

Kershaw County Board of Zoning Appeals



(803) 425-1500 ext. 5340
515 Walnut Street
Room 160
Camden, SC 29020

MINUTES

KERSHAW COUNTY BOARD OF ZONING APPEALS
APRIL 1, 2008 REGULAR SESSION
COUNCIL CHAMBERS, KERSHAW COUNTY GOVERNMENT CENTER
CAMDEN, SOUTH CAROLINA

Members Present: A.J. Cooke, Bill Denton, Greg Newman, and Sam Pruett

Members Absent: Stephen Staley

Staff Present: Carolyn Hammond, John Newman

CALL TO ORDER

Vice Chairman, Bill Denton, called the meeting to order at 5:33 p.m.

MINUTES

Minutes from the January 3, 2008 regular meeting were reviewed. The motion to approve was made by Greg Newman, seconded by Sam Pruett, and approved by all.

STATEMENT OF PUBLIC NOTICE

Bill Denton read the following statement of public notice.

NOTICE IS HEREBY GIVEN that the Kershaw County Board of Zoning Appeals will hold a public hearing at 5:30 PM on Tuesday, April 1, 2008, in Council Chambers at the Kershaw County Government Center, Camden, SC for the purpose of hearing and deciding the following requests:

Gladys Gibson is requesting a variance on the side setback for the construction of a storage building as required in Table 2 of the Kershaw County Zoning Ordinance. The property is located at 2219 Lakeshore Rd., Camden, SC, TMS# 161-01-43-152.

St. Paul United Methodist Church is requesting a variance on the side and front setbacks for construction of a new sanctuary as required by Table 2 of the Kershaw County Zoning Ordinance. The property is located at 511 Knights Hill Rd., Camden, SC, TMS# 256-00-00-033.

Kevin Wilburn is requesting an administrative appeal on the erection of roof sign at Sonic Drive-In which is not allowable under Table 6 of the Kershaw County Zoning Ordinance. The property is located at 804 Hwy. 1 South, Lugoff, SC, TMS# 296-12-00-016A.

PUBLIC HEARING CASE #08-05 (Gladys Gibson)

Parker Gibson said he wants to construct a garage for his boat. He has selected a specific site because of its convenience in backing the boat. It does, however, place the proposed building four to five feet from his side property line instead of the required ten. There is a ten to fifty foot conservation easement and large drainage ditch on the adjoining property

to his left that would serve as a buffer, as nothing can be built within that easement. He stated his neighbor to the right has a relatively new auxiliary building that is located in the setback area. If he placed his garage on that side of the property, the two structures would be very close together.

PUBLIC HEARING CASE #08-04 (St. Paul United Methodist Church)

George Gibson reported that St. Paul United Methodist Church wanted to build a new sanctuary just north of their current sanctuary. He requested a side setback of ten feet instead of the required 20, and a front setback of 25 feet as opposed to the required 35. The adjacent property is owned by the Knight's Hill Development Board and is used as a Kershaw County park. St. Paul UMC owns property behind their church campus and it is accessed by a recorded 25-foot easement between the church property and the park. This easement would serve as a buffer between the proposed building and the adjacent park property. As for the front setback variance request, Mr. Gibson explained that front setbacks of residences in the area vary in their distances from the street. If the church were granted the front setback variance, it would be an asset to the community and not cause any harm.

PUBLIC HEARING CASE #08-03 (Kevin Wilburn for Sonic Drive-In)

Kevin Wilburn explained that, as Managing Partner of the Sonic Drive-In, his responsibility is to run the restaurant and manage his employees. For this reason, he was initially unaware of the issues pertaining to the construction project. He said the plans were submitted and approved by the Planning and Zoning Department on or before October 30, 2007. Based on plans approval, materials for the project were ordered in December of 2007. He felt they had gone by the rules and had done what was required when submitting the plans.

Tim Edens, Contractor with Metts Construction, told the Board that, based on the plans being approved, he purchased the materials for the retrofit which included a roof sign. On Friday, February 15, 2008, when Building Inspector Robert Keasler made a requested footer inspection, he left a Code Violation Notice stating that Planning and Zoning needed to be contacted regarding sign regulations and permitting. At the bottom of the notice, the inspector wrote that the contractor could pour the column footings. Mr. Edens went to Planning and Zoning the following Monday, February 18th to apply for the sign permits. At that point, he learned roof signs were not permitted in Kershaw County.

Mr. Edens said all aspects of the project – electrical systems, signs, etc. were stated on the plans and he felt he should have been notified that roof signs were not allowed during the plans approval process when problems could have been addressed. Had he known roof signs were not allowed, he would not have ordered the materials for the particular canopy he constructed.

He reported he has worked on Sonics all over the United States where approval of plans customarily meant approval of all aspects of the project, but not necessarily all permits. He has retrofitted ten stores in this area, and none of the stores in the Columbia area required separate sign permits.

After Mr. Edens finished speaking, the Vice Chairman closed the public hearing.

BOARD DISCUSSION AND ACTION ON CASE #08-03 (Kevin Wilburn for Sonic Drive-In)

John Newman explained that the Board was not hearing a request for a variance, but a request by Sonic to appeal Staff's decision to deny a roof sign. He informed the Board that Kevin Wilburn was not directly involved in the construction project and was not at fault in the matter. In response to the comment of Mr. Edens about sign permits not being required by most area jurisdictions, Mr. Newman said he had been a planner for Richland County and Blythewood, and knew for a fact that both jurisdictions required sign permits. In addition, approval of architectural plans did not mean approval of the entire project with any jurisdiction he was aware of. He stated that P&Z had approved the plans, that Mr. Edens was correct in saying that the signs were depicted on the submitted plans, and that the plans reviewer did not notice the signs. Mr. Newman stated he did not feel Staff made an error because the Zoning Ordinance does not permit roof signs anywhere in the County. He said he and his staff were correct in denying the permit and felt they went through the proper procedure. Mr. Newman asked Mr. Edens why he proceeded with the project after receiving the Code Violation Notice.

