



MINUTES

BOARD OF ZONING APPEALS
6:00 PM, THURSDAY, APRIL 25, 2019

COUNTY COUNCIL CHAMBERS
OCONEE COUNTY ADMINISTRATIVE COMPLEX

The Oconee County Board of Zoning Appeals held a meeting on April 25, 2019 at 6:00 PM in Council Chambers at the Oconee County Administrative Building, 415 S. Pine St., Walhalla, SC 29691.

Members Present: Mrs. Fowler
Mr. Gilster
Mr. McKee
Mr. Codner
Mr. Eagar
Mr. Morgan

Staff Present: Adam Chapman, Planning Director

Media present: None

ITEM 1 Call to Order

Mr. Gilster called the meeting to order at 6:00 p.m.

ITEM 2 Approval of Minutes from March 25, 2019

Board voted 5-0 to approve the minutes.

ITEM 3- Public Comment (Non-Agenda)

No one from the public signed up to address the Board or make comments.

ITEM 4- Staff Update and Discussion

a) Projects Ongoing

Mr. Chapman updated the Board about the 2030 Comprehensive Plan.

b) Mr. Chapman reminded the members about the member training coming up Tuesday, May 14, 2019, 9:00am-12:30pm.

ITEM 5- Application VA19-000001, Request for a variance of five (5') feet from the side property line setback requirement for two parcels (Tax Parcel #150-00-01-439 and 150-00-01-440) on Dodgins Lane in the Seneca area to construct single family homes on each lot.

Staff Presentation

Mr. Chapman presented the case facts regarding the request.

Applicant Comments

Mr. Hammond identified four documents related to his case, which include an original plat or plot plan for the Laurel Pointe development on Lake Keowee. He noted that this plan was developed prior to the application of zoning in Oconee County. Therefore, there were no County setbacks or lot size requirements at that time. Two homes were built during that period in the subdivision, and these houses were built to the lot line. Mr. Hammond is requesting a variance the 5' setback requirement for these new homes to be constructed, based on the precedent created by development that has already taken place in the subdivision. The homes would be staggered on the lots. Mr. Hammond also stated that without the variances, smaller homes would need to be constructed on these lots, possibly reducing the value of adjoining homes.

Opposition

Mr. Hanna handed out the Covenants & Restrictions of the subdivision. Mr. Hanna pointed out that the Covenants and Restrictions of the development do not have any information on setbacks. Mr. Hanna and his wife own an adjoining lot and house. He stated that the proposed construction will not give access to the rear of their property for recreation, construction, maintenance, or any type of safety equipment. He added that their propane tank would not be accessible for servicing. Mr. Hanna stated that five out of the seven parcel owners in that development oppose this request. Letters were submitted by other owners. Mr. Hanna also argued that it would be a breach of contract for Mr. Hammond to build the new units as indicated.

Rebuttal by Mr. Hammond

Mr. Hammond restated that he's not aware of any setback requirement in the covenants and restrictions for the project. There is a requirement about minimum house size of 2,200 square feet.

Mr. Hammond stated in response to a question that the septic systems for these lots would be on the uphill side of the homes.

Statement of Criteria for a Variance

Section 38-7.2.1

The board of zoning appeals may grant a variance in an individual case of unnecessary hardship if the board of zoning appeals makes and explains in writing the following findings:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property;
- (2) These conditions do not generally apply to other property in the vicinity;
- (3) Because of these conditions, the application of this chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- (4) The authorization of a variance will not be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.
 - a) The board of zoning appeals may not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted. The fact that the property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.
 - b) The board of zoning appeals may grant a variance to extend physically an existing nonconforming use provided that the expansion does not adversely affect the character of the community and is designed so as to minimize any negative secondary impacts.
 - (c) In granting a variance, the board of zoning appeals may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board of zoning appeals may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare.

The developer shall have the burden of providing evidence to the county of compliance with the general requirements of this chapter and the specific requirements of the applicable section. The board of zoning appeals may impose whatever reasonable conditions it deems necessary to ensure that any proposed development will comply substantially with the objectives in this chapter.

Action

The Board determined by a 6-0 vote to vote on the request by considering each criterion individually.

A motion was made to approve criterion concerning extraordinary conditions. Mr. Codner seconded the motion.

Discussion

Mr. Eagar explained that the original development has caused a situation for Mr. Hammond to build without variance. Mr. Codner said you can't duplicate what was originally built, but he can still build something that would maintain the appearance of the community.

The request for a variance was denied by 2-4 vote.

ITEM 6-

Special Exception request for Application #SE19-000001 to allow for a non-residential use in the Lake District for Tax Parcel #136-00-03-092 on Waterfall Road, Seneca. The proposed use is a new recreational vehicle park.

Staff Presentation

Mr. Chapman presented the case facts regarding the request.

