

The Smithfield Board of Zoning Appeals held its regular meeting on Tuesday, November 21st, 2017. The meeting was called to order at 7:30 p.m. Members present were Ms. Faye Seeley, Chair; Mr. Clem Batten, Vice Chairman; and Mr. Christopher Gwaltney. Ms. Catherine Bowden and Mr. Robert Briggs were absent. Staff members present were Mr. Joseph Reish, Planning Technician and Mr. William H. Riddick III, Town Attorney. There were no citizens present. The media was not represented.

Chair Seeley – Good evening. I would like to call the November 21st, 2017 meeting of the Board of Zoning Appeals to order. We have three items on the agenda.

Town Attorney – We need to have our Election of Officers first. The floor is open for nominations for Chairman of the Board of Zoning Appeals.

Vice Chairman Batten – I nominate Mr. Gwaltney.

Chair Seeley – Second.

Town Attorney – Are there any other nominations? Hearing none, the nominations are closed. All in favor of Mr. Gwaltney for Chairman signify by saying aye, opposed say nay.

On call for the vote, three members were present. Ms. Seeley voted aye, Vice Chairman Batten voted aye and Mr. Christopher Gwaltney voted aye. There were no votes against the nomination. The nomination passed.

Town Attorney – Nominations are now open for Vice Chairman.

Ms. Seeley – I would like to nominate Mr. Clem Batten.

Chairman Gwaltney – Second.

Town Attorney – Are there any other nominations. Hearing none, nominations are closed. All those in favor of Mr. Batten for Vice Chairman say aye, opposed say nay.

On call for the vote, three members were present. Chairman Gwaltney voted aye. Vice Chairman Batten voted aye and Ms. Seeley voted aye. There were no votes against the nomination. The nomination passed.

Town Attorney – Mr. Gwaltney is the Chairman and Mr. Batten is the Vice Chairman. It is your meeting Mr. Chairman.

Chairman Gwaltney – The second item on the agenda is a Special Use Exception – 845 West Main Street. Could we have a staff report please?

Planning Technician – Thank you, Mr. Chairman. Mr. Jignesh Nisar purchased 845 West Main Street from Mr. Hearn. He wants to continue its use as a gas station and

convenience store. However, the second story of the building has offices and rooms in it. I believe it has plumbing as well and electrical; most likely. He wants to convert it to a residential use. When he approached the planning department about it, we told him that, unfortunately, with it being in the Highway Retail Commercial zoning district; the ordinance does not have any allotments for residential in that district. He asked if there was any way at all to make it a legitimate residential use for either an employee or himself. We told him that his only option was to go before the Board of Zoning Appeals and ask for a special use exception. We looked at the site. Behind it is a high density mobile home park. Adjacent to the mobile home park is even higher density apartments. As far as the density, we did not see a problem with that. It has kind of been a more common thing to see in new developments where there will be commercial on the first floor and residential on the second. From a planning and zoning standpoint, we did not see any issues with him doing this. The only roadblock was the way the zoning ordinance was written and does not allow for residential in a commercial building. I wish he could be here. He did express his apologies for not being able to make it. He got his dates mixed up and he is out of town. He is a very nice gentleman. I was really hoping he could be here to help explain further; but, basically, it is residential on the second floor and commercial on the first. Thank you.

Chairman Gwaltney - Is there any discussion?

Vice Chairman Batten – Do they have to rezone it in order to do that?

Planning Technician – No, sir.

Town Attorney – That is the whole point of this, Mr. Batten. You cannot rezone it to do this because there is no provision in the zoning ordinance that will allow this. Only the Board of Zoning Appeals can grant this special exception. You do not have to grant it but you can. If you grant it, you can put conditions on it.

Chairman Gwaltney – The only thing that really concerns me is that I know there are certain regulations that need to be in place as far as ingress and egress and those types of things. Is there any type of review process that would be involved in that if we make this approval?

Planning Technician – Not so much on our end; but I would hope that the Isle of Wight County Building Inspections Department would make sure that they are able to

get in and out of it. I am assuming that there is probably an interior entrance that they would probably use if it was an employee or the family living there. If they rented it to somebody completely different then it would need to have some type of exterior entrance and exit in my opinion. A reserved parking spot would be nice as well for that particular residential use in my opinion. It is a minimum of one; preferably two. The good news is there is ample parking. I believe there is a shared parking agreement with the Main Street Restaurant for the business for the parking. There should not be a big concern as far as parking; but the ingress and egress is certainly a valid concern.

Town Attorney – Mr. Gwaltney, I am not saying you should approve it; but if you did, it seems to me that it would be a reasonable thing to include a condition that the approval is subject to approval by the Isle of Wight County building official for use of that property as a residential structure. It could require an affirmative approval by them.

Chairman Gwaltney – I would agree with the Town Attorney for the condition that some type of inspection or approval is needed by the building official to confirm that the area for residential use meets the building code requirements.

Vice Chairman Batten – I will make a motion that we grant the special use exception.

Ms. Seeley – Second.

Town Attorney – Is it to approve it with the condition that the Isle of Wight building official inspects the property and certifies that it meets the building code with respect to residential use?

Chairman Gwaltney – They would issue a Certificate of Occupancy. It would need to be forwarded to the town file.

Planning Technician – Actually, I am the coordinator for the town for the Certificates of Occupancy. I can certainly reach out to the county and tell them what was approved. We will make sure that a Certificate of Occupancy is issued for residential use. I am more than willing to assist with that and make sure that it is done properly.

Chairman Gwaltney – We have a motion to approve with the condition that an inspection and a Certificate of Occupancy be forwarded to the planning office to confirm

that the property is sufficiently up to code for residential use. The motion was seconded.

All in favor signify by saying aye, opposed say nay.

On call for the vote, three members were present. Chairman Gwaltney voted aye, Vice Chairman Batten voted aye and Ms. Seeley voted aye. There were no votes against the motion. The motion passed.

Chairman Gwaltney – The motion passed. Our next item is Approval of the August 15th, 2017 Meeting Minutes.

Town Attorney – Mr. Chairman, I have reviewed the minutes and would recommend the minutes be approved as presented.

Ms. Seeley – So moved.

Vice Chairman Batten – Second.

Chairman Gwaltney – A motion has been made and properly seconded. All in favor signify by saying aye, opposed say nay.

On call for the vote, three members were present. Chairman Gwaltney voted aye, Vice Chairman Batten voted aye and Ms. Seeley voted aye. There were no votes against the motion. The motion passed.

Chairman Gwaltney – With that being all the business of the Board this evening, the meeting is adjourned.

The meeting adjourned at 7:49 p.m.

Mr. Christopher Gwaltney
Chairman

Joseph Reish
Planning Technician