

TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS
SUMMARY OF MAY 20, 2014 MEETING

Members Present: Chair, Mr. Sim Parrish, Mr. Jim Fralix, Mr. Jason Gregorie, and Mrs. Brook Lyon.
Absent: Mr. Roy Smith (gave notice). A quorum was present to conduct business.

Also Present: Bonum Wilson, BZA Attorney, Kristen Crane, Town Planner, Councilman Leonard Blank, and Robin Flood, Administrative Assistant (Recorder).

Call to Order: Chairman Parrish called the Board of Zoning Appeals meeting to order at 7:00 p.m.

Prayer and Pledge: Chairman Parrish led the prayer, followed by the Pledge of Allegiance.

Compliance with the Freedom of Information Act: Staff has met the requirements of state law for notification of this case to be heard by the Board of Zoning Appeals at this meeting. The notification procedures were completed by staff fifteen (15) days prior to this meeting, a public notice was printed in the Post and Courier, signs were posted at the designated property, and notices were mailed to property owners within 300 feet of the application and to parties of interest. Persons, organizations, and the news media that have requested declaration of our meeting have also been notified. The Freedom of Information Act does not require notification of anyone other than the applicant and parties of interest.

Introductions: Chairman Parrish introduced the members of the Board of Zoning Appeals, BZA Attorney, Town Council, Town staff, and Planning Commissioners.

Review Summary and Rulings from the April 15, 2014 BZA Meeting: Mr. Fralix moved to approve the minutes of the April 15, 2014 meeting; Mr. Gregorie seconded. The roll was called and all voted in favor of approval.

BZAS-V-3-14-001

425-01-00-002

1860 Cornish Avenue

Variance request for the reduction of the 25' required front setback by 6.06' to 18.94' and the 10' required interior side setback by 2.40' to 7.60' for the encroachment of a garage addition.

Approved with a Condition

Brief the Public on the Procedures of the Board of Zoning Appeals: Chairman Parrish gave an explanation of how the Board of Zoning Appeals Hearing would be conducted.

Executive Session to Receive Legal Advice on Appellate Issues: Chairman Parrish announced that the Board of Zoning Appeals would be entering into an executive session at 7:15 p.m. to receive legal advice from its attorney on an appellate issue.

Return to Regular Session: The Board of Zoning Appeals returned to regular session at 7:30 p.m. Chairman Parrish announced that no votes were taken during the executive session.

Administer the Oath to those Presenting Testimony: Attorney Wilson swore in persons who wished to provide testimony in tonight's case.

Review of the Following Applications:

Old Business:

BZAS-2-14-002
425-08-00-023
792 Folly Road, F1

Chairman Parrish announced that the Board of Zoning Appeals will consider whether or not to reconsider a condition on Case BZAS-2-14-002 (Special Exception request for the sale of alcoholic beverages in a restaurant (White Duck Taco) in the Community Commercial District) at its next available public hearing. This case was approved by the Board of Zoning Appeals on March 18, 2014.

Chairman Parrish asked for a motion. Mr. Gregorie moved to table whether or not to reconsider a condition on this case; Mr. Fralix seconded the motion. Mr. Gregorie stated that his reason for tabling the request is because the applicant is not present. The roll was called and votes were recorded as follows:

Mr. Fralix	aye
Mr. Gregorie	aye
Mrs. Lyon	aye
Chairman Parrish	aye

The motion to table reconsideration was unanimous.

New Business

BZAV-4-14-002
428—03-00-060; (-024, -069)
1054 & 0 Dills Bluff Road
Variance request for the removal of four (4) grand trees

Town Planner, Kristen Crane, presented the staff review. The applicant and property owner, Michelle Bright Scott, (represented by HLA and Pulte Homes) is requesting a variance to remove four (4) grand trees at 1054 and 0 Dills Bluff Road (TMS #428-03-00-060, - 024 and -069). One manufactured home and two abandoned buildings are located on the property. The subject property and surrounding properties on the east of Dills Bluff Road are located in the Low-Density Suburban Residential (RSL) Zoning District and is in the jurisdiction of the Town of James Island; one residential property is in the jurisdiction of the City of Charleston. On the west of Dills Bluff Road, properties are located in the Community Commercial (CC), the Low-Density Suburban Residential (RSL) and the Moderate-Density Suburban Residential (RSM) Zoning District and are under the jurisdiction of the Town of James Island. Mrs. Crane reviewed the Town of James Island’s Zoning and Land Development Regulations Ordinance, Article 9.4.5 Tree Removal, §9.4.5B; “Grand Trees and protected trees that do not meet the criteria may be removed only where approved by the Board of Zoning Appeals, and shall be replaced according to a schedule determined by the Board. The Planning Director will make recommendations to the Board concerning the number, species, DBH or caliper, and placement of such trees”. Grand trees are defined in Chapter 12, Definitions, Article 12.1: Terms and Uses, “... *all species of tree measuring 18” or greater diameter breast height (DBH) except Pine, Sweet Gum and Chinese Tallow.*”

