

Kershaw County Board of Zoning Appeals



MINUTES

**KERSHAW COUNTY BOARD OF ZONING APPEALS
JANUARY 3, 2008 REGULAR SESSION
COUNCIL CHAMBERS, KERSHAW COUNTY GOVERNMENT CENTER
CAMDEN, SOUTH CAROLINA**

Members Present: Bill Denton, Greg Newman, Sam Pruett, Stephen Staley

Members Absent: A.J. Cooke

Staff Present: Carolyn Hammond, John Newman

CALL TO ORDER

Chairman Greg Newman called the meeting to order at 5:34 p.m.

MINUTES

Minutes from the December 4, 2007 regular meeting were reviewed. Motion to approve was made by Stephen Staley, seconded by Sam Pruett, and approved by all.

STATEMENT OF PUBLIC NOTICE

Greg Newman read the following public notice:

NOTICE IS HEREBY GIVEN that the Kershaw County Board of Appeals will hold public hearings at 5:30 PM on Thursday, January 3, 2008, in Council Chambers at the Kershaw County Government Center, Camden, South Carolina for the purpose of hearing and deciding the following requests:

David Bradley is requesting a variance on the Conditions for Home Occupations of Article 4, Section 4-20 of the Kershaw County Zoning Ordinance. The property is located at 642 Beverly Hills Road, Camden, South Carolina, TMS# 259-08-00-014.

David Hockey for Alltel Communications is requesting a variance on the Conditions for Communications Towers and Antennas of Article 4, Section 4-11 of the Kershaw County Zoning Ordinance. The property is located at 1689 McRae Road, Camden, South Carolina, TMS# 272-17-00-066.

PUBLIC HEARING CASE #08-01

Case: The applicant, David Bradley, wishes to conduct a catering service as a home occupation. He requests a variance from Section 4-20 (1) which requires that the home occupation be carried on wholly within the principal building. He would like to build a detached catering kitchen on his property at 642 Beverly Hills Road in Camden. SCDHEC (the Health Department) is requesting that the kitchen for the catering service be separate from the residence. Planning and Zoning has determined that building a separate structure and connecting it to the existing

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residence with a breezeway would meet the requirements for condition (1) that the home occupation be carried on wholly within the principal building. However, because of conditions on the property, the applicant states that he cannot construct the kitchen building at a location that can be connected to the principal building (the residence).

David Bradley stated that he wants to build the kitchen in a separate structure and does not want to attach the kitchen to his house with a breezeway. When asked about his business, he replied that his wife runs a catering business and he is a certified chimney sweep. They had previously operated a fireplace business on Lyttleton Street. Because of an increase in rent and a lack of walk-in business, they decided to close the retail store and concentrate on the catering and chimney sweep businesses as home based operations. He added that there will be no business traffic and no merchandise displayed on the premises. He said he would store his chimney sweep supplies on site, but would operate that business out of his van. He closed by telling the Board that certain site conditions prohibit attaching the kitchen to the home.

Ken Barfield, an adjoining property owner, presented petitions from neighbors opposing the Bradley's plans. He and his neighbors feel the business uses will reduce property values, increase traffic, and create other problems in the neighborhood. He asked Mr. Bradley about his previous statement that members of County Council would allow the property to be rezoned commercial. At this point, John Newman explained that this was not a request for a rezoning, but strictly a request for a variance to home occupation.

Mike Barfield added that the Bradleys are running a commercial business out of their home and are using the variance as a way to sidestep a commercial license and get around Planning and Zoning.

Algie Davis read a letter that the Bradleys distributed in late October informing their neighbors of their intentions to move Camden Fireplace and Grills to a home based location. The letter stated that they planned to build a building for warehousing supplies with a covered outdoor area for grills. She expressed her concern and opposition because of the effect it will have on the neighborhood.

Angela Bradley presented copies of petitions signed by seven neighbors supporting their plans. She explained they were going to apply for a rezoning, but had decided against it. She said she was the only person working in the catering business, and that her husband was the only person working in the chimney sweep business. There will be no retail store and no other employees. She explained that they cannot attach the kitchen to their home because of the location of a concrete deck and pool, septic tank and drain field, air conditioning unit, and the steep slope on the left side of the house. The building needs to be on the back of the lot because of transmission lines that run diagonally across the property. The majority of the 2500 square foot building will be a commercial kitchen. The remainder will be a large storage area. The exterior of the building will be Hardie plank with a shingled roof. They plan to construct an eight foot privacy fence behind the building.

