



COUNTY COUNCIL OF BEAUFORT COUNTY

Beaufort County Zoning & Development

Multi Government Center ♦ 100 Ribaut Road

Post Office Drawer 1228, Beaufort, SC 29901-1228

OFFICE (843) 470-2780

FAX (843) 470-2784

The scheduled special meeting of the Beaufort County Zoning Board of Appeals was held on October 12, 2005, in Building Codes Conference Room in the Beaufort County Administration Building at 100 Ribaut Road, Beaufort, South Carolina.

MEMBERS PRESENT

Mr. Thomas Gasparini, Chairman
Mr. Edgar Williams, Vice Chairman
Mr. Phillip Leroy
Mr. Chester Williams

Mr. Bill Bootle
Mr. Claude Dinkins
Mr. Kevin Mack

MEMBERS ABSENT

None

STAFF PRESENT

Ms. Hillary Austin, Zoning Administrator
Mrs. Lisa Glover, Zoning Analyst III

CALL TO ORDER: Mr. Gasparini called the meeting to order at 5:07 p.m.

INVOCATION: Mr. Gasparini led those assembled in prayer.

REVIEW OF AGENDA

MOTION: Mr. Dinkins made a motion to adopt the agenda as submitted. Mr. Bootle seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, C. Williams, E. Williams).

REVIEW OF MEETING MINUTES:

MOTION: Mr. E. Williams made a motion to adopt the minutes as submitted. Mr. Bootle seconded the motion. The motion passed (FOR: Bootle, Dinkins, Gasparini, E. Williams; ABSTAINED: Leroy, Mack, C. Williams)

DAVID WHITE & JAMES WEDGEWORTH (C/O ATTORNEY DAVID TEDDER) VARIANCE

Mr. Gasparini explained to the board that Mr. David Tedder requested a continuance, until the meeting scheduled for October 26th, 2005, due to a scheduling conflict.

Mr. Chester Williams stated to the board that due to a conflict with this case, he must recuse himself from making any decisions regarding this case.

MOTION: Mr. E. Williams made a motion to grant the continuance. Mr. Bootle seconded the motion. The motion passed (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, E. Williams; ABSTAINED: C. Williams)

The board agreed to hear the Dale Grocery Store Special Use Permit next, due to limited space and an overcrowding of people at the meeting.

DALE GROCERY STORE (SPECIAL USE PERMIT)

"Professionally we serve; Personally we care!"

Mr. Steve Andersen, Cardinal Engineering, explained to the board that this project is for a replacement of the existing store. Dale Grocery Store has been at that corner for approximately 100 years, and the building is worn out; to modernize, the applicant is requesting to build at a new location across the street. A convenience store is allowed in this zoning district, and the applicant also wants the option to add a gas station and a package good store for service to clientele of the store. Mr. Andersen stated that the project will be developed in two phases.

Mr. Gasparini asked Mr. Andersen, "Is this proposed location near the Dale Elementary School"?

Mr. Andersen stated, that it's approximately 2 ½ miles from the Dale Elementary School.

Ms. Austin stated, that the applicant would have to phase this project in order to build the gas station and the package store at a later date. The phasing plan should be a part of the final plan submittal to the Development Review Team. Ms. Austin stated, that any type of changes to this permit would have to be brought back to the Zoning Board of Appeals.

MOTION: Mr. E. Williams made a motion to approve the application for a special use permit that's consistent with the requirement of section 106-552 of the Beaufort County Zoning & Development Standards Ordinance. Mr. C. Williams seconded the motion. The motion passed unanimous (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, C. Williams, E. Williams).

KATE CAMPBELL'S VARIANCE

Mr. Doug Campbell, husband of Kate Campbell, explained to the board that he is requesting a variance to place a deck to support his hot tub 21 feet from the OCRM critical line.

Mr. Leroy stated to the board, that when the lot was subdivided, there was no County setback; it was just a DHEC line. Mr. Leroy stated, the setback went from 0 feet to 50 feet.

Mr. Gasparini asked Mr. Campbell, "How far is the critical line from the house"?

Mr. Campbell said, "41 feet".

Mr. Gasparini asked Mr. Campbell, "How far are the houses on either side of your house from the OCRM critical line"?

Mr. Campbell said, "It varies". The setback of the house on one side of him is approximately the same as his house, and on the other side the setback of the house could be 50 feet. Mr. Campbell stated that his deck would stick out 11 feet from the adjacent property owners' property.

The board agreed to go to the next case until Ms. Austin prints out the Arial map for the property. The board continued with this case at approximately 6:08 p.m.

Ms. Austin stated that the Arial does not show the houses clearly, so she can't see the location of the houses.

MOTION: Mr. Dinkins made a motion to approve the application as submitted. Mr. Bootle seconded the motion. Ms. Austin asked the board to add a condition to the approval, and to regenerate the buffer so sod won't go into the marsh. Mr. Chester Williams moved that the motion be amended to require that the decking be pervious, and an effect be made in accordance with the backyard buffer pamphlet to revegetate the buffers to make sure there's sufficient planted buffers in the 20 foot area. Mr. Chester Williams stated that he would be comfortable if the Architectural Review Board approves the landscape plan for the buffer. Ms. Austin asked Mr. Campbell to provide a copy of the approved landscape plan from the Architectural Review Board. Mr. Campbell stated that he doesn't have a landscape plan, but

he does have approval from the Architectural Review Board. Mr. Chester Williams stated that the ZBOA approval is that the buffer area be maintained in its natural condition, and that the decking be pervious, and the shell of the hot tub be impervious. The motion passed unanimous (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, C. Williams, E. Williams).