The staff conducted a pre-application conference at the Charleston County Zoning and Planning Office on September 3, 2013. The applicant would like to rezone the property to the Planned Development (PD) Planning District with thirty (30) homes and three (3) HOA maintained areas. The four (4) requested trees: 19” Laurel Oak, 7.6”+13” Laurel Oak, 13”+15” Laurel Oak and 7”+9”+10”+17”+21” Cedar are located within the footprint of two of the proposed homes and within the proposed right-of-way. The

applicant's letter of intent states, "when the development criteria created difficult decisions in laying out a safe well planned community the design team used the analysis to ask for the removal of the trees in the poorest health in order to preserve the trees in better health. Using this strategy, the project looks to provide a positive long term healthy canopy which will be in keeping with the character of the community". Staff conducted a site visit of the subject property in September 2013, and on April 30, 2014.

Mrs. Crane reviewed the Findings of Facts. Afterward she stated that the Board of Zoning Appeals may approve, approve with conditions or deny Case #BZAV-4-14-002 (variance request for the removal of four (4) grand trees at 1054 and 0 Dills Bluff Road (TMS #428-03-00-060, -024 and -069) based upon the Findings of Facts unless additional information is deemed necessary to make an informed decision. In the event the Board decides to approve the application, they should consider the following conditions:

- 1) The applicant/owner shall mitigate the removal of the four (4) grand trees by (a) submitting a mitigation plan and installing canopy trees no smaller than two (2) inches in caliper equaling inch per inch replacement, (b) by depositing funds equaling inch per inch replacement value into the Tree Fund as described in §9.4.6 of the Ordinance, or (c) a combination of both (a) and (b).
- 2) Prior to obtaining a Zoning Permit for the proposed site improvements, the applicant/owner shall provide documentation that the remaining grand trees on the properties have been pruned and fertilized as recommended by a Certified Arborist, in order to mitigate potential damage to the trees caused by construction.
- 3) Prior to obtaining a Zoning Permit for the proposed site improvements, the applicant/owner shall install tree barricades around the remaining grand trees on the property, as described in §9.4.4 of the Ordinance.
- 4) No trees are to be removed from the property until final approval of the Planned Development (PD) and Subdivision has been obtained from Town Council and Planning Commission, respectively.

Questions from the Board

Mrs. Lyon asked why the Board of Zoning Appeals was hearing this case before it went to the Planning Commission and the zoning is approved. Mrs. Crane said there is no set schedule to do this, and that the applicant could choose. Mrs. Crane said this process was suggested because a Planned Development is months long, requires public workshops, two meetings with the Planning Commission and Town Council, as well as the applicant receiving approval or denial of variance for the trees.

Mr. Fralix asked how many trees will be mitigated and Mrs. Crane said it would be inch-per-inch replacement.

Applicant: Graham Hawkins,
55 Colleton Drive, Charleston, SC

Charlie Tipton
1349 Ellison Run, Charleston, SC

Gret Mackintosh
1244 Marvin Avenue, Charleston, SC

Mr. Hawkins stated that the intention of the project is to take the natural beauty that exists in the property and encompass it to the vision of the community.

Gret Mackintosh, Project Manager and Landscape Architect, HLA, Inc. provided an overview of the proposed development and the request for the removal of four (4) grand trees as part of an effort to develop a single family community on the property. The Board was shown the finalized site plan and the applicant's vision for the development, including the proposed mitigation plan.

Charlie Tipton, the developer, presented an overview of the development process. He explained the process of clear-cutting and selective clearings. None of the trees on the property will be clear-cut. The Board was shown a Power Point of the grand trees that will be preserved and those that will be replaced through the mitigation. Mr. Tipton also talked about trees that will be saved through selective development shown in the presentation. Mr. Tipton commented on the various projects that were proposed for this property. He said their proposal is for a single-family development that is carefully thought out to preserve as many trees as possible. He thanked the Board for its consideration.

Questions from the Board

Mr. Fralix asked what the acreage of wetland is. Ms. Mackintosh responded 1.08 and Mr. Tipton added that another 1.0 acre will be for preservation.

Mr. Gregorie asked if the pond currently exists; the reply was that a pond does not exist. Mr. Gregorie also asked if that area will be a permanent pool pond for drainage, which was confirmed. Mr. Gregorie asked for the specific size of the four (4) trees to be reviewed once again. Mrs. Mackintosh stated it is a 7.6"+13" Laurel Oak; 13"+15" Laurel Oak; 7"+9"+10"+17"+21" Cedar; and a 19" Laurel Oak. These are the trees requested for removal. She said all of these trees were graded "c" with questionable longevity and health concerns.