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PUBLIC HEARING CASE

Case: The applicant, David Hockey for Alltel Communications, wishes to construct a communications (cell) tower at 1755 McRae Road which is approximately 4,600 feet from a cell tower currently located at 2489 Haile Street Extension. Section 4-11 (4) of the Kershaw County Zoning ordinance stipulates that: "No tower or antenna shall be located within 5,000 feet of an existing tower or antenna." The applicant wishes to be granted a variance from this provision of the ordinance.

David Hockey explained that an existing tower at Haile and Second Streets is 4600 feet from the site where they would like to locate a new tower. He stated for the record that the parcel the proposed tower is to be located on is actually 1755 McRae Road instead of 1689. The two parcels are next to each other and both are owned by their proposed landlord. The proposed tower site sits very close to the property line. He had originally given Planning and Zoning a parcel number which proved to be incorrect. When he discovered his error, he called John Newman earlier in the day to report it. It was determined that going forward with the variance would be all right if there was no opposition at the hearing. When asked if it were possible to use an existing tower, he explained that this was not possible, and that a new tower would be required. The area that they are trying to cover is located on the west side of Camden in the Bishopville Highway, Highway 1, McRae Road, and Hermitage Pond areas. The existing tower is located too far to the north to allow the coverage they need to the southeast.

BOARD DISCUSSION AND ACTION ON CASE #08-01

John Newman reviewed the Bradley Staff Report and reiterated that all the conditions for home occupation must be met. The Bradleys can meet all of them except for the kitchen being in the principal dwelling. He made it clear that this application is not for a chimney sweep business. The application does not mention a chimney sweep, only a catering kitchen. The chimney sweep business is a totally separate issue which needs to be taken up with Planning and Zoning at a separate time. The Board would not be approving a chimney sweep business tonight because that is not what the application says. He said another issue had come up that needed to be clarified. At this time he asked Carolyn Hammond to explain an ad that was recently published in the Chronicle-Independent.

Ms. Hammond explained that the ad in last week's paper was a combination ad for Camden Fireplaces and Grills and Camden Fireplace Catering. It does not specifically mention a location, but does refer to sales, service, and installation. Planning and Zoning is concerned that this is going to be taking place at the home because the website states that Camden Fireplace and Grills has vacated their building on Lyttleton Street and is seeking a rezoning to move forward with their planned building just outside the city limits of Camden. She then explained that the website goes into great detail about mantles, logs, upgrade options, grills, and outdoor islands. This raises concern about retail sales at the location on Beverly Hills Road. To this, Ms. Bradley said the information on the website was old and that was no longer their intent.

John Newman reiterated that a catering service meets all the conditions for home occupation. What they are asking for a variance from is the condition that the business be a part of the principal building. He said this is definitely a case of legitimate site constraints. Whether they can attach the kitchen to the house, he said he does not know because he has not seen

documentation from the Health Department. Planning and Zoning has determined that attaching a separate building by a breezeway would count as being part of the principle building, but in this case, that cannot happen because of the site constraints.

After further discussion by the Board, Bill Denton made the motion to approve the variance request as stated in the application with the conditions that the building be placed at least ten feet off the rear property line, an eight foot privacy fence be built and maintained in good condition, that the variance be for the catering business only, and does not pertain to the chimney sweep or fireplace business. The motion was seconded by Stephen Staley and approved by all.

BOARD DISCUSSION AND ACTION ON CASE #08-02

John Newman reviewed the Staff Report relating to the cell tower. The applicant made the case that in order to meet their coverage objectives, they do need to locate a cell tower in that area although it is not definitively established that that is the only place they can locate it. They are limited in their location choices. The legislative intent of the 5000 foot spacing was not based on any technical basis, but designed to allow for uniform coverage, to encourage co-location, and to discourage clustering in one area. Mr. Newman does not see where a 400 foot variance would harm the legislative intent of 5000 foot requirement. He, therefore, recommends approval of the variance.

Bill Denton motioned that the variance be approved as filed. Sam Pruett seconded, and all voted in favor.

ANNUAL ELECTION OF OFFICERS

Sam Pruett nominated Stephen Staley as Chairman of the Board of Zoning Appeals for 2008. Bill Denton seconded. Greg Newman nominated Bill Denton for Vice Chairman. Stephen Staley seconded, and all voted in favor.

OTHER ITEMS

There were no other items.

ADJOURNMENT

Greg Newman called the meeting adjourned at 6:45 p.m.

Respectfully submitted,



Carolyn B. Hammond
Secretary