

CHARLESTON COUNTY
BOARD OF ZONING APPEALS (BZA)
SUMMARY OF THE DECEMBER 5, 2022 MEETING
4:00 P.M.

In compliance with the Freedom of Information Act (FOIA), notice of meetings and agendas were posted and furnished to all news media and persons requesting notification.

Members Present

Acting Chair, Mr. Joseph A. Boykin, Mr. AD Jordan, Mr. Marc Marchant, Mr. Ross Nelson, Ms. Tonnia Switzer-Small, Mr. Jesse Williams, and Mr. Robert Woodul

Members Absent

Mr. William H. Ray and Mr. Bernard Freeman

Staff Members Present

Kelvin Huger, BZA Attorney; Sally Brooks, Planner III; Joshua Downey, Planning Technician II; Chris Dubuque, Code Enforcement Officer III; Jennifer Stiles, Planner II; and Jenny Werking, Planner II and Secretary for the BZA

Notification Procedures

Staff has met the requirements of state law and *Section 3.1.6* of the *Charleston County Zoning and Land Development Regulations Ordinance* for notification for all cases to be heard by the BZA at this meeting. The notification procedures were completed by staff 15 calendar days prior to this meeting as follows:

- November 18th: Site Visits and Postings were completed by this date.
- November 18th: Letters were mailed to property owners within 300' and to Parties in interest for all cases. These notifications are above and beyond the state requirements.
- November 18th: Notice of this meeting was published in the *Post and Courier*.

The December 5, 2022 BZA meeting was called to order at 4:00 p.m. by Mr. Boykin.

Minutes

Mr. Marchant made a motion to approve the November 7, 2022 meeting minutes. Mr. Nelson seconded the motion. The motion carried unanimously.

Ms. Switzer-Small arrived after the vote for the minutes.

Mr. Boykin, the Acting Chair, recused himself from hearing Case # BZA-05-22-00588. Mr. Nelson made a motion to elect Mr. Woodul to chair the case. Mr. Williams seconded the motion and it carried unanimously.

CASE# BZA-05-22-00588

Vernon Krause of RECH, LLC ("the Applicant" and "the Property Owner") and Ross Appel, Esq. of McCullough, Khan, Appel ("the Representative") filed a Variance request to remove four (4) Grand Trees for proposed vehicle sales use at 3140 Marginal Road in the St. Andrews Area of Charleston County, TMS # 307-09-00-054. Community Commercial (CC) Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, the board determined that all items in Article 3.10 Zoning Variances, §3.10.6 Approval Criteria of the Charleston County Zoning and Land Development Regulations Ordinance (ZLDR) had been satisfied. Mr. Marchant made a motion to approve the Variance request with the following conditions: (1) Prior to zoning permit approval, the applicant shall complete the Site Plan Review process; (2) The applicant shall mitigate the removal of 126" DBH trees by either (a) submitting a mitigation plan for review and approval indicating the installation of canopy trees no smaller than two and one-half (2.5) inches in caliper equaling inch per inch replacement, (b) by depositing funds into the Charleston County Tree Fund as described in Sec. 9.2.6 of the Charleston County Zoning and Land Development Regulations, or (c) a combination of both (a) and (b). The allotted mitigation shall be in

place prior to removal; (3) Tree barricades constructed of chain link fencing shall be installed around all protected trees within 40' of disturbance prior to any construction, pursuant to Sec. 9.2.4 of the Charleston County Zoning and Land Development Regulations; (4) The applicant shall retain a Certified Arborist to monitor and treat all Grand Trees onsite through the duration of construction. The applicant shall provide a copy of the treatment plan to Zoning Staff for review and approval prior to Site Plan Review approval for the construction of the vehicle sales use; and (5) The applicant shall work with staff to implement alternative sidewalk details for protected trees located along proposed sidewalks. Mr. Nelson seconded the motion. Mr. Jordan, Mr. Marchant, Mr. Nelson, and Mr. Woodul voted in favor of the motion. Ms. Switzer-Small and Mr. Williams voted against the motion. Two thirds of the members present, and voting (4 to 2), voted in favor of the motion to approve. Therefore, the application was approved with the above referenced conditions.

Mr. Boykin returned and was the Chair for the remainder of the meeting.

