

Board of Zoning Appeals  
Minutes  
September 6, 2011

I. Call to order

Chairman Arnold Karig called the regular meeting of the Board of Zoning Appeals to order on September 6, 2011 at 5:30PM in the Building Department Conference Room, 1207 Palm Boulevard. Other members present were Frances Anderson, Scott Davidson, Mike Layman and Tom Miller; also Secretary Douglas Kerr was present. Mr. Kerr explained that the meeting was advertised in compliance with the Freedom of Information Act.

II. Approval of minutes

The next item on the agenda was the review of the minutes of the July 5, 2011 meeting. Mr. Layman noted two typographical errors. Mr. Miller made a motion to approve the minutes with the amendments. The motion was seconded and the vote was unanimous in favor of the motion.

II. Home occupations

Mr. Karig explained that the Board acted as a quasi-judicial body and all comments made were treated in the same manner as court testimony and therefore any person who would like to speak to the Board should be sworn in. He then swore in all members of the audience that would be speaking.

**805 Carolina Boulevard**

Mr. Kerr explained that the applicant was requesting a special exception to allow the establishment of a real estate appraisal business at his home. He stated that the applicant has indicated that the home will be used for office work only, that there will be no business-related traffic coming to the residence and that there will be no employees working in the residence.

The applicant, Mr. Michael Surles, stated that he will only dedicate three percent of the total area of the house to this home occupation and there will be no signs, traffic or employees associated with the business. He explained that he anticipates doing less than one hundred appraisals per year and that he wanted to be sure everything was compliant with the City code.

Ms. Anderson asked if there would be any signs associated with the business. Mr. Surles answered no. Mr. Layman made a motion to approve the request and Ms. Anderson seconded the motion. The vote was unanimous in favor of the motion.

### **410 Palm Boulevard**

Mr. Kerr explained that the applicant was requesting a special exception to allow the establishment of a software development and consulting business at his home. He stated that the applicant has indicated that the home will be used for office work only, that there will be no business-related traffic coming to the residence and that there will be no employees working in the residence, other than family members.

Mr. Jason Newmoyer, the applicant, addressed the Board and explained that he did not have anything to add, but there would be no employees and that if the business grew considerably, he would open an office in Mount Pleasant.

Mr. Miller made a motion to approve the request and Ms. Anderson seconded the motion. The vote was unanimous in favor of the motion.

### III. Appeal

#### **208 Palm Boulevard**

Mr. Kerr explained that the applicant is appealing the zoning administrator's determination regarding the pruning of a tree. He explained that the applicant was issued a citation and he is asking the Board to find that the City's Code had not been violated, which would have the effect of nullifying the citation.

Mr. Kerr stated that there is an 11 inch live oak tree near the property line on the northwest side of Mr. Bond's property (a survey has not been done to determine on which property the tree is located), which has been cut. He explained that he made the determination that the cuts did not comply with ANSI standards, which are adopted by reference in Title 5, Chapter 4, Article 3 of the City of Isle of Palms Municipal Code. Specifically the ANSI standard does not allow cutting more than 25 percent of the foliage on a tree in a year, and he estimated that 80 to 90 percent of the canopy had been removed. Because the cuts that were made did not comply with the ANSI standard, the City's code required that a permit be issued, which was done in this instance.

Mr. Bonds addressed the Board and stated that he has been cutting the limbs on all of his trees, including this tree, for the past seven years, and he has not killed any of the trees. He explained that it was not his intent to kill the tree, and, in fact, it is sprouting new growth already.

He explained that prior to this incident he had no idea that the pruning of trees was regulated, and he stated that he doubted many other residents were aware of the standards.

He explained that he has worked very hard to keep an attractive yard, is out of town often and wanted to minimize the work required to keep the yard free of falling leaves and pine needles. He stated that there is considerable vegetation that grows over the fence, and he cuts the vegetation back to keep it off of his house and away from his property.

Mr. Karig asked if there were members of the audience that would like to speak. Ms. Gessert addressed the Board, explained that she lived next door, that she planted this tree and believed that the tree was on her property. She explained that she, too, had the trees pruned each year and that this tree was well away from his house and not creating any problems. She explained that, when she saw what he had done to the tree, she called the City which led to Mr. Bonds being issued the citation that is being discussed.

Mr. Kerr explained that he had asked Mr. Gerald Benoit to attend the meeting; he is the certified arborist the City relies on for issues involving trees. Mr. Kerr explained that he asked Mr. Benoit for his opinion of the pruning, and he verified that the pruning did not comply the ANSI standards.

Mr. Benoit explained that too much of the canopy of the tree was removed. He stated that, because the tree is a Live Oak, it will continue to live, but that the branches that sprout out will never have the strength of a typical oak tree.

Mr. Bonds explained that he now understood more about the process and asked that the Board consider giving him a warning.

Mr. Layman asked Mr. Kerr if the applicant had specifically been charged with cutting a tree without a permit. Mr. Kerr answered, "Yes." Mr. Layman asked, if a permit would have been issued, had the applicant sought one. Mr. Kerr answered, "No;" that the situation did not meet the criteria established in the code necessary for being issued a permit.

Mr. Davidson explained that he felt that this was a judgment based on the degree of pruning that had taken place. He explained that the amount of vegetation that was removed looks severe and appeared to be almost everything on the tree.

Mr. Karig explained that the Board's role was not to rule on the wisdom of the code or to make a determination of the appropriate punishment of the applicant;

these are roles for the City Council and the Municipal Court Judge. He stated that he was well aware of the Isle of Palms codes, as well as, the fact that every surrounding jurisdiction appears to have similar codes.

Mr. Miller explained that, as he understood the Board's role, it was to determine if the Zoning Administrator did the correct thing according to the Code, and it appeared that everything was done correctly. He, therefore, made a motion to affirm the Zoning Administrator's determination. Ms. Anderson seconded the motion and the vote was unanimous in favor of the motion.

#### IV. Adjournment

With no other business, the meeting was adjourned at 6:4 p.m.