

Minutes
Regular Meeting of the Florence County Board of Zoning Appeals
Tuesday, February 18th, 2025 at 6:30 p.m.
Florence County Complex, Room 803
180 N. Irby St., Florence, South Carolina 29501

Florence County Planning Department staff posted the agenda for the meeting at the following locations:

- The County's Website
- Information Board / Main Entrance of the County Complex (180 N Irby St, Florence)
- Information Board / Main Lobby of the County Planning & Building Dept (518 S Irby St, Florence)
- Elevator Landings / 1st Floor and 8th Floor of the County Complex

The agenda was also mailed to the media.

I. Call to Order

Chairman Brian Casey called the meeting to order at 6:30PM.

II. Attendance:

Board Members Present: Chairman Brian Casey
 Vice-Chairman Brenda Deas
 Craig Floyd
 Louie Hopkins
 Wesley Martin
 Jessica Wright
 Kenneth Muldrow

Board Members Absent: None

Staff Present: Mr. J. Shawn Brashear, Planning Director
 Ms. Lisa Becoat, Administrative Assistance
 Ms. Holly Smith, Secretary
 Ms. Caroline Dunlap, Planner III

Staff Absent: Mr. Ethan Brown, Deputy Director
 Mr. Malloy McEachin, County Attorney

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

III. Review and motion of the minutes:

- **Meeting of January 21st, 2025.**

Motion to approve the minutes as presented – Mr. Louie Hopkins/ **Second** – Vice-Chairman Brenda Deas. All were in favor. The minutes of the January 21st, 2025 meeting were unanimously approved 7 to 0.

IV. Public Hearing:

BZA#2025-04

An appeal requested by DCE Group LLC, from requirements of the Florence County Code of Ordinances, Chapter 30 – ZONING ORDINANCE, ARTICLE VII. – GENERAL AND ANCILLARY REGULATIONS, Sec. 30-249. – Nonconformities for property located at 2338 South Point Road, Florence, SC 29501, as shown on Florence County Tax Map No. 00126, Block 01, Parcel 055.

Chairman Casey invited Mr. Shawn Brashear to present the staff report for this item to the Board. A copy of the 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 explained to the Board that this item was an appeal requested by the applicant based on a decision made by the Florence County Zoning Administrator to revoke a manufactured home setup permit for a standard-designed(single-wide) manufactured home that is currently located at 2338 South Point Road on the property bearing the tax map number 00126-01-055. The owner of record being DCE Group LLC. The applicant making the appeal is Mr. Daniel Cabrera of DCE Group LLC. The total estimated acreage of the property is approximately 1.64 acres.

Mr. Brashear provided a detailed timeline from the County's perspective of the matter to the board that led to the appeal being submitted by the applicant. He stated the appeal was submitted by the applicant upon revocation of a standard-design manufactured home setup permit that the applicant applied for on November 11th, 2024 which, Mr. Brashear noted that the permit was issued in error by a Florence County Zoning staff member who was no longer employed with the County.

He noted the error in issuance was discovered by the Zoning Official sometime after the first inspection (which failed) of the standard designed manufactured home was performed. A letter dated January 7th, 2025 was composed by the Zoning Official and was sent to the applicant. The letter explained to the applicant that the manufactured home setup permit currently in progress was being revoked due to the property bearing a zoning designation of R-3, Single Family, Small Lots and explained to Mr. Cabrera that the R-3 zoning designation does not allow for standard designed manufactured homes. The letter went on to inform the applicant that the Zoning Official's research into the matter found no legally registered residential designed manufactured homes that were being taxed on the property within the past 18 months.

Mr. Brashear stated that in the absence of any lawfully registered standard designed manufactured homes on the property, the standard designed manufactured home currently on the property, and being setup by the applicant, was not replacing a structure that was being lawfully used and therefore would not be allowed as a continuance of a legally non-conforming structure under Sec. 30-249 of the Florence County Code of Ordinances.

Mr. Brashear presented all information/photos compiled by staff and provided by the applicant. It was made apparent by Mr. Brashear that public notice of the variance request was posted on the property, letters were mailed to adjacent property owners and notice of the meeting and copies of the agenda were posted in public places per the requirements set forth in the Florence County Ordinance.

Mr. Brashear read aloud the public comments/inquiries received by Planning Staff regarding this requested variance request. (A copy of comments and inquiries are maintained at the Florence County Planning and Building Department for inspection during regular business hours.)

