

A meeting of the Zoning Board of Appeals was held on **January 22, 2018 at 5:30 p.m.** in City Hall Council Chambers, 1911 Boundary Street. In attendance were Chairman Josh Gibson, board members Joe Noll, Nigel Stroud, Tim Wood, and Jody Caron, and Libby Anderson, planning director.

In accordance with the South Carolina Code of Laws, 1976, Section 30-4-80(d) as amended, all local media were duly notified of the time, date, place, and agenda of this meeting.

CALL TO ORDER

Chairman Gibson called the meeting to order at 5:32 p.m. and led the Pledge of Allegiance. He read the notice of compliance with the requirements of the Freedom of Information Act.

MINUTES

Chairman Gibson made a motion, second by Mr. Stroud, to approve the minutes of the December 20, 2017 meeting as submitted. The motion passed unanimously.

Chairman Gibson reviewed the procedure at ZBOA meetings.

REVIEW OF PROJECTS

2007 Pigeon Point Road identified as District R120, Tax Map 2, Parcel 136 Variance

Applicant: Carol Joyce Woods (ZB18-01)

The applicant is requesting a lot size and lot width variance in order to subdivide the lot.

Ms. Anderson said the lot is at the corner of Pigeon Point Road and Audusta Place on the Beaufort River. The parcel is zoned T3-S (Suburban); that zoning district requires a minimum lot area of 9,000-square feet, and for a waterfront lot, the requirement is for a minimum lot width of 100 feet, measured at the front setback line. A waterfront lot is also required to have a minimum lot depth of 125' on at least one side of the lot, she said; in T3-S, the side yard setback requirement is 10'.

A single-family dwelling is located on the lot, which is 28,000-square feet in area, Ms. Anderson said. It has a Pigeon Point address, but the dwelling faces Audusta Place. The applicant desires to subdivide the lot into two lots, she said.

The existing house lot – Parcel A – would be over 19,000-square feet in area and 120' in width, Ms. Anderson said. The new lot – Parcel B – would face Pigeon Point Road and would be 8,823-square feet in area and 66' in width. The applicant is requesting a 34' lot width variance and a 177-square foot lot area variance, she said.

The applicant originally provided a plat to staff that Ms. Anderson showed the board on an overhead. It showed the new lot meeting the 9,000 square foot lot area requirement,

with a lot width of 94', which is less than the 100' required by ordinance, but the staff could make an "administrative adjustment" for a discrepancy of less than 10%, and no variance would be necessary. However, the lot that would be created would have an odd shape, she said, and staff prefers more regularly shaped lots, even if they are narrower in width. Ms. Anderson said this lot would have a large, very shallow side yard, so what could be done in it would be very limited.

In the plats that were submitted for the variance request, no trees or topography are shown, Ms. Anderson said. However, a site visit showed that there are several "large-ish trees on the property," and the lot "sort of goes down" and drops off rather steeply toward the water," she said. Staff was concerned about the trees (e.g., "Are there good trees that should be saved?") and about the topography, so the applicant was asked to provide a tree and topographic survey as well as a conceptual site plan. The applicant provided the city with the survey on Friday; Ms. Anderson showed it on the overhead. There are laurel oaks, and under the new Beaufort Code, no permit is needed to remove them for development. There are also live oaks, but they are outside of the buildable area, she said.

"The rear of the property is currently in the flood zone," Ms. Anderson said; the minimum flood elevation is 13 feet, so the new dwelling would have to be elevated. New flood maps have been proposed for Beaufort County, she said, and a lot of property is coming out of the flood zone; this lot appears to be one of those. Ms. Anderson said this means that property owners should maintain their policies, but they would be priced much lower.

Ms. Anderson said the new dwelling would be likely to be located close to the street because of the topography. It's a high-traffic street, and the building would be highly visible, so what is built there should be of high quality, she said.

Ms. Anderson said the Beaufort Code offers a lot of flexibility about where garages are located on a waterfront lot. "Having it right up on the street" is not appropriate "from an urban design perspective," she said.

