the church and the church desires to expand the food bank to meet the demand of service provided to the community.

b. These conditions do not generally apply to the other property in the vicinity:

Finding: Most of, if not all of the properties in the vicinity are legally nonconforming.

c. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property:

Finding: The church would still be able to service the community as before but may not be able to store the many items utilized to service the increased number of families served by their food bank.

d. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

Finding: The expansion of the church and food bank should have no adverse effect or impact on the health, safety or welfare of the surrounding neighborhood or the general public; and will assist additional families in need.

Motion – Vice-Chairman Mr. Bryant Hollowell made a motion that the variance be granted. / Second - Mr. Kenneth McAllister. The motion was unanimously approved with a vote of 6 to 0 to grant the requested variance.

BZA#2018-06

A variance request by Gaster’s Grading Company, Inc. from requirements of the Florence County Code of Ordinances, Chapter 30, ZONING ORDINANCE, ARTICLE III. – CONDITIONAL USE REGULATION, Sec. 30-111. Development Standards for unzoned areas, (6) *Certain uses and industrial projects*, d. *Mining and extraction operations* for property located off Sand Pit Rd., Florence, shown on Florence County Tax Map Number 00203, Block 01 Parcel 021.

Mr. J. Shawn Brashear presented the staff report to the Board. Copy of the staff report and presentation are available at the Florence County Planning Department and on the Florence County website at: <http://www.florenceco.org/offices/planning/bza/>). Mr. Brashear additionally informed the board that there had been one telephone inquiry regarding a notice placed in a mailbox and that staff informed the inquirer that notices had been mailed to adjacent property owners but not placed in mail boxes and that the public hearing was for a variance request concerning setbacks of a mine and the distance required between the mine and nearest residential properties. The inquirer was satisfied with the response provided by the Planning and Building Staff.

There were questions and discussion by the Board.

Mr. Brashear responded to questions and discussion of the Board. He indicated that from the maps and information that Staff had available to them; the closest residence was approximately 790 feet from the mining operation. There was no process for the neighboring properties to approve or sign off on a mine. There are manufactured homes throughout the community of the area of the mine. The area in which the applicant intends to mine is what has been permitted by South Carolina Department of Health and Environmental Control (SCDHEC). If the Board allows 2300 feet it would mean that the applicant could dig the pond within 200 feet of the nearest residence. Although not permitted by DHEC if it were DHEC would allow the applicant to dig within 50 feet of the property line regardless of the nearest residence.

The requested variance would allow the pit to be expanded per local requirements to within 200 feet from the nearest residence.

Chairman Toney Moore inquired if there was any public who desired to speak in favor of the requested variance request.

Mr. Andrew Gaster was present and spoke in favor of the requested variance. He indicated that he is the owner of Gaster Grading Company and the reason he requested a 200 foot variance is that at the top corner of the pond, there is an existing pit that was left and is washed out, slopped, jagged and not safe. He has requested the 200 feet because SCDHEC has given him the permission to correct the washed out, slopped and jagged bank and to make the pit safer for anyone to be around the pond. He mentioned that he had to post a 10,000 bond with SCDHEC and if he does not fix the bank of the pond/pit correctly, they will take the bonded monies and correct what was not done correctly. He indicated that is why he requested the 200 foot variance vice the 790 foot variance to the new mining area. He wants to be able to go to the old pit and correct it first without any conflicts. He further indicated that water trucks will be on site for dust control and there will be no trash hauled into the pit per DHEC's standards. Whatever is taken out of the area is what it will be; nothing will be brought into the area. All of his company dump trucks have GPS on them and they are monitored daily for safety and speed. The pit will only be used for his company use for the small site jobs that are completed in and around the Florence area. There will not be any sand sold to the public. The site is intended to be used sporadically and only for what is needed by his private company.

There were questions and discussion by the Board.

In response to the Board, Mr. Gaster indicated that he had not decided what he desired to do with the remaining acreage. He wanted to see how the digging goes with the first 5 acres before he makes any decisions for the remainder of the approximately 70 plus acreage. He further indicated that he needed the site for a fairly large job in Florence that had recently been placed on hold. So at the present time he is just using the 5 acreage that has been permitted by SCDHEC. In order to dig the entire acreage of property, the applicant would have to go back to SCDHEC and apply for it, with additional surveying to be completed. To correct the slopped, jagged and washed out areas of the previous pond would not be considered mining operations but maintenance. Mr. Gaster further indicated that presently he is only asking to be able to mine the 5 acres in the back of his property that has been permitted by SCDHEC. He further indicated that everything will be controlled as DHEC will be on site, he will have to get tests done of the water quality going out and provide monthly water quality reports to SCDHEC.

Chairman Toney Moore inquired if there was any public who desired to speak against the requested variance request.

