

Minutes
Regular Meeting of the Florence County Board of Zoning Appeals
Tuesday, October 17, 2023 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 lobby 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 Brian Casey called the meeting to order at 6:31 p.m.

II. Attendance:

Board Members Present: Chairman Brian Casey
Vice-Chairman Brenda Deas
Kenneth Muldrow
Louie Hopkins
Wesley Martin
James Cooper, Jr.

Board Members Absent: Craig Floyd
Daniel Jackson

Staff Present: Mr. J. Shawn Brashear, Planning Director
Mr. Ethan Brown, Deputy Director
Derrick Singletary, Senior Planner
Brian Kennedy, Engineering Manager
Holly Smith, Planner II
Lisa M. Becoat, Administrative Assistant

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

III. Review and motion of the minutes:

- Meeting of September 19, 2023.

Motion to approve the minutes as presented – Vice-Chairman Brenda Deas / **Second** – Commissioner Wesley Martin/ Minutes of the September 19, 2023, meeting were unanimously approved 5 to 0.

IV. Public Hearing:

BZA#2023-03

A variance requested by John L. Johnson from requirements of the Florence County Code of Ordinances, Chapter 30 - ZONING ORDINANCE ARTICLE III. – CONDITIONAL USE REGULATIONS, Sec. 30-111(7) – Development standards for unzoned areas, for property located at 3201 E. Linda DR, Florence, SC 29506, as shown on Florence County Tax Map No. 90159, Block 01, Parcel 001.

Mr. Shawn Brashear asked the commissioners and per the owner and staff's request to remove the item from the agenda. Staff worked with the owner to get the matter resolved and the owner submitted a withdrawal letter to remove the item from the agenda.

Motion to remove BZA#2023-03 located at E. Linda Drive, Florence, SC from the agenda – Commissioner Louie Hopkins / **Second** – Commissioner Kenneth Muldrow/ The motion to remove BZA# 2023-03 from the agenda was unanimously approved 5 to 0.

BZA#2023-04

A variance requested by Henry Keith Henderson from requirements of the Florence County Code of Ordinances, Chapter 30 - ZONING ORDINANCE ARTICLE VII. – GENERAL AND ANCILLARY REGULATIONS, Sec. 30-246. – Accessory buildings and uses, for property located at 2812 Cypress Bend RD, Florence, SC 29506, as shown on Florence County Tax Map No. 02371, Block 02, Parcel 009.

Mr. Shawn Brashear presented the staff report to the Board. A copy of the staff report and presentation are available at the Florence County Planning Department and on the Florence County website at: <http://florenceco.org/planning/bza/archives.php/>.

Commissioner James Cooper, Jr., entered the meeting and took his seat on the Board.

Mr. Brashear indicated to the Board that the variance request was for the property at 2812 Cypress Bend Road, Florence SC. Mr. Brashear stated the decision tonight comes from Section 30-293(2) when an applicant has an unnecessary hardship. The approval of the variance request would allow the owner of record to place an accessory structure in the front yard setback established by the Florence County Code of Ordinances. Mr. Brashear stated the property is in the County Club of South Carolina and is currently unzoned with Black Creek directly behind the home. The owner of record for the property is Henry and Kathryn Henderson.

Mr. Brashear went through some slides of the presentation and indicated that the pictures submitted by the applicant were when a flooding event that had taken place. He stated the foundation for the picnic shelter is just south of the residential home. Public notice of the variance request was posted on the property, letters sent to adjacent property owners and posted in public places per the Florence County Ordinance. The applicant requests a variance of ten (10) feet to shift the foundation out of the floodway. Mr. Brashear indicated that the owner did in fact obtain a building permit to erect the structure. The infraction was later discovered by staff after an inspection of the property. At present no additional work has been completed on the site. He stated that the owner provided some photos of how the property sloped off and showed Black Creek and where and how the water rises on the property. The images were a part of the Board's package for review and consideration showing the high water markings.

Mr. Brashear stated that the property had been properly posted and that staff had not received any calls or inquiries regarding the requested variance. He stated that the Florence County Ordinance Section 30-297 did address the implications of granting variances in a flood zone. That the Board cannot make the matters worse by placing the structure in the flood zone. In this case the applicant desires to bring the structure forward out of the floodway, based on the most recent hurricane events.

Chairman Brian Casey inquired if there were any questions and or comments from the Board.