At the conclusion of the Staff presentation, there was a question from the Board to Mr. Brashear inquiring

which County zoning districts do allows standard designed manufactured homes. Mr. Brashear stated that the Rural Districts allowed them, but explained to the Board that there were none of those districts in this area. Mr. Brashear also noted that the R-1 zoning designation across the street from this property did not allow for any type of manufactured home.

There were no other questions from the Board. Chairman Casey then requested for the applicant to come forward and make a presentation.

Mr. Gary Finklea, the representative of the applicant, approached the board to speak on behalf of his client. After approval from the Chairman, Mr. Finklea proceeded to ask Mr. Brashear some questions, the first of many being related to the definition/interpretation of 'lawful' and how the Zoning Official defines/interprets lawful since it is not explicitly defined in the Florence County Code of Ordinances. Mr. Finklea moved on to ask Mr. Brashear if he agreed that before a home has power connected, it must be properly registered with the County in some form or another to which Mr. Brashear agreed. Mr. Finklea then stated to Mr. Brashear that the previous home on the property in fact had power connected to it and asked Mr. Brashear if that would change his mind on the lawfulness of the previous structure to which Mr. Brashear stated no, and maintained his determination that the previous home was not lawfully registered to the site. He explained to Mr. Finklea that the previous home on the property was registered to a site on Salters Street in Lake City, SC. Mr. Finklea also described the derelict manufactured home and demolition permits that the previous owner of the property had obtained from the Florence County Building Department and noted that these permits were obtained well within the 18 month requirement of the County for the replacement of legal non conformities. Mr. Brashear's rebuttal clarified that a derelict permit is normally used when a property owner is unable to demonstrate that they own the home. Mr. Finklea continued his argument that the County has no records proving that there was not a home on the property and because there was an active electric service, he continued that this would mean in all likelihood there was a structure on the lot.

After questioning Mr. Brashear, Mr. Finklea asked if Mr. Jamie Floyd, the Florence County Tax Assessor, was still in attendance at the meeting, but he was not, so Mr. Finklea proceeded on.

Mr. Finklea then asked permission from the board if Mrs. Odalis Cabrera could approach and the Board granted permission. Mr. Finklea explained to the Board that Mrs. Odalis is one of the members of DCE Group LLC and is the wife of the applicant, Daniel Cabrera and together they own a popular Mexican restaurant in town. Mr. Finklea made a note that as business owners, Odalis and Daniel both have a solid understanding of the County permitting process and the zoning regulations and therefore were very surprised to find themselves in this situation after the setup of the singlewide that is on currently on the property. Mr. Finklea then requested that Mrs. Odalis Cabrera give her specific version of events that occurred to the board starting from the purchase of the land in May 2024 from the previous owner, Mrs. Deborah Warr. Mr. Finklea confirmed with Mrs. Odalis that at the time of the purchase, a singlewide home was on the lot.

During this time, Mr. Finklea paused to pass out to the Board a printed package which he stated was the complete submitted appeal application and supporting documents that his clients submitted to the County Planning Department. (A copy of this information is on file at the Florence County Planning and Building Department for public inspection during regular business hours.)

Mr. Finklea returned to Mrs. Odalis and verified she saw the demo permit acquired by Mrs. Warr for this existing home and also had her verify that she had seen a service pole and line connected to the home before they demolished the original manufactured home and she confirmed that she was under the assumption this structure had previously had power. He confirmed with Mrs. Odalis that she had been denied the setup of power service at the location by the County, which she cited the County denied her service due to the service pole not being grandfathered in. Mrs. Odalis agreed with Mr. Finklea that nothing at that time caused her to believe the existing home on the property was an illegally placed home. Mr. Finklea then directed Mrs. Odalis

to recall the application process with the County for this property. Mrs. Odalis stated that she had first called the electricity company to see about getting power turned on and said that she was told, by the power company, to apply for an electrical permit with the County and have it inspected. She said she first applied for the electrical permit, and then she applied for a manufactured home setup permit. She stated she went to the County office and brought all the requested documentation with her to the office. She stated that at no point during this process did the county make her believe she could not place her standard designed manufactured home on the property. She stated that she felt she took all the necessary steps on her end to do everything the right way.

At the conclusion of Mrs. Odalis' statement, Mr. Finklea asked the Board if they had any questions for her. The Board did have questions for Mrs. Odalis related to the power company and previous accounts for the property and if she was able to request information from the power company as to what date the property last had an active account. Mrs. Odalis stated to the Board that she did inquire with the power company and she was told that all they could provide her with was a confirmation that there was an active service previously, she stated the power company would not provide her with any account information or even a specific date that service was last active for the property and they told her that all she would need to get power would be the electrical permit from the County. After all questions from the board were answered, Mrs. Odalis Cabrera returned to her seat and Mr. Finklea remained before the board.