MICHAEL & JOANNE NAGEM (C/O ATTORNEY GEORGE O'KELLY JR.) VARIANCE

Mr. O'Kelly, attorney for the Nagem's, explained to the board that his client originally owned about 2-½ acres, and the original tax map shows the 2-½ acres. The lot was recently subdivided and approved by Beaufort County. Mr. O'Kelly stated, that once the property was subdivided, the Nagem's sold their home, and they have one lot left. They have a sale on the leftover lot, contingent to septic tank approval. DHEC granted approval; DHEC's setback is 50 feet from the critical line, and Beaufort County setback is 100 feet from the OCRM critical line. The septic system meets DHEC regulations. DHEC and the experts went out and said that this is the only place on the property that perks, and that the ground can support the septic system. Mr. O'Kelly stated that if this variance were not granted, then the applicant would not be able to do anything with this property.

Ms. Austin stated that this lot was created with the understanding that the septic system would be 100 feet from the OCRM critical line. Ms. Austin stated that this is a brand new lot and it needs to meet the requirement. The Development Review Team could not approve this request because once the property is approved under this new ordinance; they must meet all of the requirements. Ms. Austin stated, that she changed her process to include that anyone requesting a subdivision must bring in a septic tank permit showing the 100-foot setback before approval is granted.

Mr. O'Kelly stated that the applicant had no clue that the septic system could not meet the 100-foot OCRM setback.

Mr. Leroy asked Mr. O'Kelly, "Did anyone ask DHEC if other sorts of septic systems would be allowed"?

Mr. O'Kelly stated that he represents the people who are selling the lot, and Scott Graber is representing the people who are buying the lot. Mr. O'Kelly stated that Scott Graber explored the shallow systems and evaporation systems, and Mr. Graber sent someone out to the site that has an engineering background, and they said that's where the septic system has to go to be workable. Mr. O'Kelly stated that DHEC did check all of the property, and that is the only place it can go.

Mr. Dinkins stated that this property is worth a lot of money, and this lot does meet DHEC's regulations. Mr. Dinkins asked Ms. Austin, "Why is the septic system setback 100 feet from the OCRM critical line"?

Ms. Austin stated, "For the same reason as DHEC, but the County wants more environmental quality".

Mr. O'Kelly stated that the Nagem's subdivided the property not ever thinking they would have a problem. Mr. O'Kelly stated that the common area would not be built on.

Mr. Leroy stated that he's troubled when a technical organization like DHEC makes its ruling according to science and data, and the County makes another ruling that contradicts those scientifically based rules arbitrarily, just because someone thought it would be a good idea.

Ms. Austin stated that she is not sure the County arbitrarily picked a number, she doesn't know where the study came from, and no one that wrote the ordinance from the Planning Department is still here, so she doesn't know what scientific data the County had, but maybe they thought a 100 foot setback would be better than a 50 foot setback.

Mr. Gasparini stated that he is troubled with this application because, he sees a homeowner with 2 ½ acres who wants to make some money by selling two lots instead of one; and the second lot does not meet the requirement of the County. Mr. Gasparini stated that if we choose to have our water cleaner than DHEC wants the water; it is our right to do so.

MOTION: Mr. Bootle made a motion to approve the application as written. Mr. Dinkins seconded the motion. The motion passed (FOR: Bootle, Dinkins, Leroy, C. Williams; OPPOSED: Gasparini, Mack, E. Williams). *Ms. Austin asked the board to add a condition to this approval, to allow the applicant plant some vegetation in the buffer.*

Mr. C. Williams made a motion to reconsider the original motion. Mr. E. Williams seconded the motion. The motion passed (FOR: Bootle, Dinkins, Leroy, Gasparini, Mack, C. Williams, E. Williams).

Mr. Bootle made a motion to approve the application subject to a condition that the landscaping plan for the revegetation of the buffer acceptable to Ms. Austin, be submitted and approved by her as part of the approval process by the backyard buffer pamphlet plan. Mr. Dinkins seconded the motion. The motion passed (FOR: Bootle, Dinkins, Leroy, C. Williams; OPPOSED: Gasparini, Mack, E. Williams).

PIERRE N. MCGOWAN'S VARIANCE

Mr. McGowan explained to the board that he is requesting a dock extension for a shared dock. The County allows a maximum of 500 feet, and he is requesting a 625 feet shared dock.

Mr. Leroy asked Mr. McGowan, "Doesn't the state require anything over 500 feet to be a common dock"?

Mr. McGowan said, "This is a shared dock".

Mr. Chester Williams asked Mr. McGowan, is he in a position to record a restrictive covenant that prohibits any other docks?

Mr. McGowan said that he doesn't know if that's necessary, because for those two lots, that's the only dock that would be built, but that can certainly be written into the approval.

Ms. Austin stated that the applicant must record a shared dock easement. Ms. Austin stated that the only problem she has with this application, is that he does not have a dock permit issued, Ms. Austin stated how do we know this dock would be 625 feet, we need to see the dock permit first, then grant him the variance, instead of the other way around.

Mr. Gasparini stated, that if the ZBOA granted approval not to exceed 625 feet, then if he builds a dock more than 625 feet, it would be a non-conforming structure and the County will make him tear it down.

Mr. McGowan asked the board, "Did he get any objections to this application"?

Mr. Gasparini said, "Yes, Mr. Warren objected to this application". Mr. Gasparini read the letter sent to the board from Mr. Warren.

MOTION: Mr. Dinkins made a motion to approve the dock not to exceed 625 feet, and it must be a shared dock; also, there must be a shared dock easement approved by the Zoning Office to prohibit other docks on these two properties. Mr. Chester Williams seconded the motion. The motion passed (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, C. Williams; OPPOSED: E. Williams).

MOTION: Mr. Edgar Williams made a motion to adjoin. Mr. Chester Williams seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, C. Williams, E. Williams).

The meeting adjourned at approximately 6:31 p.m.