There was further discussion from the Board regarding staff recommendation for the requested variance. In response to the discussion of the Board Mr. Brashear stated that staff does not provide recommendation to keep the order. Chairman Brian Casey inquired if there were any additional questions from the Board.

There were no further questions and or discussion from the Board and Chairman Brian Casey inquired if there was any public in attendance who desired to speak in favor of the requested variance request.

Mr. Kenneth Henderson, owner of property located at 2812 Cypress Bend, Florence SC was present in the meeting and spoke in favor of the requested variance request. Mr. Henderson provided two additional pictures to the Board for review. He stated that the images showed the berm on the opposite side of Black Creek, which directs water directly onto his property and the second picture showed the bridge that is about two hundred (200) yards down from his property. Mr. Henderson further stated during periods of flooding the bridge clogs up which causes the water to flow back onto his property. There was some discussion between Mr. Henderson and the Board pertaining to flooding issues and the relationship of the structure to the primary residence and the road.

Chairman Brian Casey inquired if there was any public in attendance who desired to speak opposed to the requested variance request.

There was no public in attendance who desire to speak opposed to the requested variance request.

There was no further questions, comments from the public and the Chairman and the Board reviewed the application and comments submitted by the applicant in reference to the requested variance request and comments from the applicant.

There was further discussion from the Board regarding the structure and moving the structure forward on the property out of the floodway. The Board discussed the visual aesthetics of the structure from the road and the primary residence.

There were no further questions, comments and or discussion by the Board.

Motion - Commissioner Wesley Martin made a motion that BZA #2023-04 be denied. / There were no second to the motion and Chairman Brian Casey called the Board back into discussions.

There was further discussion by the Board that there would not be much difference if the proposed structure were 70' (seventy feet) vices 80' (eighty feet) from the road. If it were possible 20' (twenty feet) from the road that would make a much noticeable difference in the front yard of the property.

Motion - Commissioner Louie Hopkins made a motion that BZA #2023-04 be approved / The motion was seconded by Commissioner Kenneth Muldrow / The motion carried with a vote of 6 to 0 to approve the variance request BZA #2023-04.

BZA#2023-05

A variance requested by Phillip Oakley Spears Beckham from requirements of the Florence County Code of Ordinances, Chapter 30 - ZONING ORDINANCE ARTICLE VII. - GENERAL AND ANCILLARY REGULATIONS, Sec. 30-246(1) – Accessory buildings and uses, for property located at 3444 Lakeshore DR, Florence, SC 29501, as shown on Florence County Tax Map No. 00101, Block 01, Parcel 180.

Mr. Shawn Brashear presented the staff report to the Board. A copy of the staff report and presentation are available at the Florence County Planning Department and on the Florence County website at: <http://florenceco.org/planning/bza/archives.php/>.

Mr. Brashear stated to the Board that the variance request was for the unzoned property in the Forest Lake Community at 3444 Lakeshore Drive, Florence SC. Mr. Brashear explained that the variance request came to Florence County Planning and Building by a nuisance complaint. Staff received a phone call regarding permits on a structure that had been built at a residence and upon inspection by the Florence County Codes Enforcement Department the structure had been built without the applicable permits. The matter in question is that the structure is two (2) feet from the property line. Florence County Code of Ordinances states an accessory structure should be five (5) feet from rear property line. The approval of the variance request would allow an existing accessory structure to remain in its current location, which extends into the rear setback area. Mr. Brashear indicated public notice of the variance request was posted onto the property, letters sent to adjacent property owners and posted in public places per the Florence County Ordinance. Mr. Brashear further stated that the structure in question was a two-bay building, approximately fourteen (14) feet in height.

Chairman Brian Casey inquired if there were any questions and or comments from the Board.

In response to the questions and discussion by the Board, Mr. Brashear stated that without knowing exactly where the property line was on the property it would be hard to indicate if the narrow section is the only part of the structure that is in question regarding the required setbacks. There is an offset of the structure and the owner's indicate that the narrow section is about 3' (three feet) from the property line and the larger portion of the structure is about 2' (two feet) from the property line.

Mr. Brashear provided the comments and inquiries received pertaining to the requested variance BZA#2023-05. (A copy of the comments and inquiries are maintained at the Florence County Planning and Building Department.)

There was no further questions by the Board and Chairman Brian Casey inquired if there was any public in attendance who desired to speak in favor of the requested variance request.

