

**MINUTES**  
**Board of Zoning & Appeals**  
**November 2, 2016**

**MEMBERS PRESENT:** Nathan Kaminski, Brenda Bessinger, Sandra Quinn, Rhonda Green, & John Kester

**MEMBERS ABSENT:** Johnny Wilson & James Dozier

**OTHERS PRESENT:** Rick Martin, Matt Millwood, Elise Crosby, & Debra Grant

- I. **Call to Order** (*The Board moved that the second item be heard first; Ms. Rhonda Green made a motion to move the item, seconded by Mr. John Kester; the motion carried unanimously*)
  
  - II. **Public Hearing: None**
  
  - III. **Approval of Minutes for September 7, 2016;** Ms. Brenda Bessinger made a motion to approve the minutes as submitted, seconded by Ms. Rhonda Green; the motion carried unanimously.
  
  - IV. **Variance Request**
- V#16-11 The Earthworks Group**, agents for owners of 114 Church Street (TMS#05-0056-002-00-00), request a variance to Section 702.201 (minimum acreage of PD) of the City of Georgetown Zoning Ordinance. **Matt Millwood/City Staff** told the Board that this agenda item was started in 2009-2010 and was stopped because of the economy at the time. The owners would like to get the property rezoned by the Planning Commission but because of some changes to the City's Comprehensive Plan that will not allow them to move forward without obtaining a variance. The property is zoned GC, and it is a vacant lot at this time. The Baymond Inn is located west of the property (*Matt had several slides of the property and some submitted renderings of the proposed fishing village*). The variance request comes from Article VII, Section 702.201 "The site utilized for a PD District shall contain the following: A minimum of ten (10) contiguous acres of land". The owner have 7.86 contiguous acres currently and to meet the requirements they will need to obtain a variance for 2.14 acres (**10-7.86= 2.14**). The requirement of 10 acres was changed from 3 acres to 10 acres in the 2005-2006 updates in the Comprehensive Plan and was adopted in 2011. When the owners started this process they thought they had enough land to rezone from GC (General Commercial) to PD (Planned Development), now currently they do not because of the change of acreage. **Mr. Kaminski** asked Matt when the property was purchased. **Matt** said he did not know. **Mr. Kaminski** also said the map that the Board was provided seem to show 4 different tracks of land, and asked Matt if that is the case. **Matt** said there was only two (2) parcels that were merged to make one parcel. Matt also said that the owners met with the City TRC (Technical Review Committee) several times to discuss the project in 2010. **Mr. Kaminski** said that a vicinity map from 2003 shows 4 tracks labeled as upland A & B and Wetlands A & B which suggests that 4 tracks were merged into 1 parcel. **Matt** said he felt that the vicinity map just shows the areas in the different sections. **Mr. Kaminski** asked if the ownership has changed since the original purchase. **Matt** said he did not know. **Mr. Kaminski** asked when the owner approached the City about taking the property into a PD. **Matt** said he believed it was in early 2010 if not late 2009. **Mr. Kaminski** pointed out that the variance application does not have the correct amount of acreage. **Mr. Kaminski** also asked if the applicant was aware of the changes that were made to the Comprehensive Plan.

