



## 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 meeting of the Beaufort County Zoning Board of Appeals was held on Wednesday, January 25, 2006, in Council Chambers of 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 5:06 p.m.

**INVOCATION:** Mr. Gasparini led those assembled, in a moment of silence.

#### REVIEW OF AGENDA

**MOTION:** Mr. Edgar Williams 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 MINUTES: *December 14, 2005 & January 12, 2006 (Special Meeting)*

**A. December 14<sup>th</sup>, 2005 Meeting:**

Mr. Dinkins asked to change, "is" to "are", on the 2<sup>nd</sup> to last page of the December 14<sup>th</sup>, 2005 minutes.

**MOTION:** Mr. Bootle made a motion to adopt the December 14<sup>th</sup>, 2005 minutes with the suggested corrections. Mr. Chester Williams seconded the motion. The motion passed (FOR: Bootle, Dinkins, Leroy, C. Williams; ABSTAINED: Gasparini, Mack, E. Williams).

**B. January 12<sup>th</sup>, 2006 Special Meeting:**

Mr. Gasparini asked, to add five (5) minutes each on the 4<sup>th</sup> page of the January 12<sup>th</sup>, 2006 minutes.

**MOTION:** Mr. Edgar Williams made a motion to adopt the January 12<sup>th</sup>, 2006 minutes with the suggested corrections. Mr. Bootle seconded the motion. The motion passed (FOR: Bootle, Gasparini, Leroy, Mack, E. Williams; ABSTAINED: Dinkins, C. Williams).

#### HARRY & GLORIA KURZ, JR (C/O FREDERICK & FREDERICK ARCHITECTS) – VARIANCE

Ms. Jane Frederick, representative for the applicant, explained to the board that the house on this property was built in 1995 prior to the 50-foot OCRM setback requirement, so part of the house encroaches into the river overlay setback. Ms. Frederick stated that they would like to reconfigure the

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deck and move part of the existing deck, and add a little bit of the deck; so they can have a wider deck from 8 feet to 10 feet. Ms. Frederick stated, that the house currently does not have gutters on the riverside, and they are adding gutters to the property.

Mr. Gasparini asked Ms. Frederick, "Have the notices been sent out to the neighbors, and did the neighbors have any comments or opposition?"

Ms. Frederick stated, "Four different neighbors called, and they had no objections".

Ms. Austin stated that the ordinance says; if the structure is not going any closer to the critical line than the existing structure, the applicant does not need a variance, so technically this applicant does not need a variance.

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

#### **LADY'S ISLAND FEED & SEED (ROBERT ARD & RICHARD RATCLIFF) – VARIANCE**

Mr. Scott Maryfield, attorney for the applicant, stated that this issue originally came into effect, March 2005, when Mr. Ratcliff submitted an application for a sign. Mr. Maryfield stated, that Mr. Ratcliff thought that he was replacing the temporary sign, and the Zoning Office thought he was replacing the existing permanent sign. Mr. Maryfield stated, that the sign is superior to the existing signs along that road, and the adjacent property cannot be developed due to setbacks, etc. Mr. Maryfield stated, that the property owners should not be affected at all.

Mr. Gasparini asked Mr. Maryfield, "How much frontage does the client have?"

Mr. Maryfield said, "214 feet".

Ms. Austin stated to the board that staff recommends disapproval. Ms. Austin stated, that the issue could be resolved with a shared sign in accordance with the ordinance. The County's position is to eliminate clusters of signs on a single parcel. The applicant's request is on the basis of financial hardship, which does not qualify him for a variance.

Mr. Maryfield stated, that all of the other commercial properties can be seen from the Highway, but Mr. Ratcliff's commercial property cannot be seen from the Highway.

Ms. Austin stated, "Mr. Ratcliff's property is not a commercial use; it is an agricultural use".