Standard public notice was made, Ms. Anderson said, and 2 public comments were received, which the board has copies of.

Ms. Anderson enumerated staff's opinions on the findings the board needs to make to approve this application for a variance:

1. **Exceptional and extraordinary conditions are attached to the property:** Staff feels this finding could be made; the lot is over 3 times the size of the minimum lot area required for the district. The existing dwelling was constructed to face Audusta Place, leaving a large portion of land (the house's side yard) facing Pigeon Point Road.

2. **Conditions don't apply to other properties in the vicinity:** Staff feels this finding could be made.
3. **Conditions are not the result of the applicant's own actions:** The applicant did not plat the lot, Ms. Anderson said.
4. **Granting the variance would not conflict with the Civic Master Plan or the Comprehensive Plan:** Ms. Anderson said the Comprehensive Plan and the Civic Master Plan encourage compatible infill development, and this could be compatible if appropriate conditions are placed on the approval.
5. **Application of the ordinance is an unreasonable restriction on the utilization of the property:** Ms. Anderson said the lot is over 3 times the size of the minimum lot area required for the district by the ordinance, so it might be an unreasonable restriction to prevent it from being subdivided.
6. **Granting the variance would not be a detriment to adjacent property and the public good:** Staff feels this finding could be made, if appropriate conditions were put on any approval, and if the applicant could demonstrate that the lot could be developed with a dwelling in scale with other dwellings in the area, Ms. Anderson said. She indicated how the subdivided lot would relate to surrounding lots. The less than 9,000-foot lot is not completely out of scale because there are "a lot of diverse lots in this neighborhood," she said.

Ms. Anderson said staff recommends approval with the following conditions:

- The dwelling to be built should have a door that fronts Pigeon Point Road.
- The dwelling should be elevated 2' above the adjacent street grade.
- If there is to be an attached or detached garage, it "cannot be located in front of . . . the dwelling," and the garage doors cannot face the street.
- New construction should be subject to the building design standards applicable "in some other neighborhoods" (e.g., for materials, windows, etc.) "to ensure the highest-quality design that's possible on this important lot."

Mr. Stroud said, "Many of the lots on Audusta Place face the water"; he asked Ms. Anderson for information about other lots in the area that do not. Ms. Anderson indicated some adjacent lots and compared their sizes with the applicant's lots if the property is subdivided.

Mr. Stroud recalled the ZBOA approving a variance for at least one waterfront lot "on Pigeon Point" Road so that "the garage was able to be in front of the house." Ms. Anderson said that's correct, but because of this lot's topography, "if the garage is in the front of the house, it's going to be 'right there' . . . as a feature on Pigeon Point Road, which is really not desirable." Because the lot is deep, there may be the possibility of going around the house and parking underneath it, she said.

There was a discussion about OCRM setbacks and the city's setbacks, which are not regulated by DHEC, Ms. Anderson said; the city's critical area buffer is 30'.

Carol Woods, the applicant, said her niece wants to buy this property from her to build on. Her house has “the same elevated area in the back,” she said, and there’s a basement under it; she assumes the builder that her niece spoke to is thinking of building the same type of house with a basement under it on the other lot (Parcel B).

Chairman Gibson asked if there is a plan yet for the new house and where it would go on the subdivided lot. Ms. Woods said her niece knows she wants to keep the house about 40’ wide and no more than 60’ long; she wants an 1,800 square foot house. As for plans, her niece has spoken to a builder, Ms. Woods said, “but nothing has been finalized.” Her niece is aware of the requirements, she said, and she would like to have a screened porch facing the water, and a garage on the front of the house that opens to the side. Chairman Gibson asked the garage would be attached or detached, and Ms. Woods said attached.

Ms. Woods said her house is about 1,700-square feet, so the new house would be about the same size as hers.