**Matt** said he did not know, but they would have to have been keeping up with the notices in the papers or coming to Planning Commission meetings. **Mr. Kaminski** had several public notices about the changes and entered them into the record (Board Exhibit 1-6) (*Matt read into the record the recommendation of the Planning Commission for the change of acreage from 3 to 10 acres from Planned Development District*). **Mr. Kaminski** said that the Comprehensive Plan amended date is 5/15/12, and asked **Matt** if that is the correct date. **Matt** said that could very well be the correct date since it takes time for the adoption and the text amendment of the Comprehensive Plan. **Mr. Kaminski** asked if the zoning of the property has changed since 2009. **Matt** said not to his knowledge, it is still GC. **Mr. Kaminski** asked what could be done with a General Commercial zoned property. **Matt** said any type of commercial business can be done on a General Commercial property, but is limited in residential uses and said the concept for the Fishing Village would be best done with the PD (Planned Development). **Mr. Kaminski** listed some options for the use of the property under General Commercial, as listed in the zoning ordinance. **Mr. Kaminski** asked **Matt** if he knew of any instance where the BZA approved a PD zoning district through a zoning variance request during his time with the City. **Matt** said no he did not, however this is a new concept and the applicant has the right to try to obtain a variance. **Mr. Kaminski** asked if City Council has ever approved a PD district for this site. **Matt** said no this parcel has always been GC as far as he knows. **Mr. Kaminski** asked if Staff had any thoughts on how the BZA could consider a variance for a zoning district that does not exist. **Matt** said this Board does not rezone, it is just looking at the variance request and let the Planning Commission decide on the rezoning. **Mr. Kaminski** asked how many PD district does the City have. **Matt** said the City has at least 15 PD districts currently.

**Mr. Steve Strickland of Earthworks/Agent** told the Board that the owners bought the property in 2002 and came up with what they thought was a fitting use for the parcel. They are here tonight to ask for relief of the acreage so the applicant can move forward with their project. The owners have gone through the process of meeting with Staff, getting engineers, obtaining Army Corp. permits, however the economy was at a low point and the project was halted. The request tonight is to get back on track so the property can be rezoned as a Planned Development and used for the Fishing Village as originally planned. The site is intended to allow people coming into the City a place to come and enjoy the water front and fishing here. This property is not the typical property which makes it limited on what could be placed on the site. This project could be a beautiful entrance coming in from the Waccamaw Neck. This project has went so far in the planning process and because the parcel is so unique, it does meet the criteria of having extraordinary and exceptional conditions pertaining to the particular piece of property to does not apply to other properties in the area. When this project began it did meet the acreage by having 7.86 acres. The request is not for this Board to rezone the property, it is just to get a variance on the acreage so the project can get back on track. **Mr. Kaminski** said what he is struggling with is, why didn't the developer, once they had a draft ordinance in 2011 move forward and get it rezoned by City Council, because at that time the acreage was in compliance, even if financially they could not move forward. If there was a time frame an extension could have been obtained if needed. **Mr. Strickland** said he did not know because he was not involved at that time and would let the owners answer that question. **Mr. Strickland** said the owners began looking into this project again at the beginning of this year and that's when he got involved. **Ms. Rhonda Green** said she likes the way the project looks, however she has to weigh her decision not on the fact that it is a Planned Development, but based on