CASE# BZA-10-22-00616

Aaron Ede of Architecture Plus, LLC ("the Applicant") and Jim and Lorrie Doyle ("the Property Owner") filed a Variance request to reduce the required 50' front/street side setback by 24' to 26' at the closest point for the proposed front steps and front porch and a portion of the proposed residence; Variance request to reduce the required 50' OCRM Critical Line setback by 35.21' to 14.79' at the closest point for a proposed swim pool and steps and a portion of the proposed residence; and Variance request to reduce the required 35' OCRM Critical Line buffer by 20.21' to 14.79' at the closest point for a proposed swimming pool and steps and a portion of the proposed residence at 1444 Dupre Creek Drive in the East Area of Charleston County, TMS # 617-15-00-026. Rural Residential (RR) Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, Mr. Williams made a motion to deny the application stating the request does not meet criteria 3 and 6 of Sec. 3.10.6. Ms. Switzer-Small seconded the motion. The motion failed with a 2 to 5 vote. The board discussed deferring the application to give the applicant time to revise the site plan. The applicant requested the board vote on the application versus defer the application. The board determined that all items in Article 3.10 Zoning Variances, §3.10.6 Approval Criteria of the Charleston County Zoning and Land Development Regulations Ordinance (ZLDR) had been satisfied. Mr. Nelson made a motion to approve the Variance request with the following conditions: (1) Prior to commencing construction, silt fencing shall be installed along the Critical Line. The silt fencing shall be maintained for the duration of the construction; (2) The applicant shall use stormwater mitigation measures, such as the use of rain barrels or rain gardens, to reduce the flow of stormwater into the marsh; (3) The applicant shall submit a revised site plan, shifting the building closer to the front setback, within no less than 10' and no more than 15' measured from the front property boundary, reducing the encroachment areas that are within the OCRM Critical Line setback and that are within the OCRM Critical Line buffer; and (4) The revised site plan shall be reviewed and approved by the neighborhood's ARB. Mr. Jordan seconded the motion. The motion to approve the application was unanimous and therefore the BZA approves the following modified Variance with the above referenced conditions:

- to change the required 50' front/street side setback to no less than 10' and no more than 15'; and
- to change the required 50' OCRM Critical Line setback and the required 35' OCRM Critical Line buffer to no less than 25'.

CASE# BZA-10-22-00617

Susan Jackson and Marion Jackson ("the Applicant" and "the Property Owner") filed a Special Exception request to establish a Short-Term Rental Property, Extended Home Rental (EHR) in the Low Density Residential (R-4) Zoning District at 412 Riverland Drive on James Island in Charleston County, TMS # 343-10-00-001. Low Density Residential (R-4) Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, the board determined that all items in Article 6.8 Short-Term Rentals, §6.8.2 Operating Standards and Requirements, C. Special Exception of the Charleston County Zoning and Land Development Regulations Ordinance (ZLDR) had been satisfied. Ms. Switzer-Small made a motion to

approve the Special Exception with the following conditions: (1) Prior to zoning permit approval, the applicant shall complete the STRP, Limited Site Plan Review process; (2) The use shall comply with all requirements of Article 6.8; (3) This property shall not be used as a Short-Term Rental for more than 144 days in aggregate during any calendar year; (4) The property owner shall be responsible for ensuring that tenants comply with the Charleston County Noise Ordinance; and (5) Prior to the property being used or advertised as a Short-Term Rental the property owner must receive a Certificate of Occupancy from Charleston County Building Services. Mr. Woodul seconded the motion. The motion to approve the application was unanimous and therefore granted with the above referenced conditions.

The BZA had a 10-minute recess.

CASE# BZA-10-22-00618

John J. Campbell ("the Applicant") and Larry E. Campbell ("the Property Owner") filed a Special Exception request for the placement of a manufactured housing unit in the Highway 17 North Corridor Overlay Zoning District at 4979 Highway 17 North in the East Area of Charleston County. Highway 17 North Corridor Overlay Zoning District, Seewee Road Business/Service Node Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, the board determined that all items in Article 3.6 Special Exceptions, Section §3.6.5 Approval Criteria of the Charleston County Zoning and Land Development Regulations Ordinance (ZLDR) had been satisfied. Ms. Switzer-Small made a motion to approve the Special Exception request with the follow condition: (1) The manufactured home shall comply with Sec. 6.4.24.B. of the Charleston County Zoning and Land Development Regulations Ordinance. Mr. Williams seconded the motion. The motion to approve the application was unanimous and therefore granted with the above referenced condition.