Ms. Spears Beckham, 3444 Lake Shore Drive, Florence SC along with Mr. Phillip Oakley was present in the meeting and spoke in favor of the requested variance request. Ms. Beckham stated they purchased the home almost a year ago and this is one of the nicest neighborhoods they have lived in. Ms. Beckham stated before the building was erected she went before the Home Owners Association (HOA) and gave copies of the engineered drawing. Ms. Beckham indicated that she received approval from the HOA to erect the structure. She stated the building was the type that you designed online. When the company that erected the building came to assemble the building they moved the structure to close to the property line. Ms. Beckham stated they were at the mercy of the Board's recommendation and decision.

Chairman Brian Casey inquired if there was any public in attendance who desired to speak opposed to the proposed variance request

Mr. Frank McIntyre 3341 Lakeshore Drive, Florence, SC was present in the meeting and spoke opposed to the requested variance request. He stated he was there on behalf of the Home Owners Association (HOA). He is the historian of the community and keeps historical records. He desired to make the board aware that not only was the building in violation of the Florence County Code of Ordinances it was also in violation of the HOA. The Florence County Ordinance requires an accessory structure to be five (5) feet from the rear property line, and the restrictive covenants of the HOA require it to be ten (10) feet from the property line. The HOA did approve the structure but clearly stated they all of the proper required setbacks should be met. Mr. McIntyre asked staff regarding the building being used for commercial use, he wanted to ensure that with it being a large building that no commercial uses would come into the neighborhood. There was some discussion from the Board regarding the HOA approving the structure prior to home owners having it built. In response to the discussion Mr. McIntyre stated that they had previously approved it, but ensure the property owners they had to meet the proper setbacks.

Mr. Mark Buxton 3441 Claude Douglas Circle, Florence, SC was present in the meeting and spoke in opposition of the requested variance. Mr. Buxton stated he was one of the property owners adjacent to the property in question. He had questions regarding the restrictive covenants and how many structures were allowed on the property. He desired to know if a permit were obtained prior to the construction of the structure.

Chairman Brian Casey mentioned and stated to the Board and the Public in attendance at the meeting that the Board had no authority to respond to questions regarding the HOA and their restrictive covenants.

Mr. Eddie Putnam 3409 Lakeshore Drive, Florence, SC was present in the meeting and spoke in opposition of the requested variance. He stated in 2018 the restrictive covenants were updated which allowed only one out building from the residential structure for the Forest Lake Community. He additionally stated that he measured the building and it is only two (2') feet from the property line. He is opposed to the variance request as they have started to clean up their community and they have to start somewhere. That is why they updated the restrictive covenants in 2018 and 2019 and they desire to have the restrictions upheld.

There was further discussion between the Board and staff regarding the proper building permits being pulled for the structure.

Mr. Brashear stated for the Board's, owner's and public's edification that the County did not enforce restrictive deeds and covenants. Contractors know when they come into Planning and Building, that there is a form that must be completed and asks if the project complies with the restrictive deeds and covenants. The form is completed and is required by State Law. If staff knows and has been made aware that a proposed project does not and would not meet the restrictive covenants then staff could not issue the permit. Staff is not holding it true or not what the restrictive covenant says. But staff now in the public meeting has been made aware that this project does not meet the requirements of the restrictive covenants thus staff could not issue the building permit. If the Board grants the variance staff still could not issue the permit. In a situation such as this the owners would then go back to that association and ask what must be done to satisfy them whatever that might be. It may be they can't reach an agreement and they may have to go to civil court to get it resolved. Until the matter is resolved County cannot per state law issue a building permit unless additional guidance is provided by the County Attorney that says otherwise.

There was no further questions, comments from the public and the Chairman and the Board reviewed the application and comments submitted by the applicant in reference to the requested variance request.

Motion – Commissioner Kenneth Muldrow made a motion that BZA #2023-05 be denied / The motion was seconded by Vice-Chairman Brenda Deas / The motion carried with a vote of 6 to 0 to deny the variance request BZA #2023-05.

The Public Hearing was closed.

VI. Other Business

There was no further business and or discussion by the Board and Chairman Brian Casey called for a motion to adjourn the meeting.

VII. Adjournment

Motion - Commissioner Louie Hopkins made a motion that the meeting be adjourned / Second Commissioner James Cooper / The motion carried with a vote of 6 to 0 to adjourn the Board of Zoning Appeals Meeting.

Chairman Brian Casey declared the meeting adjourned at 7:15 p.m.

Holly Smith, Secretary

Approved by:

J. Shawn Brashear, Director

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