Applicant Comments

Ms. Carol Belcher explained that her family managed the RV park already existing next to the property now proposed for development as a more upscale park. She stated that at that time, there were few regulations or County controls. Her mother owns the property now in question. She went on to say that they attempted to get a temporary light pole permit some years ago for this property and were told that no plans were on file or approved for the property. She was later told she would need to work within the current County zoning and development requirements.

Ms. Belcher stated that the development would allow for Park model units and RVs. One section would have 17 campsites and there would be landscaping between spaces. Other outdoor amenities would be provided. Other elements are a swimming pool, a laundromat and a store. A small restaurant is also planned.

Opposition Comments

Kevin Polley, an owner in the Peninsula subdivision, stated that the proposed use would have a significant impact on the road that serves the area. He also argued the proposed high density of development would lead to deforestation of the site. He also suggested that noise issues would be triggered by the type of use proposed, as well as concerns about the environmental impacts that might be posed by the water and waste disposal infrastructure that will be needed.

Mr. Bob Brownfield, another owner in the Peninsula, also addressed the Board. He argued that the proposed use does not meet the spirit of the Comprehensive Plan. He added that the use could lead to violation of the County's noise ordinance and a resulting negative impact on the character of the area. Mr. Brownfield stated that the use is not consistent with the four major criteria for approval that the Board must consider in acting upon a Special Exception request.

Mr. Robert Townsend, another owner of Peninsula property, addressed the Board about his concern that the lot where he is building faces the proposed development. He argued that the loss of value of his property from the proposed development would be "dramatic". Mr. Townsend said that he would support a development there with high end residential uses.

Mr. Richard Ellison stated that trespassers have been detected on his property in the Peninsula. He is currently building a retirement home there. He stated that the proposed development represents a "threat" to the Peninsula.

Stacy Keeler said that she is interested in the plans for High Falls Park and the potential increase in traffic and activity in that area. She had heard that the new park facility will have an increased number of overnight camper spots.

Mark Gustafson, who is also building in the Peninsula, discussed boat traffic for the proposed development and unauthorized access there by residents of the existing RV park nearby.

Rebuttal

Ms. Belcher responded to claims that some residents of the existing park had been trespassing at the Peninsula. She stated that the Sheriff's department told her that they had received no calls about disturbances there. She indicated that maximum capacity of the existing park is about 40% during the year. Ms. Belcher continued by noting that when the Peninsula owners and developers bought their property they would already have been aware that RV parks exists in the area.

Discussion

Mr. Mckee stressed that a concern is the increase in traffic on Waterfall Road caused by additional development.

Mr. Codner discussed the origin of the Lake Overlay district in the County. He felt that commercial uses of the proposed development are inappropriate for the Overlay. He argued that although the existing RV park is grandfathered, any new use of similar character would be inappropriate.

There was also discussion about whether or not approving such a request might set a precedent for additional uses of that type.

Ms. Fowler felt that we do need RV parks in the area for short term occupancy by workers and for recreational purposes. She stated that workers would bring in and leave their units on the site.

Statement of Criteria for a Special Exception

Section 38-7.2

The board of zoning appeals may grant a special exception only if it finds adequate evidence that any proposed development will meet all of the following general requirements as well as any specific requirements and standards listed for the proposed use. The board of zoning appeals shall among other things require that any proposed use and location be:

- (1) In accordance with the comprehensive plan and is consistent with the spirit, purposes, and the intent and specific requirements of this chapter, to include the definition and intent of the district in which the special exception is being requested;
- (2) In the best interests of the county, the convenience of the community and the public welfare;
- (3) Suitable for the property in question, and designed, constructed, operated, and maintained so as to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity;
- (4) Suitable in terms of effects on highway traffic, parking and safety with adequate access arrangements to protect streets from undue congestion and hazards.

The developer shall have the burden of providing evidence to the county of compliance with the general requirements of this chapter and the specific requirements of the applicable section. The board of zoning appeals may impose whatever reasonable conditions it deems necessary to ensure that any proposed development will comply substantially with the objectives in this chapter.

Action

The board voted 6-0 to consider the Special Exception criteria separately.

A motion was made by Mr. McKee and seconded by Mr. Eagar to find that the request meets the first criterion for approval, which states that the use is:

In accordance with the comprehensive plan and is consistent with the spirit, purposes, and the intent and specific requirements of this chapter, to include the definition and intent of the district in which the special exception is being requested;

The Board voted 6-0 to deny the motion. Therefore, the request is denied.

ITEM 7 Old Business
None

ITEM 8- New Business
Mr. Mckee suggested that the Board request that a Deputy be present at each Board meeting to insure security.
He made a motion to draft a letter, signed by the Chairman of the Board, to Council making a request for a security presence when necessary. The motion was seconded and was approved unanimously (6-0).

There being no further business, the meeting was adjourned at 8:03 p.m.