CASE# BZA-10-22-00619

Fred Snype ("the Applicant" and "the Property Owner") filed a Special Exception request to establish a Short-Term Rental Property, Extended Home Rental (EHR) in the Special Management (S-3) Zoning District at 506 Judge Road in the East Area of Charleston County, TMS # 556-00-00-527. Special Management (S-3) Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, the board determined that all items in Article 6.8 Short-Term Rentals, §6.8.2 Operating Standards and Requirements, C. Special Exception of the Charleston County Zoning and Land Development Regulations Ordinance (ZLDR) had been satisfied. Mr. Marchant made a motion to approve the Special Exception with the following conditions: (1) Prior to zoning permit approval, the applicant shall complete the STRP, Limited Site Plan Review process; (2) The use shall comply with all requirements of Article 6.8; (3) This property shall not be used as a Short-Term Rental for more than 144 days in aggregate during any calendar year; and (4) The property owner shall be responsible for ensuring that tenants comply with the Charleston County Noise Ordinance. Mr. Boykin seconded the motion. The motion to approve the application was unanimous and therefore granted with the above referenced conditions.

CASE# BZA-10-22-00620

Christopher Tift Mitchell ("the Applicant" and "the Property Owner") and Ross Appel, Esq. of McCullough, Khan, Appel ("the Representative") filed a Variance request for three (3) existing accessory structures: to reduce the required 5' interior side setback by 3.4' to 1.6' and to reduce the required 20' front/street side setback along Stonewood Drive by 19.3' to 0.7' at the closest point for an existing one-story accessory building; To reduce the required 5' interior side setback by 4.6' to 0.4' and to reduce the required 20' front/street side setback along Stonewood Drive by 1.5' to 18.6' at the closest point for an existing uncovered deck; To reduce the required 20' front/street side setback along Stonewood Drive by 18.9' to 1.1' at the closest point for an existing uncovered pergola; and To increase the maximum 30% building coverage by 3.6% to 33.6% at 2151 Welch Avenue on James Island in Charleston County, TMS # 343-06-00-049. Low Density Residential (R-4) Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, the board determined that all items in Article 3.10 Zoning Variances, §3.10.6 Approval Criteria of the Charleston County Zoning and Land Development Regulations Ordinance (ZLDR) had been satisfied. Mr. Williams made a motion to approve the Variance request with the following condition: (1) The applicant shall obtain all necessary permits for the unpermitted accessory structures including permits to convert the existing one-story accessory building to an Accessory Dwelling Unit (ADU). Mr. Nelson seconded the motion. The motion to approve the application was unanimous and therefore granted with the above referenced condition.

Mr. Marchant recused himself from hearing Case # BZA-11-22-00621 and Case # BZA-11-22-00622.

CASE# BZA-11-22-00621

Angela Barnette with the Charleston County School District ("the Applicant" and "the Property Owner") and Sebastian Davis of ADC Engineering ("the Representative") filed a Variance request for the new Ladson Elementary School to remove four (4) Grand Trees and to encroach more than twenty-five percent (25%) for the protected area of two (2) Grand Trees at 3321 Ladson Road in the North Area of Charleston County, TMS # 390-00-00-079. General Office (GO) Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, the board determined that all items in Article 3.10 Zoning Variances, §3.10.6 Approval Criteria of the Charleston County Zoning and Land Development Regulations Ordinance (ZLDR) had been satisfied. Mr. Nelson made a motion to approve the Variance request with the following conditions: (1) Prior to zoning permit approval, the applicant shall complete the Site Plan Review process; (2) The applicant shall mitigate the removal of 123" DBH trees by either (a) submitting a mitigation plan for review and approval indicating the installation of canopy trees no smaller than two and one-half (2.5) inches in caliper equaling inch per inch replacement, (b) by depositing funds into the Charleston County Tree Fund as described in Sec. 9.2.6 of the Charleston County Zoning and Land Development Regulations, or (c) a combination of both (a) and (b). The allotted mitigation shall be in place prior to removal; (3) If either of the Grand Trees requested for encroachment (52" DBH Live Oak and 27" DBH Red Oak) dies within 3 years of the installation of completion of the school project, the applicant shall mitigate the tree or trees by either (a) submitting a mitigation plan for review and approval indicating the installation of canopy trees no smaller than two and one-half (2.5) inches in caliper equaling inch per inch replacement, (b) by depositing funds into the Charleston County Tree Fund as described in Sec. 9.2.6 of the ZLDR, or (c) a combination of both (a) and (b). The allotted mitigation shall be in place prior to its removal; (4) Tree barricades constructed of chain link fencing shall be installed around all protected trees within 40' of disturbance prior to any construction, pursuant to Sec. 9.2.4 of the Charleston County Zoning and Land Development Regulations; (5) The applicant shall retain a Certified Arborist to monitor and treat all Grand Trees onsite through the duration of construction. The applicant shall provide a copy of the treatment plan to Zoning Staff for review and approval prior to Site Plan Review approval for the construction of the new school; and (6) The applicant shall work with staff during the Site Plan Review process to satisfactorily reduce impacts of the fire lane and retaining walls on protected trees along the western property line. Mr. Woodul seconded the motion. The motion to approve the application was unanimous and therefore granted with the above referenced conditions.