Mrs. Lyon said in the first Findings, it states an abundance of grand trees and asked how many trees will be saved. Ms. Mackintosh said 104 grand trees are located on the property. Mr. Tipton said the arborist was present and he could also answer questions. The arborist rated the health of the trees that were graded "d" and "f". Mrs. Lyon asked if all of the other trees will be saved with the exception the four grand trees. Mr. Tipton said no. He said under the Town's Ordinance the staff can authorize the removal of trees that are graded "d" or "f". Mrs. Lyon asked and it was confirmed that all of the trees graded as "d" and "f" and the four grand trees will be taken down if a variance is approved. Mrs. Lyon asked how many "d" and "f" trees there are and Ms. Mackintosh said there are 37.

Mrs. Lyon asked for an explanation of roads, marsh, retainer pond and green space vs. developed sites. Mr. Tipton stated that the overall development is 11 acres; wetland 1.2 acres; upland pocket .3 acres; this will not be touched; tree preservation area 1.0 acre; storm water is 1.5 acres. There would be four undeveloped areas.

Mrs. Lyon asked the size of the lot per house. Ms. Mackintosh said 50x100; this could vary but roughly it is 1/6 of an acre.

Mr. Gregorie asked and received clarification on the color coding of the trees depicted on the site plan.

Mrs. Lyon asked if the application is approved, and should mitigation be attached to it, would the trees be mitigated on site; is this something the applicant is willing to do. Mr. Tipton responded yes. He commented on the Town's tree mitigation ordinance which is inch-by-inch and trees can be placed within the community. His company's tree mitigation has been interior development, but they are willing to do it either way.

Mr. Gregorie asked if it is possible to mitigate 100% inch-by-inch replacement and keep the trees on site. Mr. Tipton said yes, based on the four trees they are asking a variance for they can replace inch- by-inch at 2.5 inch caliper trees and that would fit on the plan

Mr. Fralix asked how many lots are to be built on the property. Mr. Tipton replied there will be 30 lots.

In Support of the Application

Bryan Keith Bright, 1130 Seaside Lane: Mr. Bright stated that he and his family live on James Island and represent the people here. He spoke in favor of the Town's Tree Ordinance. They are not in favor of clear cuttings and want to be a good neighbor. Mr. Bright said the family wants to see the ancestral heritage of Kit Bright preserved and he believes this project is an excellent opportunity to do that. He stated that Pulte have represented themselves well and the project will be good for James Island.

In Opposition to the Application: No one spoke in opposition.

Town Planner, Kristen Crane stated for the record that the Board of Zoning Appeals received copies of three (3) emails that were sent in opposition to the application. Copies of these emails are attached as a permanent record to these minutes.

Chairman Parrish closed the Public Hearing at 8:00 p.m. and asked for a motion to approve, deny, or approve with conditions Case BZAV-4-14-002. Mrs. Lyon moved to approve the application with conditions; Mr. Gregorie seconded. Mrs. Lyon stated the following conditions:

- 1) Trees be removed contingent on zoning changes approved by the Planning Commission to the Planned Development , the PD Planning District
- 2) The trees only be removed preceding with the development plans as presented
- 3) The mitigation of the trees, inch per inch on property with grand trees
- 4) Fertilizing and pruning of the other trees by a certified arborist to protect the other grand trees that are left

Mr. Gregorie commented on condition #2; that this is what the community workshop and the Planning Commission is for. He said this is a condition that the Board of Zoning Appeals may not want to address; it should be addressed through the other process. Mrs. Lyon said her concern is what happened with the Ropes Course. When approval was given for tree removals, the entire plan was scrapped and something totally different was done. This is her reason for the condition. Mrs. Lyon asked if the condition could be modified to address Mr. Gregorie's concern. Mr. Fralix asked if the condition could be covered under condition #1.

Councilman Blank informed the Board that the Planning Commission does not approve Planned Developments; they make recommendation to Town Council and Town Council approves PD's.

After discussion, Mrs. Lyon moved to approve Case BZAV-4-14-002, a variance request for the removal of four (4) grand trees with the following conditions:

- 1) Trees be removed contingent on the zoning change as recommended by the Planning Commission and approval of the presented development plan by Town Council
- 2) Mitigation of the four (4) trees inch-per-inch on site as stated by the developers
- 3) Remaining Grand Trees on-site shall be pruned and fertilized as recommended by a certified arborist in order to mitigate potential damage to the remaining trees caused by construction.

Mr. Fralix seconded the motion. The roll was called and votes were recorded as follows:

Mr. Fralix aye
Mr. Gregorie aye
Mrs. Lyon aye
Chairman Parrish aye

The motion passed unanimously with the conditions stated. Chairman Parrish announced that the final decision of the Board will be mailed to the applicant within ten (10) days and the applicant should contact the Zoning staff if they have questions.

Additional Business

Next Meeting: No applications were received for the June 17, 2014 meeting. The next meeting will be held on July 15, 2014.

Adjourn: There being no further business to come before the body, the meeting adjourned at 8:20 p.m.

Transcribed by:



Frances Simmons
Secretary to the BZA