Mr. Stroud asked Ms. Anderson what the proposed flood elevation would be on this parcel; it’s currently 13’. Ms. Anderson said she wasn’t certain, but “everything is going down.” She knows this parcel is in the 500-year flood plain, so she estimated it is probably “going to 10’.” Mr. Stroud told Ms. Woods that, looking at her submission, the garage would be likely to flood if it’s below the new house. Ms. Woods said she wasn’t aware of being in the flood zone and she has “never had flood insurance.” A realtor had told her that her house wasn’t “really in a flood zone.” She agrees with Mr. Stroud that a garage under the house “wouldn’t work too well.” During hurricanes and storms, “the backyard has never flooded,” she said.

Mr. Stroud asked if Ms. Woods had an opinion about what staff had said about the lot being “a better lot” if it were rectangular, rather than “at an angle coming in.” Ms. Woods said it wouldn’t matter to her or her niece “if she had that little piece to make it whatever it’s supposed to be. I would prefer that, rather than telling her she can’t buy it.” It suited Ms. Woods to “have the other, and keep part of my front” on the existing lot, she said, but “it’s not a huge deal” to her.

There was no comment from the public.

Mr. Caron said he feels “there is not a lot of information” about the size and design of the house on the new parcel for the board to consider, which concerns him; he’d like to have more of a concept about the house. Chairman Gibson said if there are concerns about scale, the board could put a cap on that.

Mr. Wood said city staff made a number of recommendations to “control the quality of the structure” to be built. He asked if not allowing the garage in the front is “a hard-set rule.” Ms. Anderson said currently, a garage could be in the front of the house on a

waterfront lot, which tend to be fairly large and deep, but this new lot would be “smallish” and “not very deep.”

Chairman Gibson said the plat that the applicant originally submitted, in which the new lot would have an unusual shape, would allow a driveway.

Mr. Stroud asked, if the variance request were denied, and the applicant went to staff for the 10% waiver, what the restrictions would be on the garage. Ms. Anderson said staff might attach the same condition to the administrative adjustment as it suggested if the ZBOA approved the variance. Mr. Stroud asked if the city would have the ability to put such a condition on an administrative adjustment. Ms. Anderson said she would research that.

Mr. Stroud said he is an architect, and he feels the proposed variance “creates . . . problems.” He’s not “crazy about this variance” request, he said, and he’s not sure it meets all of the necessary criteria, so it might be better for everyone “if you could solve this another way.”

Ms. Anderson told Mr. Stroud that the administrative adjustment allows the administrator to approve a variance of 10% or less, to approve it with conditions, or to deny the application. She said she doesn’t know “what we would do.” Mr. Stroud described how he thought the applicant would have “more flexibility to deal with the problem of the slope” of the lot.

Mr. Wood said it sounds like the board should clarify which lot it’s considering. Several people told him that the board would be voting on the request for the proposed lot.

Ms. Anderson explained that if the applicant were to seek an administrative adjustment, she would fill out an application form; she said Ms. Woods is eligible to apply for it. Mr. Wood asked if the city would be able to have control over the garage if Ms. Woods applied for an administrative adjustment, and Ms. Anderson said yes, though “it would be more definitive” if the condition came from the ZBOA.

Chairman Gibson asked if the second proposal (as opposed to the original submission) was a result of the city’s recommendation to the applicant. Ms. Anderson said yes.

Mr. Wood said he doesn't feel that a suggestion Chairman Gibson had made “would help that much,” and he feels “we should stick with what’s before us.” When he first saw this property, he tended “to want to approve” the variance request, mainly because “the property butts up against that pump station, and then all that property is dead property, from there all the way around the cove,” so the new parcel “will have the appearance of a much bigger lot,” Mr. Wood said.

There is still “the problem about the garage,” Mr. Wood said, and he feels “the triangular front” in the original plat “helps that situation” in terms of traffic and, even if the garage is under the house, it “still helps with the cars.”

Mr. Stroud said he agrees with Mr. Wood about the triangular front in the original plat; even if the ZBOA approves this variance, “the petitioner would have the choice to do it or not do it.” He personally feels Ms. Woods is “better off not doing” the rectangular lot, and she had said she “actually preferred not to do that” but sought the variance for it “because the city suggested it,” Mr. Stroud said.