what the zoning was put in place for, and in reading the Planning Commission minutes of June 28, 2011 it says "The Comprehensive Plan suggests 10 acres to discourage owners of smaller parcels from trying to get around the Zoning Ordinance." It is not that this is a PD that the Board does not want it to happen but there are others that come before the Board that may want certain variances and the Board cannot do for one and not for others, in the past we have said if the ordinance needs to be changed that's something that needs to be addressed." Ms. Green went on to say "there are other uses for the property, so it does not limit you from making money from your investment or improving our area". **Ms. Quinn** asked for clarification on the correct size of the parcels. **Mr. Strickland** said there was a mistake in the amount entered on one of the maps the Board was given and the correct amount is 7.86 (including uplands and wetlands), and said the proposed plan was to have up to 15 structures (fishing shacks) on the uplands. **Ms. Green** asked what commercial business would be there. **Mr. Strickland** said a marine related/ship supply store, with items for someone going fishing and needing supplies in the early morning. **Ms. Bessinger** asked the size of the fishing shacks. **Mr. Strickland** said 2 stories; 16 x 38, approximately 1100 to 1200 sq. ft. **Mr. Grimes** said that this is not a case where the applicant bought the property knowing that they would need a variance, they actually began the process and aside from the zoning change in the acreage, and the fact that they had issues with access to the property, and at this time they just need a relief from the acreage so they can move forward. **Mr. Kaminski** said he thinks the applicant should go before the City Council and ask for some type of relief, because he is struggling with issuing a variance on a district that does not exist and the BZA cannot create a zoning district according to the state law (SC Code 6-29-740). **Mr. Grimes** said if the Board granted the variance it would not be creating a zoning district it would just be allowing the applicant to move forward to the Planning Commission to see if they would approve a Planned Development district. **Mr. Kaminski** said it could be taken to the Planning Commission without any input from the BZA, but from a legal aspect the applicant could go forward without this Board's input, but this Board is limited by the zoning statutes. **Ms. Crosby** said that the request is not for a rezoning, the applicant is only seeking a variance to the minimum lot requirement so they can get on the road to getting a zoning change. **Mr. Kaminski** said the minimum lot requirement of 10 acres is created by a zoning district, and has to have an ordinance and go through that process and then you create the PD zoning district, and we do not have that, Mr. Kaminski asked how could the BZA legally process a variance for a zoning district that does not exist. All variance request are for districts already in place and have lot requirements, but this is like the framework of the zoning district, and the BZA deals with the interior of the structure, so to speak. The zoning ordinance itself states that once a district is formed any major changes has to go back before City Council. **Elise Crosby** said the applicants are seeking a variance and they can either get a variance or the City can say no and that will shut down the applicant's options completely without a hearing and the City does not want to do that; so the applicants are seeking a variance for the minimum lot requirement for a PD. **Mr. Kaminski** said one thing the Board has to consider is other properties that fall in the same criteria, and within the vicinity, which in this case the vicinity would include any undeveloped property within the City limits, another developer could come in and ask for the same type of variance, the Board does not want to set a precedence that sets the City up for disemboweling the zoning ordinance. **Mr. Edward Hucks/owner** said he has been involved with this project since the early 2000's and this has been such a long journey, when the properties was purchased it allowed direct access to Hwy 17, an encroachment permit was obtained to allow access for building on the land. It was then discovered that the

wetlands permit had expired so there was two non-continuous pieces of property, then the City came and condemned the right of way and put a guard rail up, so we had an island that was completely isolated with no access, which was illegal. A lawsuit was filed against the City and we went through that process. The properties were combined to make it a buildable lot. We went through the Corp. of Engineering and all other permits needed, and this plan is the only use for this parcel, we complied with all the City's rules and regulations and then the economy crashed and we had to walk away. At this time we are asking for grace from the City. **Elise Crosby** asked Mr. Hucks if the case he referred to with the SCDOT was resolved, **Mr. Hucks** said no it was not, however his group got what they needed from the Army Corp. so the project could move forward without the access. **Ms. Crosby** asked if any infrastructure (roads, utilities, etc.) has been put on the property. **Mr. Hucks** said no the City had agreed to put in taps for the sewer, the assumption is that they (the City) are ready to move forward. **Ms. Crosby** asked if there are other commercial businesses that can be put on this property. **Mr. Hucks** said no, they have researched it and this is the only feasible use for the property because of the money that has been invested, for sale signs have been on the property and no buyers came forward. **Ms. Crosby** asked if Mr. Hucks as owner had at any time apply for a zoning change. **Mr. Hucks** said he was not active in the process and referred the question to City Staff. **Matt** said he did have a zoning application that was never paid for or moved to Planning Commission. **Mr. Hucks** said they never went to Planning Commission but did meet with all the City officials, but never anticipated a zoning change. **Ms. Crosby** asked if during the time the owners were meeting with the City's TRC was the property not zoned Commercial at that time, and it never got rezoned or went before Planning Commission to obtain a zoning. **Mr. Hucks** said no because they were told it would not be a problem. **Ms. Crosby** asked if the owners ever objected to the Comprehensive Plan updates or attended any of the meetings. **Mr. Hucks** said no, but he watched as some other properties in the area get rezoned and condos beside the Hampton Inn get a variance for their height requirement, as owners they have explored every option and feel as though this is the most complimentary use of the property. **Mr. Grimes** said he felt like Mr. Steve Strickland did a great job in explaining the uniqueness of this property, and feel because this is such a bizarre set of circumstances that this would not set a precedence. **Mr. Strickland** went over the criteria's of the variance application, and said the vicinity to him means the community not the entire City. In closing he asked that the Board gave them the opportunity to be able to move forward and go to the Planning Commission. **Mr. Kaminski** said the applicant can go before Planning Commission or the City Council without a variance from this Board. The City Council has the authority to change something done previously.