Mr. Finklea went on to state to the Board that his first request to the Board was to appeal the decision made by the County Zoning Official and his second request was, if the County Official was correct in his decision, was to ask for a variance under the four-prong standard that he told the Board that they are familiar with. Mr. Finklea then quoted sections of the letter written by Zoning Official dated January 7th and compared what was stated in the letter to the verbiage from Section 30-249 of the Florence County Code of Ordinances. He stated that there was no language within the written ordinance that correlated with what the Zoning Official stated in his letter for the reason of denial. He highlighted that the ordinance was plainly written to state that within 18 months of destruction or damage and there was no question that the original home was destroyed within that 18-month time frame. He argued the County Zoning Official incorrectly interpreted Section 30-249 and erred in denying this application. He referred to all of the supporting evidence to back up his claim that the Zoning Official made an error in denying this residential designed manufactured home setup permit. He also made note of other homes in the surrounding area being very similar to the one in question.

At the conclusion of Mr. Finklea's presentation, Chairman Brian Casey asked if there was anyone else in attendance who would like to speak in favor of the requested appeal.

Mr. Michael Yarborough approached board, stating he had a question. He stated that he owned the property to the right side of the property requesting the appeal. He said that, historically he had some bad experiences with the previous owners, and he wanted to be sure that this request before the Board was not a gateway that would lead to the creation of a trailer park. He clarified that he was not against single home placed on the property to take care of a family, but he was very much against a trailer park on the property.

Chairman Brian Casey inquired if there was anyone other member of the public in attendance tonight who would like to speak in favor of the requested appeal. There was no other member from the public in attendance who approached to speak in favor of the requested appeal.

Before proceeding, the Board had a question directed to Staff about the R-3 zoning designation and if two nonconforming structures were allowed on a single property that was zoned R-3. Staff approached the board and stated that they would both be allowed if they were lawfully in use on that property prior to being zoned R-3. The Board requested further clarification from Staff, inquiring if there was only one nonconforming structure on a property, would there only be one singular structure that could be "grandfathered in" based on Sec. 30-249? Staff confirmed that statement to be true.

Chairman Briand Casey proceeded to inquire if there was any member of the public in attendance who would like to speak in opposition to the requested appeal.

Mr. Carl Smithey approached the board to speak in opposition of the requested appeal. Mr. Smithey provided a thorough history, from his own account, of the previous trailers and service poles on the property. He noted the previous owner had tried to create a doublewide out of two singlewide and it was prevented due to the City Coeds coming out to make them remove one of the singlewides. He stated, in reference to the present situation, they had setup of the home prior to applying for any County Permits.

Chairman Brian Casey proceeded to inquire if there was any member of the public in attendance who would like to speak in opposition to the requested appeal.

Harry Smithey approached the Board to speak in opposition of the requested appeal. He stated the property was currently set up to house four mobile homes and it looked obvious that it was being laid out to hold four homes instead of the one. He said he had no problem with the one mobile home, but he was strongly opposed to more than one mobile home being placed on the property. He also noted that, as a resident, they have all had to replace their homes with doublewides, and it wasn't fair to them, if the applicants didn't have to follow the same rules as everyone else.

Mr. Finklea approached the Board after Mr. Harry Smithey sat down with a rebuttal, stating there was only one mobile home on the property to begin with and there can only be one residence on a single property in the R-3 zoning district. He stated that it may look like more mobile homes would be going on the property, but noted that is only because there are four original septic tanks currently on the property installed years ago by the previous owners. He said there was no legal way his client could add more mobile homes on the property. He then returned to his seat.

Mrs. Judy McDaniel Liberty approached the Board to speak in opposition of the requested appeal. She stated that she owned the property that bordered the property on the rear side. She noted her property was in the woods, and she opposed any changes to the property due to it negatively impacting her property.

Mr. Dean Strutting approached the Board to speak in opposition of the requested appeal. He stated that he has lived on South Point Rd since he was about nine years old. He noted that the singlewide that the applicant was trying replace had been abandoned for years and was in a state of disrepair for many years. He stated that he was very much opposed to a trailer park on the property and reiterated that he and his family have had to follow the zoning regulations, and it wasn't fair if the applicant didn't have to follow them.