Ms. Anderson said Mr. Stroud was correct that however the board voted on the variance, Ms. Woods could “still . . . ask for administrative adjustment, [and] then [she] would have options: ‘I like the wide lot . . . I like the narrow lot,’” with any conditions staff might put on it.

Mr. Stroud said he was inclined to vote in favor of the variance with staff’s conditions, “with the exception of . . . the restrictions that staff wants to put on the garage,” which he thinks “creates more problems.”

Mr. Wood suggested another option would be to table the application, and since the board’s main issue is with “cars and the garage,” Ms. Woods could come back to the ZBOA with an idea about what would be done with the cars at the new house.

Mr. Stroud said there would be “many more possibilities to solve the problem with this extra triangular area attached to that piece of property.”

Mr. Caron asked if Ms. Woods understood what the board was discussing. Ms. Woods said yes, they’re discussing that with the original plat, “it would make it easier to have the garage because there is more property to drive on to go into the garage.” She and her niece have discussed “a shared space,” she said, because Ms. Woods would like to “redo my house, also.” A garage in front of the new house would “look 10,000 times better than the lift station” that is “right next to it” now, Ms. Woods said. The new house would be “appealing,” and a garage in front would “not take away from anything in the neighborhood.” She added that they “would rather do everything to the back so those apartments” that are “across the street” are “kind of buffered from” the houses on her property.

Chairman Gibson said the city’s perspective is that if a 2-door garage is on the front of the house, it would take up “more than half of the [width of] the front yard,” so the garage – not the house – would be “the dominant feature that faces the street,” which is where the staff’s “aesthetic concerns come from.” Ms. Woods said she understands his point, and her niece wants to “enter [the garage] from the side.”

Chairman Gibson discussed the board's options: If the ZBOA approves the variance request, staff recommends attaching conditions; if the board tables the request, and the city declines the applicant's administrative adjustment, Ms. Woods would have more flexibility and would not have to pay another fee to come back to the ZBOA. Ms. Anderson said that would also give the applicant an opportunity to answer questions the board had raised about the site plan, the garage, etc. Chairman Gibson explained to Ms. Woods what would occur if the request were tabled. She could go to staff for an administrative adjustment if the board declined the variance request, he said, but she couldn't come back to the ZBOA with this request for a year.

Mr. Stroud said he thinks the condition on the garage is "extremely limiting," and is "going to create a big problem," but he likes the other conditions recommended by staff. Mr. Wood said he's curious about how the garage and cars would be handled, so he favors tabling the request.

Gayle Carroll lives on Fripp Island, and she said she would be one of the residents of the Pigeon Point house. She said Ms. Woods's niece has looked at "hundreds of plans" for the new house, though she has made no decision; she knows the niece doesn't plan to park underneath the new house because of water issues. Ms. Woods didn't know about staff's "stipulation about the garage" until tonight, Ms. Carroll said.

Chairman Gibson explained to Ms. Carroll why the board was considering tabling the request. Ms. Carroll said Ms. Woods is asking the board to approve the variance request, but her second choice would be to table the application. Chairman Gibson said the board is leaning toward the idea that "the original plat" is the best solution, but they can't vote on that as an option, and Ms. Woods doesn't need a variance for that, anyway. If the applicant wants the original plat, she could apply to the city for an administrative adjustment, he said, but if the ZBOA tables the variance request, and staff denies the administrative adjustment, Ms. Woods would be able to come back to the ZBOA for the variance request.

Mr. Stroud said tabling the request gives the applicant "all options" and "time to think about the best solution." Mr. Caron asked how long a period the request should be tabled for. General responses were 90 days, and Chairman Gibson said the applicant could say how long she wanted it tabled. He asked Ms. Woods if 90 days would be enough time to present an alternate plan; Ms. Carroll said Ms. Woods's niece is moving within 3 weeks and had planned to talk to a builder then.

Mr. Caron made a motion to table the variance request for 90 days or less; the applicant could then come back to the ZBOA or could go to staff for an administrative adjustment. Mr. Stroud seconded the motion. The motion passed unanimously.

There being no further business to come before the board, **Chairman Gibson made a motion to adjourn** and ended the meeting at 6:36 p.m.