*Mr. Gasparini called for public comment, and limited the comments to five minutes each.*

Ms. Liz Santagati explained to the board that, this is a residential community with homes located around the property, and they have fought Beaufort County for ten years to keep it residential, because it is a residential community. Ms. Santagati stated that she knew that there was a sign on the property, but her notice did not say why the applicant was requesting a variance. Ms. Santagati stated that as a property owner within the community, she would be opposed to the variance because, one sign should be more than adequate for that community.

**MOTION: Mr. Chester Williams made a motion to deny the variance on the grounds that it does not meet the requirement for the standards for a variance of Section 106-522 of the Beaufort County Zoning & Development Standards Ordinance. Mr. Mack seconded the motion. The motion passed (FOR: Dinkins, Gasparini, Leroy, Mack, C. Williams, E. Williams; OPPOSED: Bootle).**

#### **ALBERT ENGEL (C/O ATTORNEY DAVID TEDDER) – APPEAL**

Mr. David Tedder, representative for the applicant, explained to the board, that the fence is located on Polowana Island. Mr. Tedder stated, that the Engel's installed the fence in the beginning of the summer. Prior to erecting the fence, OCRM visited the site to make sure that the fence met the requirements of the State; OCRM had no problem with the fence. Mr. Tedder stated that the ticket that was issued cited a violation of the buffer-yard standards. Mr. Tedder stated that he was originally confused because, he did not know that the County did not allow fences in the river-buffer. Mr. Tedder stated, that he could not find in the ordinance where it states, that fences could not be in the river-buffer, so he doesn't know where this interpretation is coming from.

Mr. Chester Williams asked Mr. Tedder, "Is the area a Planned or Community use development?"

Mr. Tedder answered, "No".

Mr. Mack asked Mr. Tedder, "Is this the only property that has a fence in the river-buffer?"

Mr. Tedder said, "He doesn't know because, it is hard for him to see fences in the backyards".

Ms. Austin stated to the board, that her interpretation is that buffers are to be left undisturbed, except for a list of uses in Table 106-1876 and Section 106-1845 where the ordinance allows for the Development Review Team to grant waivers to existing lots that cannot meet the 50-foot river buffer. Section 106-1616 also allows certain uses within buffer yards, and it also says that various buffer yard requirements can be found throughout the ordinance. Ms. Austin stated, that Section 106-1876 lists uses that are allowed in the river-buffer, and if they are not listed, they are not allowed; fences are not on the list.

Mr. Dinkins stated, that he believes that some more research needs to be done to see what everyone on the coast is doing.

Ms. Austin stated that everyone's standards are different.

Mr. Leroy stated, that the ordinance usually deals with environmental concern; he cannot see an environmental connection regarding fences.

*Mr. Gasparini called for public comment, and limited the comments to five minutes each.*

Mr. Magalis stated to the board, that Mr. Engel informed him last spring that he was going to install a fence along the waterline, and he told him that he was opposed to that idea. Mr. Magalis stated, that after the construction of his house, the people building his house informed him that a lot of things are not allowed in the river-buffer. Mr. Magalis also inquired about the river-buffer, and was told that fences are not allowed in the river-buffer. Mr. Magalis informed the board about what pet waste can do to the marshes, because Mr. Engel has dogs, and they are often in the fence area. Mr. Magalis asked the board to uphold the Zoning Administrator's decision.

Mr. Dennis Graves entered into the record six letters and e-mails from property owners that are on Jenkins Creek downstream from Mr. Engel's property. Mr. Graves stated, that if the fence were allowed to remain, they would have more health hazards on the river. Mr. Graves stated, that all of the letters and e-mails all supports Ms. Austin's decision.

Mr. Leroy stated, that if there is no fence, the dogs could still relieve their waste in the river-buffer or in the trees.

Mr. Tedder stated that, the applicant got the State's permission to put the fence on the critical line. Mr. Tedder stated, that South Carolina does not have view easements. Mr. Tedder stated, that the adjacent property owner who complained just doesn't want to see the fence in his river-buffer view.

Mr. Dinkins asked Ms. Austin, "Can the applicant put invisible fences in the buffer area?"