Mr. Edens displayed the Code Violation Notice, pointed out where it said he could pour the column footings, and where it stated he needed to contact Planning and Zoning regarding sign regulations and permits. He said he interpreted it to mean he could proceed with the footings which held the column which held the roof sign, and that he only needed to contact Planning and Zoning.

Greg Newman stated he could understand how Mr. Edens could interpret the notice to mean he could proceed with the sign column. He also said he understood that John Newman was going by the County's regulations. He added he realized every jurisdiction was a little different with its sign regulations and permitting procedures. He asked if there was a checklist that identified the steps and approvals a project goes through. John Newman replied that such a list exists, is given out, and the requirement of getting a sign permit is on the list. Greg Newman asked if the awning was depicted in the plans. John Newman said it was clearly shown, that it was not the plans reviewer's responsibility to look at the sign, that someone on staff could have informed Sonic they needed to apply for a sign permit, but that was not done at the time of plans review.

Tim Edens said that buying permits was altogether different and admitted that when plans are approved, it does not mean permits are automatically issued. He stated that permits are applied for after everything has been approved. He went on to say that on the 15th of February, he had not built everything. At that point, their work only involved materials that had been ordered based on his impression that everything relating to the entire project had already been approved. When he received the notice telling him to contact Planning and Zoning about the sign permit, he had only made the awning footers and replaced some siding. John Newman responded that there was a difference between a building permit and a sign permit.

Mr. Edens said the notice was received on Friday, February 12th and that he went to Planning and Zoning on Monday morning. After learning a roof sign was not allowed, he received a variance application. He returned the next day with the completed application to learn from Carolyn Hammond and John Newman that he would have to apply for an

appeal because a variance cannot be granted for something that is not allowed at all. He stated he agreed with that and applied for the appeal the next day.

Bill Denton asked if, as of the date of the hearing, any work on the canopy had been done. Mr. Edens said everything had been completed except the installation of the sign. John Newman explained that in this situation, the awning is the sign frame. Mr. Denton asked if the awning was up when Mr. Edens received the Code Violation Notice. Mr. Edens said at that point, they had just done the footings.

Bill Denton stated that he felt that this was a problem on both sides and called for a motion. Greg Newman motioned that the appeal be granted. After there was no second, Mr. Denton asked if there were any other motions. Sam Pruett motioned to deny the appeal. A.J. Cook then seconded Greg Newman's motion to grant the appeal because he felt the County dropped the ball. Greg Newman and A.J. Cooke voted in favor. Sam Pruett and Bill Denton's opposing votes resulted in a tie. Mr. Denton asked John Newman what was to be done in the event of a tie vote. Newman stated that, according to Robert's Rules of Order, a tie vote meant the motion failed. He said someone could restate the motion or make a different motion to make a compromise or deny the appeal, but allow a waiver. He added that on a technicality, a way they could do that was say that procedures were followed, but a waiver could be allowed to put up the sign. A discussion followed after which time the Board closed the matter.

BOARD DISCUSSION AND ACTION ON CASE #08-04 (St. Paul United Methodist Church)

John Newman reviewed the Staff Report, explaining how site conditions enter into the granting of a variance. The 25-foot easement between the church and park creates a setback in excess of what is required. Because of this, he felt it met the grounds for a variance. In reference to the front setback, he told the group that there is a provision in the Zoning Ordinance that says if there are uniform pre-existing building setbacks that do not meet the zoning requirements, you can adjust the setbacks to the pre-existing setbacks. This does not quite meet that standard, but it does indicate that consideration for the uniform setback within a neighborhood should be considered. Since, as Mr. Gibson stated, there are no uniform setbacks, Staff did not feel that granting the variance would compromise the integrity of surrounding area. He, therefore, felt the variance should be approved. A.J. Cooke made the motion that the Board accept the setbacks of 25 feet in the front and 10 feet on the side. The motion was seconded by Greg Newman, and all voted in favor.

BOARD DISCUSSION AND ACTION ON CASE #08-05 (Gladys Gibson)

John Newman told the group that there are unique property conditions of a drainage ditch and a conservation easement on the lot to the left of Mr. Gibson's property. Nothing can ever be built or done on the easement. The conservation easement creates a setback where, in this situation, there can never be two buildings close to each other which is the intention of setback requirements. There are, however, alternate locations for the boat storage buildings, but Staff did not find that it would cause any substantial harm or detriment to the intent of the law or the neighborhood if the variance was granted. Sam Pruett moved to approve the variance request. Greg Gibson seconded, and all voted in favor.

DISCUSSION OF PROPOSED DATES FOR CONTINUING EDUCATION TRAINING

The Board discussed possible dates for their required three hours of continuing education training. It was decided that John Newman would select a date between May 3 and May 15, 2008, and let the group know.

OTHER ITEMS

There were no other items.

ADJOURNMENT

Bill Denton called the meeting adjourned at 6:36 p.m.

Respectfully submitted,

Carolyn B. Hammond

Carolyn B. Hammond
Secretary