Chairman Brian Casey proceeded to inquire if there was any other member of the public in attendance who would like to speak in opposition to the requested appeal.

Mrs. Anne Scurry approached the Board to speak in opposition of the requested appeal. She stated that she wanted to address Mr. Finklea's statement he made that there were similar singlewides surrounding the property and in the area. She said that, yes, that was somewhat true, but not entirely. She continued by stating that she lived in a two-story house and there were other types of stick built houses out there, and that the new zoning put in place years ago had really started to improve the character of her neighborhood noting that old singlewides have been replaced with doublewides and that has also increased their property values. She concluded that she just wanted to make it known that the whole neighborhood is not just singlewides.

Chairman Brian Casey proceeded to inquire if there was any other member of the public in attendance who would like to speak in opposition to the requested appeal. There was no one else from the public who stood to speak in opposition of the requested appeal. Chairman Casey proceeded to close the public hearing portion of

the meeting and move to the discussion of the Board.

There were various discussions held among the Board members. A concern was discussed related to the timeline, in that the applicant received a Code Violation for setting up the home without a permit, noting the applicant came in to apply for the permit only after the Code Violation citation was issued.

There was a question from the Board for the applicant concerning the intended use of the home, if it would be for personal/family use or as a income generating rental property.

Mr. Daniel Cabrera approached the board to answer this question. He stated he owned a restaurant in town and a farm on S. Irby Street and stated that the home would be a place for his employee's and their families to live. He went on to state that he had sent all requested papers to the County and was confused that he had done everything he was asked to do by the County and then they suddenly revoked the permit.

There was a question from the Board concerning the components of a manufactured home setup permit, inquiring if the electrical permit was included within the setup permit ridding the need to apply for multiple separate permits. Staff explained the manufactured home setup permit process and that electrical and setup were all included within the single manufactured home setup permit.

This concluded the discussion of the Board. Chairman Casey requested a motion from the Board. There was a bit of confusion regarding the standard four questions the Board must ask in the case of a variance request. At this point, there was an extended pause, at the request of Staff, while a discussion was held between Staff and the applicant's representative. After some time, Mr. Finklea approached the Board and stated that the first matter to be considered by the Board would be to affirm or reverse the Zoning Official's decision. He continued that if the Board was to affirm the Zoning Official's decision to deny the applicant's permit, the second request from the applicant would be to consider granting a variance for the standard designed manufactured home.

Chairman Casey reiterated to the Board the task at hand was making a decision if the interpretation of Section 30-249 of the Code of Ordinances made by the Zoning Official is correct. There were several discussions held among the Board members at this time over the span of several minutes.

Motion to deny the requested appeal and affirm the decision of the Florence County Zoning Official in revoking the permit for the setup of a standard-designed manufactured home due to the use not being allowed in the R-3 district and to affirm the Zoning Official's interpretation that no previous nonconforming structure had been lawfully registered to the property for Sec. 30-249 to apply. – Mr. Wesley Martin/ **Second** – Vice-Chairman Brenda Deas. The request for appeal from the decision of the Zoning Official was denied. 7 to 0.

At this time, Staff approached the Board and recommended that the second request made by Mr. Finklea be deferred until next month in order to give staff more time to determine if the requested variance had standing/was valid.

Motion to defer the request for a variance of a residential designed manufactured home within the R-3 zoning district until the March 18th, Board meeting. – Mr. Louie Hopkins **Second** – Ms. Jessica Wright. All were in favor. The request for a variance to allow a standard designed manufactured home within an R-3 zoning district was deferred to the next BZA meeting scheduled for March 18th, 2025. 7 to 0.

The Public Hearing was closed.

V. Other Business

Elections of 2025 BZA Officers

Staff approaches the Board called for nominations for the 2025 BZA Chairman. A nomination for Mr. Brian Casey as president was made by Mr. Louie Hopkins. The nomination was seconded by Ms. Brenda Deas. All were in favor. Mr. Brian Casey was appointed to 2025 BZA Chairman.

Chairman Brian Casey then called for nominations for the 2025 BZA Vice-Chairman. A nomination for Ms. Brenda Deas to serve as Vice Chairman was made by Mr. Louie Hopkins. The nomination was seconded by Mr. Kenneth Muldrow. All were in favors. Ms. Brenda Deas was appointed to 2025 BZA Vice-Chairman.

VI. Adjournment

There being no other business, questions, or discussion, Chairman Brian Casey adjourned the meeting at 7:37PM.

Holly Smith, Secretary

Approved by:

Shawn Brashear, Director

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