CASE# BZA-11-22-00622

Angela Barnette with the Charleston County School District ("the Applicant" and "the Property Owner") and Margie Longshore of SMHa, Inc. ("the Representative") filed a Variance request to exceed the maximum height requirement in the General Office (GO) Zoning District. The maximum height is 35 feet or 2.5 stories, whichever is less. The proposed height of the new Ladson Elementary School is approximately 41 feet. The new school will be located at 3321 Ladson Road in the North Area of Charleston County, TMS # 390-00-00-079. General Office (GO) Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, the board determined that all items in Article 3.10 Zoning Variances, §3.10.6 Approval Criteria of the Charleston County Zoning and Land Development Regulations Ordinance (ZLDR) had

been satisfied. Mr. Nelson made a motion to approve the Variance request with the following condition:
(1) Prior to zoning permit approval, the applicant shall complete the Site Plan Review process. Mr. Woodul seconded the motion. The motion to approve the application was unanimous and therefore granted with the above referenced condition.

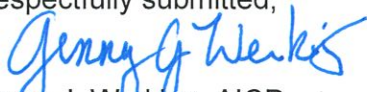
Additional Business

The BZA will hear ten new business cases at the January 9, 2023 BZA Public Hearing that will be held in-person in Council Chambers at 5:00 p.m. Mrs. Werking reminded the board members that the annual continuing education training is self-study and the deadline to finish the training is December 31, 2022. Mr. Woodul, Mr. Boykin, and Mr. Freeman were recognized by the Board for their time served. This was the final meeting for all three board members.

Adjournment

There being no further business, the board adjourned at 7:09 p.m.

Respectfully submitted,



Jenny J. Werking, AICP
Secretary to the BZA

RECUSAL STATEMENT

Member Name: Joe Boykin

Meeting Date: December 5th, 2022

Agenda Item: Section _____ Number: BZA-05-22-00589

Topic: Variance request to remove 4 grand trees.

The Ethics Act, SC Code §8-13-700, provides that no public official may knowingly use his office to obtain an economic interest for himself, a family member of his immediate family, an individual with whom he is associated, or a business with which he is associated. No public official may make, participate in making, or influence a governmental decision in which he or any such person or business has an economic interest. Failure to recuse oneself from an issue in which there is or may be conflict of interest is the sole responsibility of the council member (1991 Op. Atty. Gen. No. 91-37.) A written statement describing the matter requiring action and the nature of the potential conflict of interest is required.

Justification to Recuse:

_____ Professionally employed by or under contract with principal

_____ Owns or has vested interest in principal or property

X Other: County Councilman-elect for constituents in opposition of ^{the} project/application requesting ^{the} variance, whom have expressed same to this member during campaign

Date: _____

Member Joseph A. Boykin

Received by Chair: _____

JAB
Signature

12/5/2022
Date

Convincing of the ~~the~~ Ponderosa Community that occurred after the initial application was heard by the BZA on July 11th, 2022.

RECUSAL STATEMENT

Member Name: Marc Marchant

Meeting Date: Monday, December 5, 2022

Agenda Item: **Section** New Business **Number:** BZA-11-22-00621 and BZA-11-22-00622

Topic: Variance request for the new Ladson Elementary School and Variance request to exceed the maximum height requirement in the General Office (GO) Zoning District.

The Ethics Act, SC Code §8-13-700, provides that no public official may knowingly use his office to obtain an economic interest for himself, a family member of his immediate family, an individual with whom he is associated, or a business with which he is associated. No public official may make, participate in making, or influence a governmental decision in which he or any such person or business has an economic interest. Failure to recuse oneself from an issue in which there is or may be conflict of interest is the sole responsibility of the council member (1991 Op. Atty. Gen. No. 91-37.) A written statement describing the matter requiring action and the nature of the potential conflict of interest is required.

Justification to Recuse:

Professionally employed by or under contract with principal

Owens or has vested interest in principal or property

Other: Employed by the firm that currently is under contract (different project) with the applicant, CCSD.

Date: 12.05.2022



Member

Approved by Parliamentarian: _____