Mr. Lawrence Weber was present and indicated that he wasn't sure he was against the variance but that he and others had some questions and concerns. He indicated that he lived at 2522 Sandpit Road, Florence along with other families who own most of the property on the Southside of Sandpit Road along the lake. They are concerned about one of the proposed routes that lead back to the mining area where a cabin that is owned by Palmetto Pee Dee Behavioral Health Services is. It is there understanding that Palmetto Pee Dee Behavioral Health Services is going to be rejuvenating the site and using it to entertain some approximately 59 mentally handicapped children. The community is concerned about which path is going to be used to get to the mining site, the bridge over Black Creek and what precautions are going to be taken to prevent damage and/or to maintain the graveled road. He further indicated that his family did not get a letter about the meeting, but saw the posted signs and took a picture of it. He further stated that the community is also concerned about how the mining operation will have an impact if any on the quality of their well water.

There were questions and discussions by the Board.

In response to the Board's questions, Mr. Lawrence Weber responded that if the applicant took the road at the end of the pavement to the mining property the community would be satisfied.

Mr. Gaster responded to questions and indicated that it was his intention of using the existing road at the end of the pavement and go down by the power lines to access his mining property. He further indicated that it was not his intention to utilize the graveled dirt road to access his property or to go as far back to the cabin access area; he only has permission from SCDHEC to mine the white area that is depicted on the Mine Permit Land Map.

There were questions and discussions by the Board.

Mr. Frankie Perkins was present and spoke against the requested variance. He indicated that his concern was the applicant purchased 70 plus acres for a 5 acre mining operation for a job that may or may not be happening. He felt that the applicant was going to probably be digging more in the future than what is being requested to be dug out presently. He felt that all the digging was going to impact the ponds around it, the noise from the digging, the dump trucks were going to put bumps in the asphalt and groves in the road, it impacts the children playing at the ball field and getting off the school buses who are not use to the trucks being in the area. He indicated the community was just concerned about the roads and the children with this type of operation going on.

Ms. Joann Self was present and spoke against the requested variance. She indicated that most of their concerns had been mentioned and addressed. But she wanted to make sure that the Board understood that the road had just recently been fixed a couple of years ago with gravel and that the road works well now and the community just didn't want the big trucks running on it to destroy it. She also indicated that they wanted to make sure there would be no issues with the pond as many people use it to fish in.

There were questions and discussions by the Board.

Ms. Joann Self responded that Raymond Mincey owns the large pond and they all have recreational rights to the pond. She further indicated that she just wanted it on record that a lot of money and time went into fixing the dirt graveled road and they wanted to make sure that it is not destroyed.

Chairman Toney Moore inquired if there was any other public present who desired to speak against the requested variance request.

Mr. Frankie Perkins asked a question if signs were posted at the farm off of 327 for the public hearing of the requested variance and if the mining operation could affect them in how they would utilize their properties.

Mr. J. Shawn Brashear responded signs were not posted and that as it is the mining operation did not impede on those properties. He further indicated that no one could come in and create a new mine within 25 feet of a residence. But that does not prohibit an adjacent property owner from building a house close to a mine that is in current operation. So it does not keep someone from utilizing there land and does not make the mining owner of the property in violation as they were permitted to be there prior to someone building their home.

Ms. Laurie Sawyer was present and spoke against the requested variance. She indicated that her concerns were about the pond that has been in the slopped jagged state for years. She further indicated that there are two ponds back in the area and one of them belongs to Pee Dee Behavioral Health. She is concerned

that if the applicant messes with the pond it will interfere with their fishing as there is a runoff from that pond the applicant intends to correct.

There were questions and discussion by the Board.

Mr. Gaster showed the Board on the map the pond he intends to correct per guidance from SCDHEC and he also showed the route he intends to utilize to access his property. He further indicated that he was unaware of the other entry to the property that was mentioned by the public. He stated that the slope of the pond is being corrected so that there is no liability for anyone getting hurt.

There was discussion by the Board and they wanted to determine if they could approve the variance but have the applicant stipulate that he would only use the road that he indicated to access the property.

Mr. J. Shawn Brashear indicated that if the Board wanted to have the applicant stipulate and/or modify their request it would be his recommendation that the request be deferred to allow the applicant ample time to review and modify their request through the formal process prior to the Board making their decision.

Motion - Mr. Brian Casey made a motion that the variance request be deferred until the next meeting to allow for a clearer understanding of what is being requested. / Second -Vice Chairman Mr. Bryant Hollowell. The motion to defer the requested variance to the next meeting was unanimously approved with a vote of 6 to 0.

VI. Other Business:

Chairman Toney Moore inquired of the Board if they had reviewed the draft and proposed 2019 Board of Zoning Appeals Meeting Calendar.

Motion - Mr. Brian Casey made a motion that the 2019 Board of Zoning Appeals Meeting Calendar be approved as presented. / Second - Mr. Daniel Jackson and Mr. Kenneth McAllister. The 2019 Board of Zoning Appeals Meeting Calendar was unanimously approved with a vote of 6 to 0.

VII. Adjournment

Chairman Toney Moore inquired of the Board and Staff if there was any other business, there being none, the meeting was adjourned at 7:47 p.m.

Lisa M. Becoat, Secretary

Approved by:

J. Shawn Brashear, Planning Director

*These minutes reflect only actions taken and do not represent a true verbatim transcript of the meeting.