**Board Discussion:** Ms. Green said she feels the applicant does have a special situation, but not an extraordinary circumstance. She also said she feels the vicinity does extend throughout the entire City. Ms. Green said she does not feel like the applicants are being restricted from using the property and suggest that other options be explored.

**Motion:** Ms. Green made a motion to deny the request for the variance based on the comments made in Board Discussion, seconded by Ms. Bessinger; the motion carried 5 to 0. *(Mr. Kaminski verbally published the order)*

**V#16-11** **Mr. Drayton & Ms. Grant**, of 310 Liberty Street (TMS#05-0013-259-00-00), request a variance to Article VIII (setbacks) of the City of Georgetown Zoning Ordinance. **Matt**

**Millwood/City Staff** told the Board that this property is zoned R-2 and this is a duplex that the owners would like to construct an addition to. There has been a lot of previous renovations to the building that has really enhanced the look. The addition will be approximately 56 ft. Matt said the entire structure already impedes inside the setbacks, however in order to construct the addition they will need a variance. The variance request is for 12 sq. ft. (going from 30 to 18) on the front (Liberty Street side), and 13.5 sq. ft. (going from 20 to 6.5) on the rear. The tax records shows date of construction was 1975. **Mr. Kester** asked if the building the addition will be added to is multi-family, and if multi-family is allowed in this zone. Matt said in the earlier zoning a single family and a duplex were allowed in R-2, if it was designed as a multi-family since 1975 the City cannot go back and change it however the owner will not be allowed to add any additional units now, but will be allowed to enlarge what is there. **Mr. Kester** asked how many families live in the building. **Mr. Drayton** said it has four (4) units currently, however only two (2) families are living there now. **Mr. Drayton (Lester)** said these units are used as rentals and he feels it enhances the community. **Mr. Kaminski** asked if the proposed addition will be the same design as the existing structure and will it be one story. The applicant said yes it would be. **Mr. Kester** asked if the addition will be 50% of what is currently there. **Matt** said yes it would be 50% of the building. **Mr. Kaminski** asked if the size could be reduced (but realized that would not be necessary). **Mr. Drayton (Mark)** said the property was purchased 4 years ago. **Mr. Kaminski** asked that the Building Department will oversee the project to make sure the variance if approved be in compliance. **Ms. Bessinger** asked about parking, and was told the parking is in the front of the building. **Mr. Kester** asked what the unit has in it currently. **Mr. Drayton (Mark)** said it is a complete unit it just needs to be enlarged (kitchen, two bedrooms, etc.), he said he is a contractor and has worked within the City before. **Mr. Kaminski** asked if the variance is approved would they break ground and get the project done within 2 years. **Mr. Drayton (Mark)** said yes it would. **Mr. Kester** said he wanted to make sure the addition is not being turned into another apartment. **Mr. Drayton (Mark)** said he spoke to his son and told him that an addition is the only thing that could be done.

**Motion: Ms. Bessinger made a motion to grant the variance for 316 Liberty Street with the condition that this will be an addition and not a separate apartment and completed within 2 years, seconded by Ms. Quinn; the motion carried 5 to 0. (Mr. Kaminski verbally published the order)**

- V. **Board Discussion:** Matt said that the discussion of accessory structures will be done next meeting and there will be Board training on December 6, 2016,
- VI. **Adjournment:** With there being no further business the meeting was adjourned.

*Submitted By,*

*Debra Grant  
Board Secretary*