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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Edward W. Miller, Circuit Court Judge

Case No. 2025-000623

West Street Farms, LLC, and Mix Farms, LLC..... Appellants,

v.

City of Beaufort, City of Beaufort Zoning Board of Appeals,
and 303 Associates, LLC Respondents.

FINAL REPLY BRIEF OF APPELLANTS

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January 22, 2026

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INTRODUCTION

Respondents fundamentally misunderstand the scope and limits of Special Exception authority. Their brief conflates two separate concepts: (1) the power to permit uses that need individual review, and (2) the power to waive mandatory development standards. The ZBOA has the first but not the second. Respondents' argument that "the very purpose of a Special Exception is to allow exceptions to otherwise mandatory provisions" (Resp. Br. at 10) would make every mandatory standard in the Beaufort Code meaningless.

ARGUMENT

I. RESPONDENTS FAIL TO ADDRESS THE MANDATORY PARKING REQUIREMENT

Respondents devote less than one paragraph to Appellants' main argument—that the project violates Beaufort Code § 4.5.10.B.7, which requires that "a minimum of 75% of all parking shall be located behind the primary building or a Liner Building." Their only response is that this challenge is "circular reasoning" and that "the very purpose of a Special Exception is to allow exceptions to otherwise mandatory provisions." (Resp. Br. at 10).

This response is flawed for three reasons.

First, Special Exception permits allow uses on a case-by-case basis after individual review—they do not provide blanket authority to bypass development standards. The Beaufort Code distinguishes between permitted uses (which may be granted by a Special Exception) and development standards (which are mandatory). *See* Beaufort Code § 9.13.1 (Special Exceptions apply to "proposed land uses" requiring review of "location, design, and configuration"). The parking requirement is a development standard, not a use restriction.

Second, if Special Exceptions could waive any "mandatory" provision, the term "mandatory" would lose its meaning. Every zoning code includes both discretionary standards (subject to variance

or exception) and mandatory requirements. Respondents cite no authority supporting their claim that a Special Exception can supersede explicit mandatory language.

Third, Graham Trask's testimony before the ZBOA directly addressed this issue, stating: "The Beaufort City Code says that a building over 100 linear feet in the Historic District must follow the large footprint building code. Item 7 of the large footprint building codes states specifically about parking." (R. p. 164, lines 15-21). The ZBOA never addressed this mandatory requirement, and neither does the Respondents' brief.

II. MANDATORY CODE COMPLIANCE IS A LEGAL QUESTION, NOT A FACTUAL DETERMINATION

Respondents argue that the Circuit Court properly applied the deferential "no evidence" standard because "factual findings of the jury will not be disturbed unless no evidence reasonably supports the jury's findings." (Resp. Br. at 3). This completely misses the point.

Appellants do not dispute the ZBOA's factual findings regarding parking location or quantity. The undisputed fact is that the project has zero on-site parking. The legal question is whether a project with no on-site parking can meet a code requirement that states "a minimum of 75% of all parking shall be located behind the primary building."

This is a purely legal issue subject to de novo review. *See Blind Tiger, LLC v. City of Charleston*, 366 S.C. 182, 185, 621 S.E.2d 361, 362 (Ct. App. 2005) (reviewing board's legal conclusions de novo). Respondents' attempt to recharacterize this legal issue as a factual determination entitled to deference would insulate boards from any meaningful review of their legal conclusions.

III. THE CIRCUIT COURT'S ANALYSIS CONFIRMS IT APPLIED THE WRONG STANDARD

The Circuit Court's Order shows it viewed mandatory code compliance as a subjective policy decision rather than a legal obligation. The Court stated: "Every single one of these concerns is based

on Petitioners' subjective interpretation of what is or is not the right type of project for the area. Those are all factual determinations. None are legal issues." (R. p. 012, lines 4-6).

But whether a project provides 75% on-site parking is not "subjective interpretation"—it is an objective measurement. The Circuit Court's characterization of all zoning challenges as "factual determinations" effectively eliminates judicial review of mandatory code provisions.

IV. RESPONDENTS' RELIANCE ON THE HRB APPROVAL IS MISPLACED

Respondents heavily rely on the HRB's conceptual approval of "height, scale, mass" to support the ZBOA's compatibility conclusions. (Resp. Br. at 10-11). This argument fails for the following reasons.

The HRB and ZBOA have distinct statutory roles and review different standards. HRB approval of architectural design does not fulfill ZBOA's responsibility to verify compliance with zoning regulations.

The record indicates that "the designs presented to the ZBOA were not the same designs that were submitted to the HRB" and that "the massing and 3-Dimensional form of the structure...have been significantly altered." (R. p. 332)

Even if the designs were identical, HRB approval of aesthetics cannot cure non-compliance with mandatory parking requirements.

V. RESPONDENTS ABANDON ANY DEFENSE OF THE PARKING VIOLATION

Most tellingly, Respondents never argue that the project actually meets § 4.5.10.B.7's parking requirement. They do not claim the project provides 75% on-site parking. They do not cite any part of the Beaufort Code that authorizes off-site parking for Large Footprint Buildings. They simply assert—without citation—that the ZBOA can grant exceptions to "mandatory" requirements.

This silence is decisive. The project admittedly breaches a mandatory code provision. The ZBOA lacked the authority to approve a non-compliant project. The Circuit Court's contrary conclusion was a legal error.

CONCLUSION

Respondents' brief confirms what Appellants argued earlier: the project violates mandatory Large Footprint Building standards, the ZBOA lacked authority to waive those standards, and the Circuit Court used an incorrect standard of review by treating legal compliance as a factual determination.

A zoning board cannot do through a Special Exception what it cannot do through a variance—specifically, approve a project that does not meet mandatory development standards. Because the project offers zero on-site parking in violation of the 75% requirement, the Special Exception must be overturned.

Appellants respectfully request that this Court reverse the Circuit Court's Order and remand with instructions to deny the Special Exception.

Respectfully submitted,

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